GSTR 2006/9EC - Compendium

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The edited version of the Compendium of Comments is an Australian Taxation Office communication that is not intended to be relied upon as it provides no protection from primary tax, penalties, interest or sanctions for non-compliance with the law. In accordance with PS LA 2008/3 it only affords level 3 protection.

Ruling Compendium – GSTR 2006/9

This is a compendium of responses to the issues raised by external parties to the draft Addendum to GSTR 2006/9 – Goods and services tax: supplies

This compendium of comments has been edited to maintain the anonymity of entities that commented on the draft ruling.

Summary of issues raised and responses

Issue No.	Issue raised	Australian Taxation Office Response/Action taken
1	Comments regarding details of proposed legislative change.	The Ruling is intended to apply to the law as enacted at the time of issue. However a transitional arrangement is included in relation to certain health related supplies.
2	Request for a longer transitional period for affected entities.	Change made. The Ruling provides for a longer transitional period.
3	The changes that are proposed include references to additional decisions of the Full Federal Court in *TT-Line Company Pty Ltd v Federal Commissioner of Taxation* (2009) 74 ATR 771 and the Federal Court in *Meridien Marinas Horizons Shores Pty Limited v FCT* (2009) FCA 1594.	Change made. The introduction in the final Addendum acknowledges that the Ruling is being updated to refer to these two decisions.
4	The proposition that an activity could result in two completely different supplies (rather than two similar supplies under Proposition 15) was not considered in the previous ruling. Paragraphs 221 P and Q. What is the nature of the supply? Does it fall within paragraph 9-10(2)(g) of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act)?	It is acknowledged that the additional paragraphs in Proposition 15 of the Ruling do not explore the precise character of the supply made to the payer in a multiparty arrangement. Whether the supplies are completely different is not something the Ruling considers. However the guidance provided by the Full Federal Court was to the effect that the activity (of transport of the eligible passenger) gave rise to two supplies.

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5	Examples all concentrate on the issue of some specific identity or authority card to a person to whom an underlying supply has been made. It is likely that there will be circumstances where the proof of entitlement at a reduced price for an underlying supply is not limited to holding and producing a specific card.	No change made. Although the examples may refer to a specific card, the factors set out in the Ruling are expressed in broad terms. In the Ruling, paragraph 221B, at (b)(i), refers to a framework that 'identifies a mechanism by which the particular third parties or the class of third parties are to be identified such that the supplies made to them come within the scope of the framework'.
6	The strict conditions set by GSTR 2006/9DA raise doubts whether Australian Taxation Office staff will be able to apply Proposition 15 in the way that the Full Federal Court applied that Proposition in the Department.	No change made. As stated in paragraph 221G of the Ruling 'the factors listed at paragraph 221B provide a guide, but are not conclusive or prescriptive'.
7	Paragraph 59 relating to Division 81 of the GST Act. Suggestion to use the word 'treats' instead of 'deems'.	Change made.
8	Paragraphs 221A to 221S. Query regarding use of the term 'provides', e.g. whether the language implies a 'Grandmother's Flowers' scenario. Paragraph 221F. Query re the focus on providing a supply to the customer: 'Does the ruling not need to consider whether the payer is actually paying for a supply being made to and provided to it?	Changes made. To avoid confusion, relevant paragraphs have been reworded to remove references to the term 'provides'.
9	Paragraph 221K Guidance/commentary would be welcome on what the supply by C to G is.	Change made. Paragraph 221K has been expanded to refer to C making a supply of services to G.