GSTR 2014/1 - Goods and services tax: motor vehicle incentive payments

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Goods and Services Tax Ruling

Goods and services tax: motor vehicle incentive payments

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What this Ruling is about

1. This Ruling explains the Commissioner's view on the goods and services tax (GST) consequences of incentive payments made by motor vehicle manufacturers, importers and distributors (collectively referred to as manufacturers throughout this Ruling) to motor vehicle dealers (dealers).

2. The Ruling seeks to provide practical guidance to the motor vehicle industry following the decision of the Full Federal Court in *AP Group Limited v. Federal Commissioner of Taxation* (2013) 214 FCR 301; [2013] FCAFC 105; 2013 ATC 20-417 (*AP Group*).[1]

3. This Ruling is divided in two parts:

- Part A of this Ruling makes general observations relevant to the GST consequences of motor vehicle incentive payments and provides specific advice on common types of incentive payments through worked examples.
- Part B of this Ruling outlines the information requirements for third party adjustment notes issued by manufacturers to dealers.

[1] ATO ID 2008/166: *GST and motor vehicle industry incentive payments: fleet sales support – margin support – discretionary payments* was withdrawn on 25 October 2013.

4. The Ruling only applies to the class of entities that make or receive incentive payments in the motor vehicle industry. This Ruling is therefore confined to the facts and circumstances of the motor vehicle industry and does not consider incentive payments made in other industries and caution should be applied if you seek to apply the view in this Ruling to payments made in other industries.[2] This Ruling also does not discuss the GST consequences of motor vehicle holdback payments.[3]

5. In considering the GST consequences, the Ruling focuses on the requirement that there must be a 'supply for consideration' in paragraph 9-5(a) of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act) for there to be a taxable supply. For the purposes of this Ruling, it is assumed that the other requirements set out in section 9-5 (taxable supplies) and the requirements in section 11-5 (creditable acquisitions) of the GST Act are also satisfied.

6. The Ruling proceeds on the basis that dealers acquire motor vehicles from manufacturers under a floor plan (bailment) arrangement, as described in paragraph 8 of this Ruling. It is further assumed that there is no agency or partnership relationship between the entities involved in these arrangements.

7. All legislative references in this Ruling are to the GST Act unless otherwise specified.

Background

Acquisition of motor vehicles under floor plan arrangements

8. Motor vehicle dealers commonly use floor plan (bailment) arrangements to finance their trading stock. In a typical floor plan arrangement, title to the motor vehicle passes from the manufacturer to a finance company and the dealer is granted physical possession of the vehicle. The finance company imposes bailment charges (also known as finance charges or floor plan charges). This allows the dealer to offer vehicles for sale without having to purchase them before securing a customer. When the dealer finds a customer for a vehicle, that vehicle is supplied by the finance company to the dealer immediately before the dealer supplies it to the customer.

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[2] For incentive payments in other industries more generally, Goods and Services Tax Ruling GSTR 2000/19 *Goods and services tax: making adjustments under Division 19 for adjustment events*; Goods and Services Tax Ruling GSTR 2006/9 *Goods and services tax: supplies* and Goods and Services Tax Ruling GSTR 2012/2 *Goods and services tax: financial assistance payments* may apply depending on the facts and circumstances of the specific incentive payment.

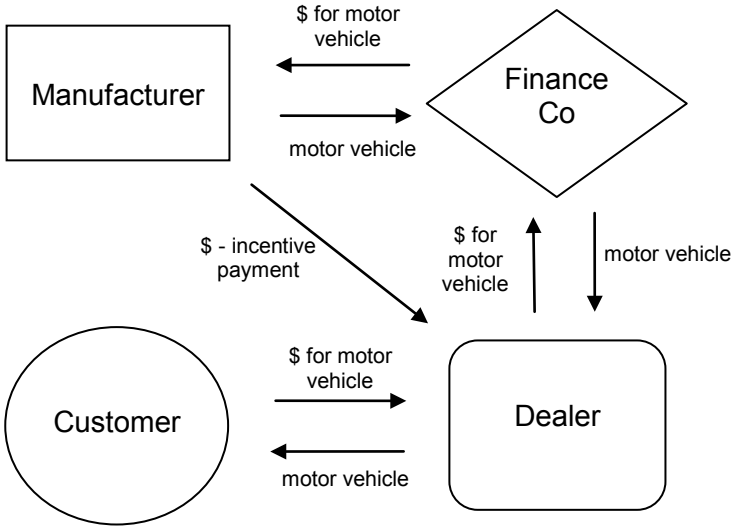
[3] See Goods and Services Tax Determination GSTD 2005/4 *Goods and services tax: are 'wholesale holdback' and 'retail holdback' payments made by a motor vehicle manufacturer or importer of new motor vehicles to a dealer consideration for a supply?*

9. It is common for manufacturers to make monetary payments to dealers as 'incentives' or 'rebates' (incentive payments) when certain conditions are met – for example, when particular vehicles are sold to particular customers or when the dealer achieves set ordering or sales targets. The conditions for payment are generally outlined in documentation, such as sales bulletins, issued by the manufacturer from time to time.

10. In some cases, manufacturers make payments to the dealer's retail customer.

11. The precise circumstances under which incentive payments are made will vary from manufacturer to manufacturer and may change in both form and substance over time.

12. A typical arrangement can be illustrated in the diagram as follows:



Ruling

PART A – GST TREATMENT OF MOTOR VEHICLE INCENTIVE PAYMENTS

13. Where a motor vehicle incentive payment is made by a manufacturer to a dealer, the dealer's conduct may give rise to the dealer having made:

- a supply to the manufacturer for consideration
- a supply to the customer for consideration, or
- no supply for consideration (although adjustments may arise for one or both parties).

Supply by a dealer to a manufacturer for consideration

Doing something specific

14. A dealer's conduct gives rise to a supply, by the dealer to the manufacturer, for consideration in the form of a motor vehicle incentive payment, where the dealer does something specific for the manufacturer for that payment. This can be contrasted with conduct by the dealer that can be characterised as being for its own benefit and thus something the dealer would be likely to do anyway without an incentive payment (even if the manufacturer perceives an advantage in encouraging the conduct).

Example 1: supply of fitting services for consideration

15. *Delta Dealership sells vehicles manufactured by Max Manufacturer. Max Manufacturer pays Delta Dealership $220 to fit a genuine Max Manufacturer towbar to each of its vehicles.*

16. *Delta Dealership makes a supply (of fitting services) to Max Manufacturer for that payment. Delta Dealership is liable for GST of $20 for each fitting, and Max Manufacturer is entitled to an input tax credit of $20 for each vehicle fitted.*

Entry into specific obligations

17. The entry by a dealer into a specific obligation is a supply for consideration where the relevant incentive payment is made for entering into that obligation. This is so even where performing that obligation may not otherwise be regarded as something done 'for' the manufacturer.

