


# ***GSTR 2000/19A3 - Addendum - Goods and services tax: making adjustments under Division 19 for adjustment events***

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## Addendum

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### Goods and Services Tax Ruling

#### Goods and services tax: making adjustments under Division 19 for adjustment events

This Addendum amends Goods and Services Tax Ruling GSTR 2000/19 to:

- (1) Reflect the addition of Division 133 to the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act) made by the *Tax Laws Amendment (2009 GST Administration Measures) Act 2010*.

This legislative change relates to a special decreasing adjustment for an acquisition that you made if, to take account of a GST liability that the supplier is subsequently found to have, you provide additional consideration at a time when you can no longer claim an input tax credit.

- (2) Make minor changes in wording to the explanations in the examples for *payments to third party end users* at paragraphs 40 to 42C of the Ruling.

The wording changes are intended to create better consistency in expression between this part of the Ruling and the wording used in GSTR 2006/9 Goods and services tax: supplies.

- (3) Reflect the insertion into the GST Act of Division 134 resulting from *Tax Laws Amendment (2010 GST Administration Measures No. 1) Act 2010*, and amendments by *Tax Laws Amendment (2010 GST Administration Measures No. 3) Act 2010* and *Tax Laws Amendment (2010 Measures No. 4) Act 2010*.

These legislative changes relate to the GST treatment of certain third party payments (sometimes described as manufacturer's rebates) made on or after 1 July 2010.

#### **GSTR 2000/19 is amended as follows:**

##### **1. Paragraph 2**

Omit 'an acquisition'; substitute 'an acquisition under Division 19'.

## 2. Paragraph 40

After the paragraph; insert;

40A. Although the third party payment the manufacturer makes to the end user in relation to the end user's acquisition of the thing does not result in an adjustment event under Division 19,<sup>17AA</sup> a third party payment may result in an adjustment Division 134. Division 134 can only apply if the third party payment is made on or after 1 July 2010.

40B. Under Division 134, a manufacturer registered for GST may be entitled to a decreasing adjustment, as if the consideration for the manufacturer's taxable supply of the thing to the retailer had been reduced by the amount of the third party payment. An end user registered for GST may be subject to an increasing adjustment under Division 134, as if the consideration for the payee's acquisition of a taxable supply of the thing by the retailer had been reduced by the amount of the payment.

40C. One of the conditions for a decreasing adjustment under Division 134 is that the third party payment is not consideration for a supply made to the payer (paragraph 134-5(1)(e)). One of the conditions for an increasing adjustment for a payee is that the third party payment is not consideration for a supply by the payee (paragraph 134-10(1)(e)).

## 3. Paragraph 41

Omit the paragraph; substitute:

41. In some circumstances, it may be necessary to consider whether a separate supply is made by the end user to the manufacturer in return for the payment. This will depend on the arrangement between the parties, including any contract between them. For example, where the end user is merely accepting the manufacturer's standing offer by way of making a purchase from the retailer, the end user does not enter any binding obligation in favour of the manufacturer. Nor does it provide goods, services, or anything else which can be described as a supply to the manufacturer. As such it makes no supply.<sup>17AB</sup> By contrast, the manufacturer may offer a rebate to the end user under a separate agreement entered into by both parties. Where the agreement requires the end user to do something specific, such as participate in a publicity promotion for the manufacturer, the end user is making a supply for consideration. The supply is the entry into and fulfilment of the obligation to participate in the promotion. The consideration is the rebate.

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<sup>17AA</sup> The GST treatment of a cash back payment was considered in *Electrical Goods Importer v Commissioner of Taxation* [2009] AATA 854, 74 ATR 982.

<sup>17AB</sup> In Goods and Services Tax Ruling GSTR 2006/9 Goods and services tax: supplies, see 'Proposition 12: transactions that are neither based in an agreement that binds the parties in some way nor involve a supply of goods, services, or some other thing, do not establish a supply'.

**4. Paragraph 42 (example)****(a) Omit:**

However, EU makes no supply to M as EU has not entered any binding obligations in favour of the manufacturer.

**Substitute:**

However, EU makes no supply to M. EU has not entered any binding obligations in favour of the manufacturer and has not supplied goods, services or anything else to the manufacturer.

