

GSTR 2009/3-2EC - Compendium

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Page status: **not legally binding**

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Ruling Compendium – GSTR 2009/3

This is a compendium of responses to the issues raised by external parties to 2009/3DA – Draft Goods and Services Tax Ruling Addendum - cancellation fees.

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 | ATO Response/Action taken |
|------------------|--|---|
| 1 | Paragraphs 74 to 76 of GSTR 2009/3 addressing adjustment events need to be expanded as a result of the High Court decision in <i>Commissioner of Taxation v. Qantas Ltd</i> [2012] HCA 41 (<i>Qantas</i>). The High Court did not comment upon whether a ‘no-show’ is an adjustment event, being an event which has the effect of cancelling a supply or acquisition (paragraph 19-10(1)(a)). In the <i>Qantas</i> decision impact statement and in private rulings since then, the Commissioner has stated that he does not believe a ‘no show’ is an adjustment event. It is recommended that paragraphs 74 to 76 be extended to state these views, plus the reasons for them. | Paragraph 21 of GSTR 2009/3 contains the Commissioner’s view that a supply is still made in a no-show scenario. Paragraph 76A has been inserted into the Ruling to clarify this view further in relation to adjustments. Further, GSTR 2000/19 contains the Commissioner’s views in relation to making adjustments under Division 19 for adjustment events. In particular, paragraphs 16 and 17 of GSTR 2000/19 address the cancellation of a supply or acquisition. |
| 2 | Expand Discussion Where the supply of a service or right for which GST is attributed to one tax period and is cancelled in a later tax period, that the payment of a refund (rather than the cancellation itself) is treated as an adjustment event per | This issue is beyond the scope of GSTR 2009/3 and is instead discussed in GSTR 2000/19. See paragraph 17 of GSTR 2000/19 for an example where the return and associated refund cancels the supply and gives rise to an adjustment event. |

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| Issue No. | Issue raised | ATO Response/Action taken |
|------------------|---|---|
| | paragraph 19-10(1)(b) | |
| 3 | <p>Expand Discussion</p> <p>Where the supply of a service or right for which GST is attributed to one tax period and is cancelled in a later tax period, if there is no payment of a refund, the Commissioner does not believe that an adjustment event has occurred. The Commissioner has presented a view in private correspondence that paragraph 19-10(1)(a) has no independent operation and certainly cannot apply for supplies of services or rights for which consideration is paid but not refunded.</p> | <p>This issue is beyond the scope of GSTR 2009/3 and the Commissioner's view as to whether an adjustment event arises upon a cancellation is discussed in paragraphs 16 and 17 of GSTR 2000/19.</p> |