Example 2: supply of entry into obligation for consideration

18. *Max Manufacturer offers its dealers a $2,200 incentive payment if they promise to abide by certain standards regarding the presentation of their showroom.*

19. *Delta Dealership signs up to Max Manufacturer's offer and is paid the incentive payment. The reason for the payment by Max Manufacturer is Delta Dealership's promise to abide by certain standards regarding the presentation of its showroom. Delta Dealership has made a supply to Max Manufacturer for consideration and is liable for GST of $200 on that supply. This conclusion is not affected by the fact that maintaining the showroom to those standards may not otherwise be regarded as a service that is supplied by Delta Dealership to Max Manufacturer.*

Supply of making a supply

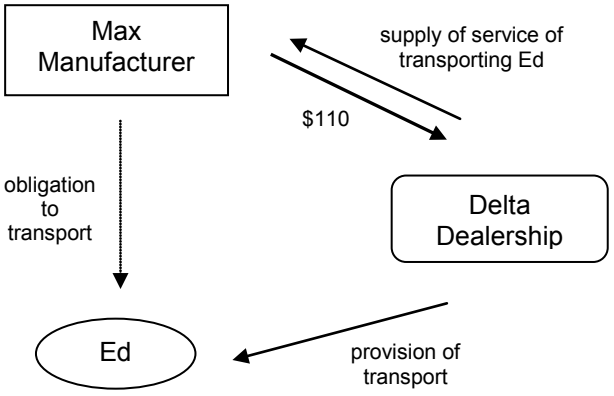
20. There are circumstances where the same conduct by a dealer can result in it making two supplies, where separate contractual obligations arise – a supply by the dealer to a customer and a supply to the manufacturer of making the supply to the customer.[4] In these cases, the dealer may be liable for GST on the supply to the manufacturer if all other requirements in paragraph 9-5(a) are satisfied (that is, the supply must be for consideration). This will be in addition to any GST liability the dealer may have for making a supply to the customer for a separate payment.

Example 3: specific supply to manufacturer for consideration

21. *A customer that owns a vehicle manufactured by Max Manufacturer is entitled to complimentary transport to and from an authorised dealership while the vehicle is being serviced under an arrangement between Max Manufacturer and each of its customers.*

22. *Under the dealership agreement, Max Manufacturer will pay Delta Dealership to provide complimentary transport to existing customers to and from the dealership while their vehicles are being serviced by Delta Dealership's on-site mechanics. Max Manufacturer pays $110 to Delta Dealership each time transport is provided to a customer. Delta Dealership will provide transport to the customer where the customer drops its vehicle off at Delta Dealership's premises.*

23. *Ed, who owns a vehicle made by Max Manufacturer, contacts Delta Dealership to arrange for his vehicle to be serviced, and to book the complimentary transport service. Ed drops his vehicle off at Delta Dealership and a driver from Delta Dealership takes Ed home and collects him later that day so that Ed can pick up his vehicle. Max Manufacturer pays Delta Dealership $110 for transporting Ed. Ed does not make any payment to Delta Dealership.*



[4] See paragraphs 221A to 221S of GSTR 2006/9.

24. *Delta Dealership makes two supplies: a supply of transporting Ed to and from the dealership and a supply to Max Manufacturer of the service of transporting Ed. The supply to Max Manufacturer is the reason for the payment by Max Manufacturer, and therefore is the only supply for consideration. Delta Dealership is liable for $10 of GST (1/11th of $110) for that taxable supply.*

Supply by a dealer to a retail customer for consideration (third party consideration)

25. Where the supply of a particular motor vehicle, or particular motor vehicles, to a customer is the reason for the incentive payment and there is nothing specific the dealer does for the manufacturer for the payment, the supply for consideration is the supply of the motor vehicle by the dealer **to the customer**. These payments are generally linked to the dealer's ability to reduce the purchase price paid by the customer, whether or not the full payment is passed on.

26. Whether the incentive payment is made before, after or at the same time as the supply of the motor vehicle to a customer is not necessarily determinative. An incentive payment is third party consideration for a supply if the reason for making that payment is the supply of that motor vehicle to a particular customer.

27. Whether the customer knows about the payment or the payment arrangement between the manufacturer and the dealer is also not determinative of whether an incentive payment can be third party consideration.[5]

28. Payments that are made to a dealer for selling a particular vehicle to a customer are generally third party consideration for the supply made by the dealer to the customer. Common payments in this category include:

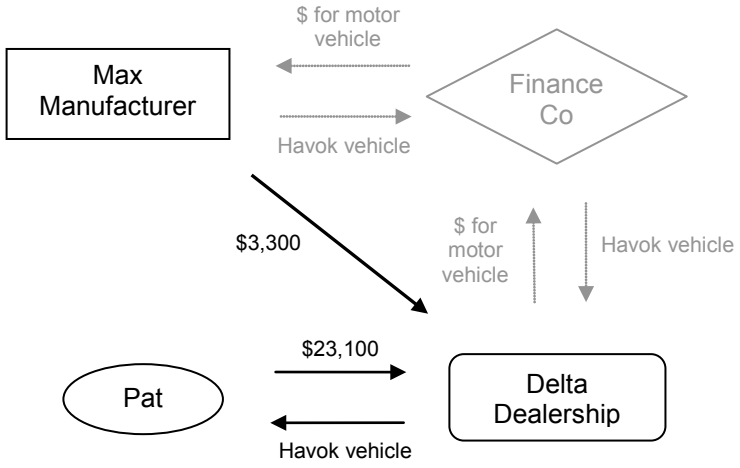
- a payment for the dealer selling a particular vehicle to a particular class of customers (for example, a 'fleet rebate')
- a payment for the dealer selling a particular vehicle to a customer at a reduced price (for example, 'a run-out model support payment'), and
- a payment for the dealer selling a particular vehicle to a customer with 'free accessories' included.

[5] *AP Group* at [40] and [44]. The Full Federal Court found that 'the lack of knowledge of the fleet customer of the arrangements between Toyota and the dealer is one factor only but cannot be determinative on the facts overall'.

Example 4: dealer makes supply for consideration to customer only

29. *Max Manufacturer makes certain incentive payments to Delta Dealership under the terms of their dealership agreement. As part of its 'Creating Havok' run-out program, Max Manufacturer pays Delta Dealership $3,300 for each Havok vehicle when it is sold at a discounted price to a customer.*

30. *Pat purchases a Havok vehicle from Delta Dealership for $23,100.*



31. *The $3,300 payment is made by Max Manufacturer to Delta Dealership under a pre-existing framework in the dealership agreement. However, the incentive payment merely encourages the overall business relationship between Max Manufacturer and Delta Dealership. Delta Dealership is not doing anything specific for Max Manufacturer for the payment, other than selling the motor vehicle.*

32. *The $3,300 payment is part of the consideration for the supply of the motor vehicle by Delta Dealership to Pat. It is not consideration for a separate supply by Delta Dealership to Max Manufacturer of supplying the vehicle to Pat.*

Practical consequences for dealers

33. Where the payment is third party consideration for a supply made by a dealer to its customer, the dealer is liable for GST on the total consideration it receives for that supply, including the incentive payment from the manufacturer. As such, the dealer does not have an increasing adjustment.[6]

[6] See paragraphs 47 to 84 for a discussion on the application of Division 134 to incentive payments.