**(b) After the last paragraph of the example wording, insert a new paragraph:**

However, if the payment is made on or after 1 July 2010, and the requirements of Division 134 are met, M will be entitled to a decreasing adjustment of 1/11th of the third party payment. If EU is making the acquisition wholly for a creditable purpose and is registered or required to be registered EU will be subject to an increasing adjustment of 1/11th of the third party payment.

**5. Paragraph 42B**

At the end of the paragraph, insert:

If the payment is made on or after 1 July 2010 and is not consideration for a supply made by the third party entity to the manufacturer, Division 134 may apply, as described in paragraphs 40A, 40B and 40C of this Ruling.

**6. Paragraph 42C (example)****Omit:**

D is making a supply to M, being the entry into the binding obligation.

**Substitute:**

D is making a supply to M, being the entry into and fulfilment of the obligation to promote and market M's vehicles.

**7. Paragraph 72**

Omit the heading; substitute:

**When an adjustment event results in an adjustment under Division 19**

## 8. Paragraph 74

After the paragraph, insert:

*Interaction between Division 19 and Division 133*

74A. Under Division 133, a decreasing adjustment for an acquisition may arise if, to take account of a GST liability that a supplier is subsequently found to have, the recipient provides additional consideration under a gross-up clause at a time when the recipient can no longer claim an input tax credit.

74B. If you have a decreasing adjustment under Division 133 and the circumstances that give rise to the adjustment also constitute an adjustment event, you do not have a decreasing adjustment under Division 19 for the acquisition in relation to those circumstances.<sup>26A</sup>

## 9. Paragraph 75

Omit the heading; substitute:

**Working out adjustments for supplies under Division 19**

## 10. Paragraph 91

Omit the heading; substitute:

**Working out adjustments for acquisitions under Division 19**

## 11. Paragraph 92

Omit:

- any changes in circumstances that give rise to any adjustments under Subdivision 19-C, Division 21 or Division 129 (about adjustments for changes in the extent of creditable purpose);

Substitute:

- any changes in circumstances that give rise to any adjustments under Subdivision 19-C, Division 21, Division 129 (about adjustments for changes in the extent of creditable purpose), Division 133 (about adjustments for providing additional consideration under gross-up clauses) or Division 134 (about adjustments for third party payments);

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<sup>26A</sup> Section 133-10.

**12. Paragraph 93**

Omit:

You take into account any Subdivision 19-C, Division 21 or Division 129 adjustment, up to and including the current tax period.

Substitute:

You take into account any Subdivision 19-C, Division 21, Division 129, Division 133, or Division 134 adjustment, up to and including the current tax period.

**13. Paragraph 96**

Omit the table; substitute:

original consideration	\$1,100
PLUS the total effect on consideration of changes in circumstances which give rise to decreasing adjustments under:	
Division 133	NIL
Division 129	NIL
Division 21	NIL
Division 19	NIL
LESS the total effect on consideration of changes in circumstances which give rise to increasing adjustments under:	
Division 134	NIL
Division 129	NIL
Division 21	NIL
Division 19	\$110
Adjusted consideration	\$990
Multiplying by 1/11	\$90
Multiplying by 60% to give the corrected input tax credit amount	\$54

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## 14. Paragraph 96D

Omit the table; substitute:

original consideration	\$1,100
PLUS the total effect on consideration of changes in circumstances which give rise to decreasing adjustments under:	
Division 133	NIL
Division 129	NIL
Division 21	NIL
Division 19	NIL
LESS the total effect on consideration of changes in circumstances which give rise to increasing adjustments under:	
Division 134	NIL
Division 129	NIL
Division 21	NIL
Division 19	\$110
Adjusted consideration	\$990
Multiplying by 1/11	\$90
Multiplying by 60% to give the corrected input tax credit amount	\$54

## 15. Paragraph 97

Omit:

- the sum of any increasing adjustments under Subdivision 19-C or Division 21, 129 or 131, that were previously attributable to a tax period for the acquisition; plus
- the sum of any decreasing adjustments under Subdivision 19-C, Division 21 or Division 129, that were previously attributable to a tax period for the acquisition.

