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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>