Practical consequences for manufacturers

34. As the incentive payment is consideration for a taxable supply of a motor vehicle, and that supply is made to the customer and not the manufacturer, the manufacturer has not made a creditable acquisition and is not entitled to an input tax credit.[7]

35. For many types of incentive payments, the manufacturer has a decreasing adjustment under section 134-5.

Practical consequences for customers

36. Where there is third party consideration provided by the manufacturer for the dealer's supply of a motor vehicle to its customer, the customer's entitlement to the input tax credit is less than the GST payable by the dealer on the supply of the motor vehicle. This is because, even if the acquisition is otherwise wholly creditable, the customer provides, or is liable to provide, only part of the consideration for the purchase (with the rest being paid by the manufacturer).[8]

37. Where a motor vehicle is a car and the GST inclusive market value of the car exceeds the car limit,[9] section 69-10 reduces the customer's input tax credit to 1/11th of that limit unless the customer is entitled to quote an ABN in relation to its acquisition of the car for the purposes of the *A New Tax System (Luxury Car Tax) Act 1999*.

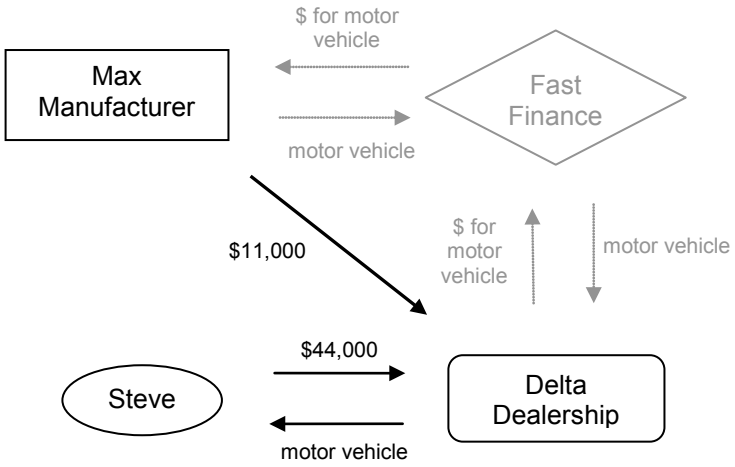
38. The GST inclusive market value of a car does not include the amount of an incentive payment paid by a manufacturer to a dealer, even though that incentive payment may be third party consideration for the supply of a car to the customer.

Example 5: third party consideration

39. *Max Manufacturer runs a fleet program under which business fleet customers may purchase motor vehicles from Max Manufacturer's dealers at a discounted price.*

40. *Steve, a business fleet customer, purchases one of Max Manufacturer' motor vehicles from Delta Dealership. The vehicle's original selling price is $55,000, however, as a fleet customer, Steve pays $44,000. Max Manufacturer makes a payment of the $11,000 difference to Delta Dealership when Delta Dealership sells the motor vehicle to Steve.*

[7] Paragraph 11-5(b).
[8] Paragraph 11-30(1)(b).
[9] See section 40-230 of the *Income Tax Assessment Act 1997*. The car limit is different to the luxury car tax threshold.



Purchase price paid by Steve	*$44,000*	
Incentive payment from Max Manufacturer	*$11,000*	
Total consideration	***$55,000***	
Including GST of		***$5,000***

41. *Delta Dealership has made a supply of a particular fleet vehicle to Steve. This supply is the reason for the payment by Max Manufacturer. Delta Dealership is liable for GST of $5,000, which is the GST payable on the total consideration it received for the supply of the fleet vehicle, being the total of the purchase price paid by Steve and the incentive payment paid by Max Manufacturer.*

42. *Max Manufacturer is not entitled to an input tax credit but will have a decreasing adjustment under section 134-5.*

43. *If Steve is registered for GST and he has made a creditable acquisition, then he may be entitled to an input tax credit for purchasing the motor vehicle but only to the extent of the consideration he provided (that is, up to $4,000).*

No supply for consideration

44. Where the dealer does not make any supply for consideration, the dealer is not liable for GST. The manufacturer is not entitled to an input tax credit as it has not made a creditable acquisition. However, in these circumstances, an incentive payment may give rise to other GST consequences – for example, the parties may have adjustments under Division 19[10] or Division 134.[11]

[10] See GSTR 2000/19 *Goods and services tax: making adjustments under Division 19 for adjustments events*.
[11] See paragraphs 47 to 84 for a discussion on the application of Division 134.

Example 6: no supply for consideration

45. *Max Manufacturer runs a competition for sales assistants employed by one of its dealers, Delta Dealership, whereby Max Manufacturer will reward the sales assistant who makes the most sales for the dealership each month with a prize. Delta Dealership's involvement in the competition is limited to providing the prize to the sales assistant who wins the competition each month. As a result, Delta Dealership may incur a fringe benefits tax (FBT) liability.*[12] *Max Manufacturer will make a lump sum payment to Delta Dealership that is equivalent to the FBT liabilities incurred by Delta Dealership during a financial year with respect to prizes Max Manufacturer has provided to employees of Delta Dealership.*

46. *Delta Dealership has not made a supply to Max Manufacturer for consideration as there is no conduct which can be identified as a supply – Delta Dealership does not do anything, or agree to do anything, for that payment.*

Division 134 – third party payment adjustments

47. Certain incentive payments made on or after 1 July 2010 may give rise to a decreasing adjustment to manufacturers and an increasing adjustment to dealers (or GST registered customers) under Division 134.[13]

Decreasing adjustments

48. A manufacturer has a decreasing adjustment for an incentive payment it makes to a dealer only if all of the conditions set out in subsection 134-5(1) are satisfied. This requires that:

(a) the manufacturer makes the payment to the dealer that acquires a thing (such as a motor vehicle) that the manufacturer supplied to another entity (for example, a finance company or parts distributor). It does not matter whether the other entity supplies the thing to the dealer,[14]

(b) the manufacturer's supply of the thing to the other entity is a taxable supply or would have been a taxable supply but for a reason to which paragraph 134-5(3)(a) (about GST groups) applies,[15]

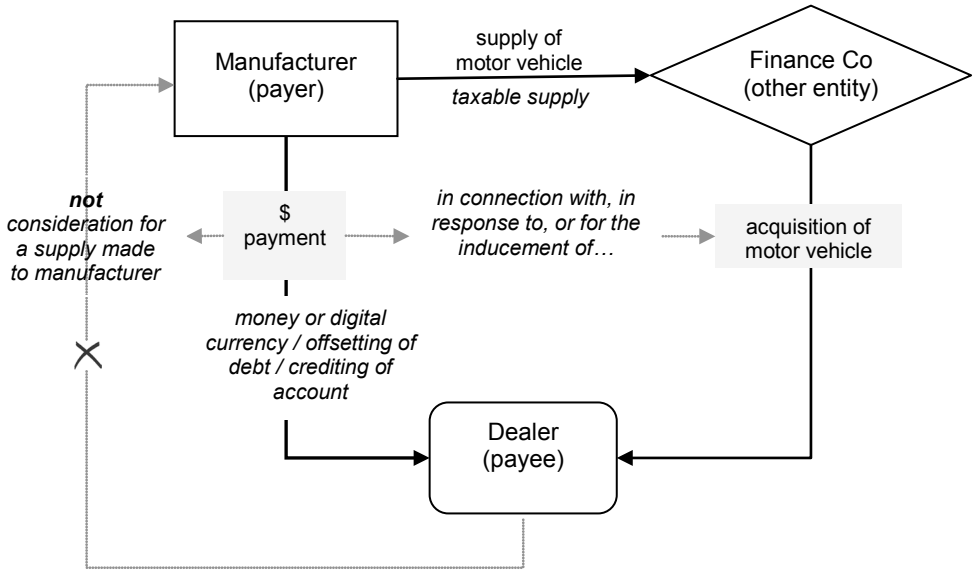
[12] See GSTR 2002/3 *Goods and services tax: prizes* and *GSTR 2001/3 Goods and services tax: GST and how it applies to supplies of fringe benefits*.
[13] Item 29 in Schedule 1 to the *Tax Laws Amendment (2010 GST Administration Measures No. 1) Act 2010*.
[14] Paragraph 134-5(1)(a).
[15] Paragraph 134-5(1)(b).