Substitute:

- the sum of any increasing adjustments under Subdivision 19-C or Division 21, Division 129, Division 131 or Division 134, that were previously attributable to a tax period in respect of the acquisition; plus
- the sum of any decreasing adjustments under Subdivision 19-C, Division 21, Division 129 or Division 133, that were previously attributable to a tax period in respect of the acquisition.

**16. Paragraph 99**

Omit the table; substitute:

input tax credit attributed to any tax period <sup>37</sup>	\$60
LESS the sum of all increasing adjustments under	
Division 134	NIL
Division 129	NIL
Division 21	NIL
Division 19 (except any Division 19 adjustments in the current period) <sup>38</sup>	NIL
Division 131 <sup>38A</sup>	NIL
PLUS the sum of all decreasing adjustments under:	
Division 133	NIL
Division 129	NIL
Division 21	NIL
Division 19 (except any Division 19 adjustments in the current period) <sup>39</sup>	NIL
previously attributed input tax credit amount	\$60

**17. Paragraph 99A**

Omit the table; substitute:

input tax credit attributed to any tax period <sup>39A</sup>	\$100
LESS the sum of all increasing adjustments under	
Division 134	NIL
Division 129	NIL
Division 21	NIL
Division 19 (except any Division 19 adjustments in the current period) <sup>39B</sup>	NIL
Division 131 <sup>39C</sup>	\$40

<sup>37</sup> Paragraph 19-75(a).<sup>38</sup> Paragraph 19-75(b).<sup>38A</sup> You only need to consider this increasing adjustment if you have made an annual apportionment election and you have made an increasing adjustment under Division 131 to account for the private use component of the acquisition.<sup>39</sup> Paragraph 19-75(c).<sup>39A</sup> Paragraph 19-75(a).<sup>39B</sup> Paragraph 19-75(b).<sup>39C</sup> Joan reduces the input tax credit originally claimed to the extent that she later made an increasing adjustment of \$40 under Division 131 to account for the private use of the acquisition.



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PLUS the sum of all decreasing adjustments under:	
Division 133	NIL
Division 129	NIL
Division 21	NIL
Division 19 (except any Division 19 adjustments in the current period) <sup>39D</sup>	NIL
previously attributed input tax credit amount	\$60

## 18. Paragraph 117

Omit:

When an adjustment event results in an adjustment	72
Working out adjustments for supplies	75
Working out adjustments for acquisitions	91

Insert:

When an adjustment event results in an adjustment under Division 19	72
<i>Interaction between Division 19 and Division 133</i>	74A
Working out adjustments for supplies under Division 19	75
Working out adjustments for acquisitions under Division 19	91

## 19. Related rulings

Insert:

GSTR 2006/9

## 20. Legislative references

Insert:

- ANTS(GST)A 1999 Div 133
- ANTS(GST)A 1999 133-10
- ANTS(GST)A 1999 Div 134
- ANTS(GST)A 1999 134-5(1)(e)
- ANTS(GST)A 199 134-10(1)(e)

## 21. Case references

Insert:

- Electrical Goods Importer v. Commissioner of Taxation [2009] AATA 854, 74 ATR 982

<sup>39D</sup> Paragraph 19-75(c).

This Addendum, to the extent that it relates to Division 133, explains the Commissioner's view of the law as it applies in relation to acquisitions and adjustments that are taken into account in:

- (a) GST returns given to the Commissioner under the GST Act after 7:30pm Australian Eastern Standard Time on 12 May 2009; or
- (b) assessments made by the Commissioner under Subdivision 105-A in Schedule 1 to the *taxation Administration Act 1953* after that time; or
- (c) amendments of:
  - (i) GST returns referred to in paragraph (a); or
  - (ii) assessments referred to in paragraph (b).

This Addendum, to the extent that it alters the explanations provided in the examples for *payments to third party end users* in paragraphs 40 to 42C of the Ruling (other than explanations about Division 134) explains the Commissioner's view of the law as it applies both before and after the issue date of the Addendum.

This Addendum, to the extent that it relates to Division 134, explains the Commissioner's view of the law as it applies in relation to third party payments made on or after 1 July 2010.

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**Commissioner of Taxation**21 September 2011

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## ATO references

NO: 1-285ZIW1

ISSN: 1443-5160

ATOlaw topic Goods and Services Tax ~~ General rules and concepts ~~  
adjustment events