(c) the payment is a payment of money or digital currency, an offset of money or digital currency that the dealer owes the manufacturer or the crediting of an amount of money or digital currency to an account that the dealer holds,[16]

(d) the payment is made in connection with, in response to or for the inducement of the dealer's acquisition of the thing,[17] and

(e) the payment is not consideration for a supply to the manufacturer.[18]

49. The requirements for a decreasing adjustment can be illustrated as follows:



50. Similarly, where the manufacturer makes the payment to the dealer's customer and the requirements of subsection 134-5(1) as outlined in paragraph 48 of this Ruling are satisfied, the manufacturer has a decreasing adjustment.

Increasing adjustments

51. A dealer has an increasing adjustment for an incentive payment it receives only if all of the conditions set out in subsection 134-10(1) are satisfied. This requires that:

(a) the dealer receives a payment from the manufacturer that supplied a thing (such as a motor vehicle) that the dealer acquired from another entity (for example, a finance company or parts distributor). It does not

[16] Paragraph 134-5(1)(c).
[17] Paragraph 134-5(1)(d).
[18] Paragraph 134-5(1)(e).

matter whether the other entity acquired the thing from the manufacturer,[19]

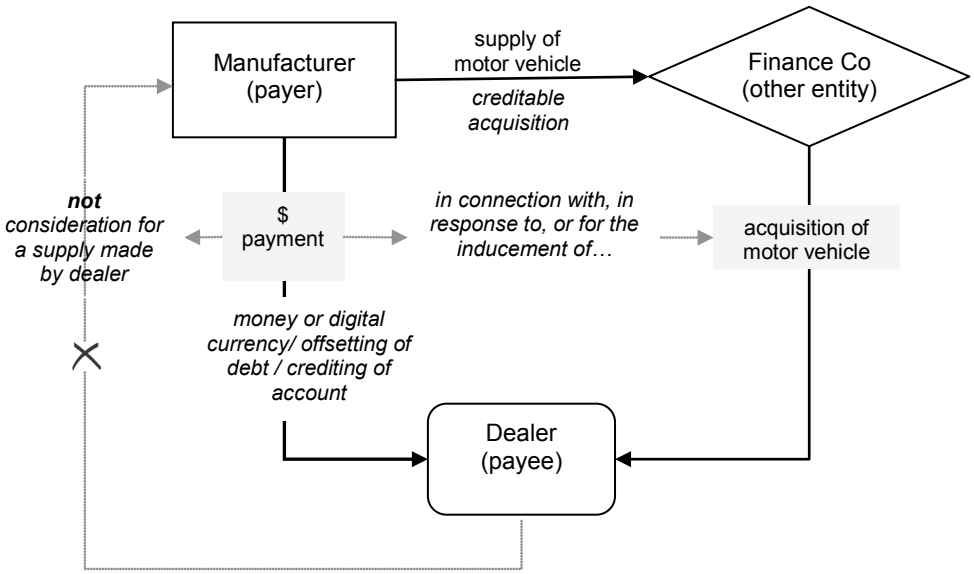
(b) the dealer's acquisition of the thing from the other entity was a creditable acquisition or would have been creditable but for a reason to which paragraph 134-10(3)(a) (about GST groups) applies,[20]

(c) the payment is a payment of money or digital currency, an offset of money or digital currency that the dealer owes the manufacturer or the crediting of an amount of money or digital currency to an account that the dealer holds,[21]

(d) the payment is made in connection with, in response to or for the inducement of the dealer's acquisition of the thing,[22] and

(e) the payment is not consideration for a supply that the dealer makes.[23]

52. The requirements for an increasing adjustment can be illustrated as follows:



53. Similarly, where the manufacturer makes the payment to a GST registered customer and the requirements of paragraph 134-10(1) as outlined in paragraph 51 of this Ruling are satisfied, the GST registered customer has an increasing adjustment.

[19] Paragraph 134-10(1)(a).
[20] Paragraph 134-10(1)(b).
[21] Paragraph 134-10(1)(c).
[22] Paragraph 134-10(1)(d).
[23] Paragraph 134-10(1)(e).

Dealer must acquire something that the manufacturer supplied to another entity (paragraphs 134-5(1)(a) and 134-10(1)(a))

54. The incentive payment must be made to a dealer that acquires a thing that the manufacturer supplied to another entity.[24] There may be multiple interposed entities between the manufacturer and dealer.

55. No decreasing or increasing adjustments under Division 134 arise if the dealer acquires the thing:

- directly from the manufacturer,[25] or
- from another entity, but the manufacturer never previously supplied that thing at any stage of the supply chain.

Dealer must actually acquire the thing

56. Whether the incentive payment is made before or after the dealer's acquisition of the thing is not determinative. However, there must be an actual acquisition of the thing by the dealer for there to be an adjustment.

57. Under a floor plan arrangement, the interposed finance company makes two supplies to the dealer:[26]

- a supply of a right to display the motor vehicle for sale, for which regular bailment fees are paid, and
- a supply of vehicle by way of sale, which occurs when a customer is secured for the motor vehicle.

58. Therefore, while a dealer may have possession of the motor vehicle shortly after the vehicle is ordered, the dealer does not acquire the vehicle until a customer is secured and title to the vehicle is transferred from the interposed finance company to the dealer.

59. Some incentive payments, such as those commonly known as delivery or pre-delivery allowances, may be paid by the manufacturer before the dealer acquires the motor vehicle. In these cases, the adjustment only arises once the dealer acquires the motor vehicle.[27]

60. Merely ordering or obtaining possession of the motor vehicle subsequent to the order would not be sufficient for the purposes of Division 134 where the dealer does not in fact acquire the vehicle. For example, an acquisition may not occur where the dealer swaps the particular vehicle with another dealer.

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[24] Paragraphs 134-5(1)(a) and 134-10(1)(a).
[25] In these cases, the payment may give rise to adjustments under Division 19.
[26] See paragraph 223 of GSTR 2000/29: *Goods and services tax: attributing GST payable, input tax credits and adjustments*.
[27] A decreasing adjustment is not attributable until the manufacturer holds a third party adjustment note: subsection 134-15(1).

61. The Commissioner recognises the practical difficulties and compliance costs involved in a manufacturer and a dealer having to trace each incentive payment to an individual motor vehicle and then having to track whether that vehicle is ultimately acquired by that dealer. Taking this into account, the Commissioner considers that where both the manufacturer and the dealer have attributed their adjustments on the understanding that the dealer would eventually acquire the vehicle, the adjustments do not need to be reversed if the dealer swaps the vehicle with another dealer, provided neither party seeks to reverse the adjustment.

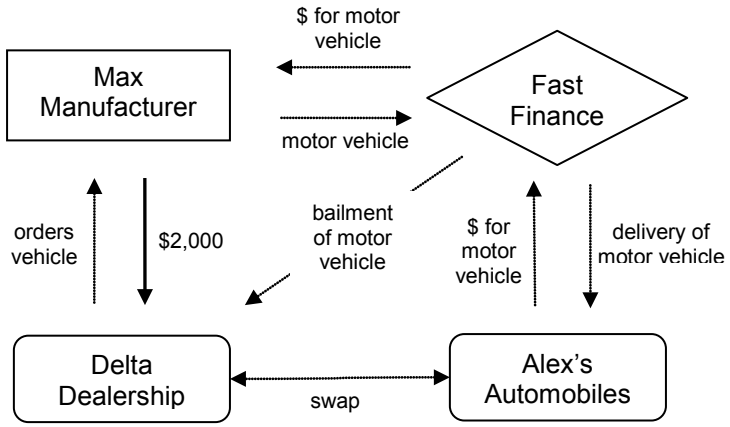
Example 7: payment for which there is no acquisition of a thing

62. *Max Manufacturer issues a sales bulletin for April stating that it will make a payment of $2,000 for each specified model of luxury car ordered by its dealers. One of Max Manufacturer's dealers, Delta Dealership, orders a luxury car on 21 April. Based on the order submitted in the system, Max Manufacturer makes a payment to Delta Dealership of $2,000 at the end of May. Delta Dealership incurs and pays bailment fees under the floor plan arrangement, however, never obtains legal title of the motor vehicle.*

63. *Max Manufacturer attributes its decreasing adjustment and Delta Dealership attributes its increasing adjustment on the understanding that Delta Dealership will eventually acquire the vehicle when it finds a customer.*

64. *Alex's Automobiles has a customer who wishes to purchase a particular luxury car that Alex's Automobiles does not have in stock. However, it has an arrangement with Fast Finance and Delta Dealership where dealers are able to swap vehicles ordered but not yet found a customer for the vehicle.*

65. *As Delta Dealership has not yet found a customer for the vehicle, Delta Dealership enters into a swap with Alex's Automobiles in respect of the luxury car Alex's Automobiles' customer wishes to purchase. Alex's Automobiles pays Fast Finance the full purchase price and obtains legal title to the vehicle, which it then transfers to the customer when the vehicle is sold.*



66. *In this case, paragraph 134-5(1)(a) is not satisfied as Delta Dealership never obtains legal title, and therefore never acquires the vehicle. However, Delta Dealership or Max Manufacturer are not required to reverse their respective adjustments provided that they both take this approach.*

Payment must be made in connection with, in response to or for the inducement of the dealer's acquisition of the thing (paragraphs 134-5(1)(d) and 134-10(1)(d))

67. Determining whether an incentive payment is made in connection with, in response to, or for the inducement of the dealer's acquisition of a thing will depend on the nature of the particular payment and the relevant circumstances of each case.

68. In the context of Division 134, an incentive payment will be in connection with, in response to or for the inducement of the dealer's acquisition of a thing if that payment sufficiently relates to the dealer's acquisition of a particular thing. It does not matter if the incentive payment is made before, after or at the same time as the dealer's acquisition of the thing. It also does not matter that the incentive payment also relates to other things, for example, the dealer's supply of a vehicle to a customer, the financing of the vehicle or anything else the dealer does.

69. For the purposes of discussing paragraphs 134-5(1)(d) and 134-10(1)(d), references to the term 'in connection with' should also be read as references to the terms 'in response to' or 'for the inducement of' (where appropriate).

*Acquisition of a **particular** thing or **particular** things*

70. The reference to 'the thing' in paragraphs 134-5(1)(d) and 134-10(1)(d) indicates that there must be a connection between the incentive payment and the acquisition of a **particular** thing or **particular** things by the payee, rather than the acquisition of things generally.

71. For example, an incentive payment made by a manufacturer to a dealer where the dealer acquires a specified number of vehicles in a particular month as set by the manufacturer (commonly known as a 'wholesale target' incentive payment). The relevant acquisition is the acquisition of those **particular** vehicles.

Payment must relate to the dealer's acquisition of a particular thing

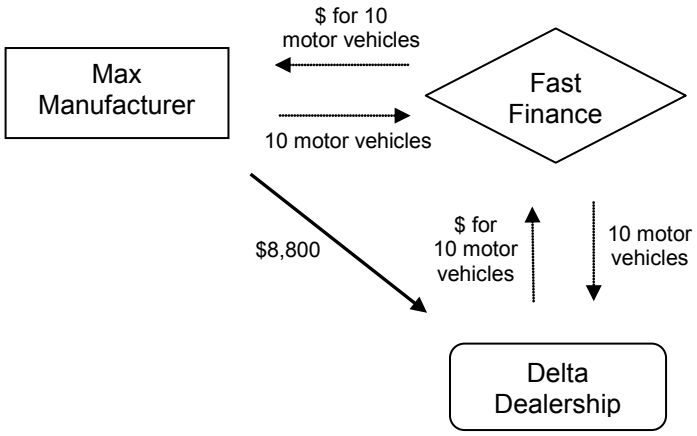
72. Determining whether an incentive payment relates to the dealer's acquisition of a particular vehicle is dependent on the nature of the particular payment and the relevant circumstances of each case.

73. In the context of Division 134, an incentive payment relates to the acquisition of a particular thing if it has the substantive effect of indirectly altering the price of the thing acquired.

74. An incentive payment made by a manufacturer to a dealer in connection with a vehicle acquired under a bailment arrangement will not, in form, alter the acquisition price for the vehicle as the dealer does not acquire the thing directly from the manufacturer. However, the incentive payment may, in substance, indirectly alter the dealer's actual costs of acquiring the vehicle.

Example 8: payment made for dealer's acquisition of specified number of vehicles

75. *For the period 1 January to 30 June 2014, Max Manufacturer agrees to pay its authorised dealer an amount equivalent to 2% of the wholesale price of each motor vehicle that the dealer acquires in a given month where the dealer acquires 10 vehicles for each model that Max Manufacturer specifies. Delta Dealership, an authorised dealership, acquires 10 vehicles of an eligible model. Max Manufacturer pays Delta Dealership $8,800, being 2% of the wholesale price of each vehicle.*



76. *The payment from Max Manufacturer to Delta Dealership is in connection with the acquisition of the particular motor vehicles by Delta Dealership in the particular month, as the payment has the substantive effect of indirectly altering Delta Dealership's costs of acquiring those vehicles.*

Payment must not be consideration for a supply (paragraphs 134-5(1)(e) and 134-10(1)(e))

77. For a decreasing adjustment to arise, the payment must not be consideration for a supply made to the manufacturer.[28]

78. For an increasing adjustment to arise, the payment must not be consideration for a supply from the dealer, whether that supply is from the dealer to the manufacturer or from the dealer to any other entity (such as a retail customer).[29]

Example 9: incentive payment is consideration for a supply to the manufacturer

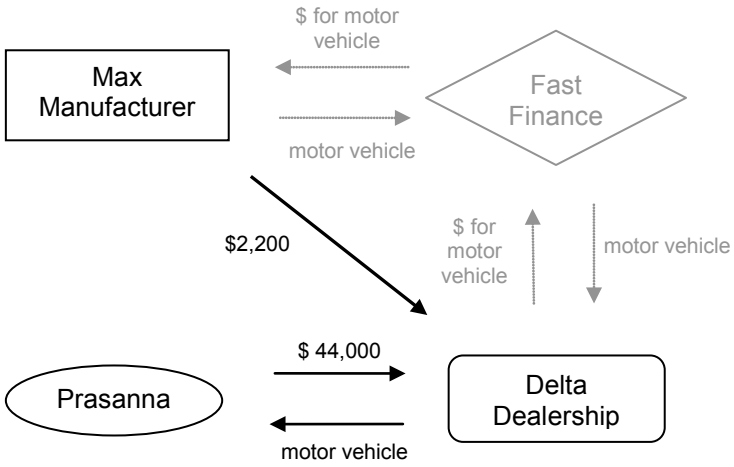
79. *Max Manufacturer pays Delta Dealership to organise direct marketing to support Max Manufacturer's end of year sale promotions. Delta Dealership makes a supply to Max Manufacturer for consideration in the form of the incentive payment.*

80. *As the reason for the payment is the supply of organising direct marketing from Delta Dealership to Max Manufacturer, Max Manufacturer has made a creditable acquisition, and therefore does not have a decreasing adjustment under section 134-5. Similarly, Delta Dealership has made a supply for consideration and does not have an increasing adjustment under section 134-10.*

[28] Paragraph 134-5(1)(e).
[29] Paragraph 134-10(1)(e).

Example 10: incentive payment is consideration for a supply to a third party

81. *Max Manufacturer makes a payment to Delta Dealership for each fleet vehicle sold to a fleet customer in accordance with the terms and conditions of the fleet program offered by Max Manufacturer. Prasanna, a fleet customer, purchases a fleet vehicle from Delta Dealership for $44,000. Max Manufacturer pays Delta Dealership an incentive payment of $2,200.*



82. *Max Manufacturer's payment is consideration for Delta Dealership's supply of a fleet vehicle to Prasanna, even though it is Max Manufacturer that provides that consideration.*

83. *No supply has been made to Max Manufacturer and therefore, paragraph 134-5(1)(e) is satisfied. Assuming all other requirements in section 134-5 are satisfied, Max Manufacturer has a decreasing adjustment of $200.*

84. *As the payment is consideration for the supply of the motor vehicle from Delta Dealership to Prasanna, paragraph 134-10(1)(e) is not satisfied and Delta Dealership does not have an increasing adjustment under section 134-10. Instead, Delta Dealership is liable for GST of $4,200, being the GST on the total consideration it receives for the supply of the vehicle to Prasanna.*

Purchase price paid by Prasanna	*$44,000*	
Incentive payment from Max Manufacturer	*$2,200*	
Total consideration	***$46,200***	
Including GST of		***$4,200***

Worked Examples

85. Paragraphs 97 to 268 contain worked examples of some common payment types, which illustrate the views outlined in this Ruling.

PART B – THIRD PARTY ADJUSTMENT NOTES

When a third party adjustment note is required

86. A decreasing adjustment under section 134-5 is not attributable to a tax period until the manufacturer holds a third party adjustment note.[30]

87. The manufacturer must give a copy of a third party adjustment note to the dealer within 28 days of:

- the dealer (or GST registered customer) requesting the payer for a copy, or
- the manufacturer becoming aware of the adjustment before the copy is requested.[31]

88. The manufacturer does not need to hold a third party adjustment note, or issue one to the dealer, where the amount of the adjustment is less than the amount provided for in section 29-80.[32] In these cases, the attribution rules in section 29-20 apply.

Requirements for a document to be a third party adjustment note[33]

89. For a document to be a third party adjustment note under subsection 134-20(1), it must:

- be in the approved form,[34]
- set out the manufacturer's ABN,[35] and
- contain enough information to enable the following information to be clearly ascertained from the document:[36]
  - the manufacturer's identity (in addition to its ABN)
  - the dealer's identity or ABN

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[30] Subsection 134-15(1). The Commissioner recognises that an adjustment may be reflected in a third party adjustment note in the same tax period in which the payment is made, despite title to the motor vehicle not passing to the dealer until a later tax period. See paragraph 61 of this Ruling for the Commissioner's administrative solution in relation to when a third party adjustment arises.

[31] Subsection 134-20(2).

[32] Subsections 134-15(2) and 134-20(3).

[33] An explanation of some of these information requirements, including the meaning of 'clearly ascertained', is set out in GSTR 2013/2 *Goods and services tax: adjustment notes* which outlines the Commissioner's view on the information requirements for a document to be an adjustment note under section 29-75. To the extent the information requirements for a third party adjustment note are the same as for an adjustment note,

[34] Paragraph 134-20(1)(e). See paragraphs 90 and 91 for further discussion on what constitutes an approved form for a third party adjustment note.

[35] Paragraph 134-20(1)(c).

[36] Paragraph 134-20(1)(d). The 'other information' requirements are prescribed in the *A New Tax System (Goods and Services Tax) Third Party Adjustment Note Information Requirements Determination (No. 1) 2010* (legislative instrument).

- a description of the thing that the dealer acquires (including the quantity) and what the payment relates to
- the amount of the third party payment
- the amount of the manufacturer's decreasing adjustment under subsection 134-5(2), and
- the date the note is issued.

Approved form[37]

90. A document issued by a manufacturer is in the approved form for a third party adjustment note if it includes the information required by subsection 134-20(1), including the additional information requirements which the Commissioner has determined in the legislative instrument,[38] and if applicable section 54-50 (which is about GST branches).

91. The document may be in electronic form and may include details of more than one adjustment, as long as it meets the requirements of subsection 134-20(1).

Circumstances in which the Commissioner may exercise the discretion to treat a document as a third party adjustment note

92. The Commissioner has the discretion to treat a particular document, which is not a third party adjustment note, as a third party adjustment note.[39] The Commissioner will exercise this discretion on a case-by-case basis.

93. The factors outlined in Law Administration Practice Statement PS LA 2004/11 *The Commissioner's discretions to treat a particular document as a tax invoice or adjustment note* (in relation to tax invoices under section 29-70 and adjustment notes under section 29-75) may be relevant when considering the exercise of the discretion to treat a document as a third party adjustment note. These factors are not exhaustive and there may be other circumstances that are relevant in a particular case.

94. When the Commissioner exercises the discretion to treat a document as a third party adjustment note, that document is a third party adjustment note as defined in section 195-1. This treatment applies for the purposes of both the manufacturer and the dealer. The document for which the discretion has been exercised is treated as a third party adjustment note for the adjustment from the date it was created.

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[37] This Ruling constitutes approval in writing by the Commissioner under subsection 388-50(1) of Schedule 1 to the *Taxation Administration Act 1953* for such documents to be in an approved form for third party adjustment notes.
[38] Discussed in paragraph 89 above.
[39] Subsection 134-20(1).

95. However, this does not mean that the manufacturer had, before the exercise of the discretion, complied with their obligation to issue a third party adjustment note within the required time.

Combined recipient created tax invoice and third party adjustment note

96. One document may be both a recipient created tax invoice and a third party adjustment note if it satisfies the requirements for a recipient created tax invoice in subsection 29-70(1),[40] and the requirements for a third party adjustment note in subsection 134-20(1) for the respective taxable supplies and adjustments contained in that document.

Worked examples

97. The following examples, although not exhaustive of all scenarios, demonstrate the application of the propositions in this Ruling to common payments made in the motor vehicle industry.

98. The GST consequences of any incentive payment are highly dependent on the individual facts and circumstances of each arrangement. Any material variation to the facts and circumstances in the following examples may give rise to a different GST outcome. Therefore, care should be taken in drawing conclusions where the material facts and circumstances differ from those discussed in the examples below, even if the payments are referred to using similar names or descriptions.

Fleet rebates and other payments made to particular classes of customers

99. Fleet rebates are often paid where the dealer sells a particular class of vehicle (ordered as 'non-fleet' vehicles or at 'non-fleet' pricing) to a particular class of customers (for example, certain business or government customers).

100. Manufacturers may also make payments to dealers where the dealer sells a particular class of vehicle to a preferred class of customers (for example, customers who are members of a professional association).

101. These payments may be paid to the dealer, or directly to the customer. Where they are paid to the dealer, the dealer may be required to reflect the rebate as a discount in the purchase price to the customer, although this will depend on the terms and conditions of the fleet program.

[40] See GSTR 2013/1 *Goods and services tax: tax invoices* in respect of tax invoices and recipient created tax invoices.

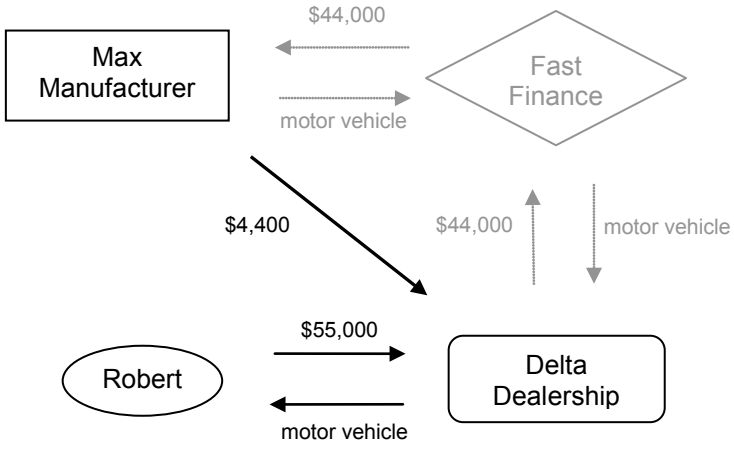
Worked Example 1: fleet rebate paid to dealer for vehicle acquired as non-fleet vehicle

102. *Max Manufacturer runs a fleet program for business customers. Under the program, businesses may purchase motor vehicles of particular models at or below a fleet price (as listed in a monthly schedule), from any of Max Manufacturer's authorised dealers. Delta Dealership is an authorised dealership.*

103. *Max Manufacturer makes a fleet rebate payment to Delta Dealership when Delta Dealership sells motor vehicles to fleet customers at or below a price specified by Max Manufacturer.*

104. *The fleet rebate is payable in respect of each motor vehicle sold to a fleet customer that is already held in stock by Delta Dealership.*

105. *Delta Dealership orders a vehicle from Max Manufacturer via Fast Finance Co for $44,000. Delta Dealership then sells that vehicle to a fleet customer, Robert, for $55,000. Max Manufacturer pays Delta Dealership the fleet rebate of $4,400.*



Is there a supply for consideration?

106. *The sale of the vehicle by Delta Dealership to Robert is the reason for the payment by Max Manufacturer to Delta Dealership. The price paid by Robert and the payment from Max Manufacturer together form the consideration for the supply of the motor vehicle, which is $59,400.*

Purchase price paid by Robert	*$55,000*	
Incentive payment from Max Manufacturer	*$4,400*	
Total consideration	*$59,400*	
Including GST of		***$5,400***

107. *No other supplies made by Delta Dealership are identifiable in this example. Delta Dealership is therefore liable for GST of $5,400, being the GST payable on the full consideration that it received for the supply of the motor vehicle.*

108. *As Max Manufacturer has not made a creditable acquisition, it is not entitled to an input tax credit in relation to the incentive payment.*

109. *If Robert is registered for GST and makes a creditable acquisition of the vehicle, he will be entitled to an input tax credit of $5,000, being the input tax credit entitlement referable to the extent of consideration provided by him.*

Are there any adjustments under Division 134?

110. *Delta Dealership has acquired a motor vehicle that was supplied by Max Manufacturer to the interposed finance company as a taxable supply.*

111. *Having regard to the nature of the payment, even though the reason for the payment is the supply of the vehicle by Delta Dealership to Robert, the payment is in connection with Delta Dealership's acquisition of the vehicle from the interposed finance company.*

112. *This is because Max Manufacturer's payment is payable in respect of each motor vehicle sold to a fleet customer that was already held by Delta Dealership. The payment indirectly alters the price of the vehicle acquired by Delta Dealership and sold to Robert so that what Delta Dealership pays for the vehicle is effectively what it would have paid had it acquired the vehicle at the fleet price. Therefore, Max Manufacturer has a decreasing adjustment under section 134-5 of $400.*

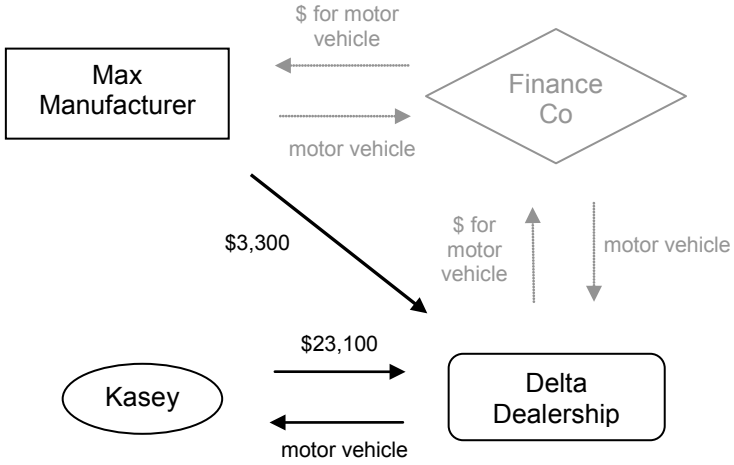
113. *As the payment is consideration for a supply from Delta Dealership, being the taxable supply of the motor vehicle to Robert, Delta Dealership does not have an increasing adjustment under section 134-10 because paragraph 134-10(1)(e) is not satisfied. Instead, Delta Dealership is liable for GST for that taxable supply.*

Worked Example 2: fleet rebate paid to a dealer before sale to customer

114. *Max Manufacturer runs a fleet program for business customers. Under the program, business customers may purchase motor vehicles of particular 'qualifying' models at or below a fleet price from any of Max Manufacturer's authorised dealers. Max Manufacturer pays its dealers a fleet rebate once those qualifying models are delivered to the dealers' showrooms. However, if the qualifying vehicle is sold to a non-fleet customer, the dealer is required to repay the fleet rebate.*

115. *Delta Dealership, an authorised dealership, orders five qualifying vehicles and Max Manufacturer separately pays Delta Dealership $3,300 for each vehicle. At this point in time, Delta Dealership has not yet found a customer for the vehicles.*

116. *Kasey is a fleet customer who purchases one of the qualifying vehicles from Delta Dealership for $23,100.*



Is there a supply for consideration?

117. *The sale of the vehicle by Delta Dealership to Kasey is the reason for the payment. This is because Max Manufacturer made the payment for the future supply of the vehicle to a fleet customer. The price paid by Kasey and the payment from Max Manufacturer together form the consideration for the supply of the motor vehicle, which is $26,400.*

Purchase price paid by Kasey	*$23,100*	
Incentive payment from Max Manufacturer	*$3,300*	
Total consideration	*$26,400*	
Including GST of		***$2,400***

118. *If the incentive payment and the sale of the motor vehicle to Kasey occur in the same tax period, the GST payable on Delta Dealership's supply of the motor vehicle to Kasey is attributable in that same tax period. If the incentive payment is received in the tax period prior to the tax period in which the sale of the motor vehicle to Kasey occurs, the GST payable on Delta Dealership's supply of the motor vehicle to Kasey is attributable in the tax period in which Delta Dealership knows the total consideration for the supply of the motor vehicle to Kasey.*

119. *As Max Manufacturer has not made a creditable acquisition, it is not entitled to any input tax credits in relation to the incentive payment.*

Are there any adjustments under Division 134?

120. *Delta Dealership has acquired a motor vehicle that was supplied by Max Manufacturer to the interposed finance company as a taxable supply.*

121. *The payment is in connection with the acquisition of the vehicle from the interposed finance company by Delta Dealership because the payment indirectly alters the price of the vehicle acquired by Delta Dealership and sold to Kasey by $3,300. Therefore, Max Manufacturer has a decreasing adjustment under section 134-5 of $300.*

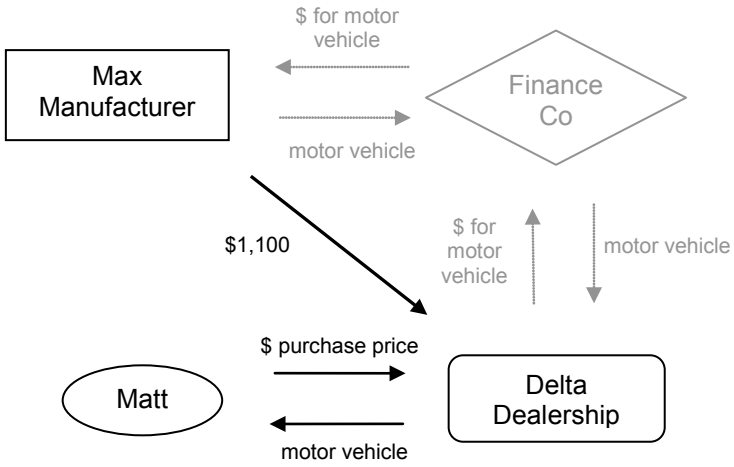
122. *As the payment is consideration for a supply from Delta Dealership, being the taxable supply of the motor vehicle to Kasey, Delta Dealership does not have an increasing adjustment under section 134-10 because paragraph 134-10(1)(e) is not satisfied. Instead, Delta Dealership is liable for GST on that taxable supply.*

Worked Example 3: payment made to dealer for sale of vehicle to preferred customer

123. *Max Manufacturer runs a promotional campaign in conjunction with the Yoshi Motor Club. Under the campaign, members of the Yoshi Motor Club are offered a $1,100 discount on the purchase of any of Max Manufacturer's vehicles from an authorised dealer. Max Manufacturer pays $1,100 to a dealer where the dealer sells a vehicle to a member of the Yoshi Motor Club and reduces the purchase price of the vehicle by $1,100.*

124. *Matt is a member of the Yoshi Motor Club. At the time of purchasing a vehicle from Delta Dealership, an authorised dealer, Matt shows Delta Dealership his Yoshi Motor Club membership card. Delta Dealership reduces the negotiated purchase price of the vehicle by $1,100.*

125. *Max Manufacturer makes a payment of $1,100 to Delta Dealership.*



Is there a supply for consideration?

126. *The sale of the vehicle by Delta Dealership to Matt is the reason for the payment by Max Manufacturer to Delta Dealership. The payment from Matt and the payment from Max Manufacturer together form the consideration for the supply of the motor vehicle.*

127. *As Max Manufacturer has not made a creditable acquisition, it is not entitled to any input tax credits in relation to the incentive payment.*

Are there any adjustments under Division 134?

128. *Delta Dealership has acquired a motor vehicle that was supplied by Max Manufacturer to the interposed finance company as a taxable supply.*

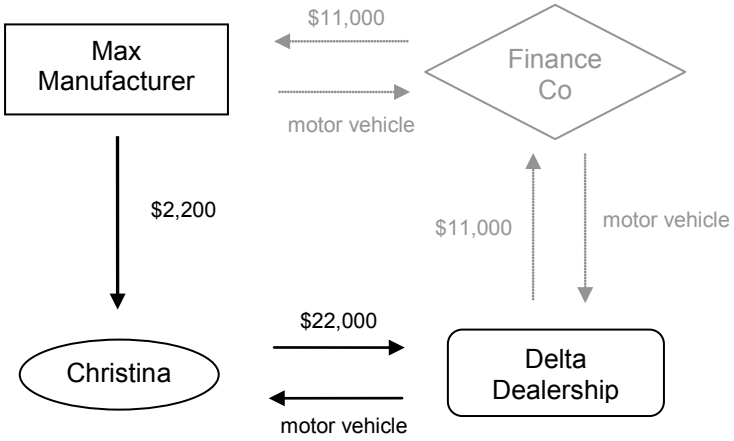
129. *The payment is in connection with the acquisition of the vehicle from the interposed finance company by Delta Dealership because the payment indirectly alters the price of the vehicle acquired by Delta Dealership and sold to Matt by $1,100. Therefore, Max Manufacturer has a decreasing adjustment under section 134-5 of $100.*

130. *As the payment is consideration for a supply from Delta Dealership, being the taxable supply of the motor vehicle to Matt, Delta Dealership does not have an increasing adjustment under section 134-10 because paragraph 134-10(1)(e) is not satisfied. Instead Delta Dealership is liable for GST on that supply.*

Worked Example 4: fleet rebate paid to customer where customer acquires vehicle from dealer

131. *Max Manufacturer offers a rebate to fleet customers who buy its vehicles from its dealers. The customers are given an option to either receive the rebate directly from Max Manufacturer as a cheque or to redirect the rebate to its dealer to reduce the purchase price of the vehicle.*

132. *Christina is a fleet customer who is registered for GST and acquires a vehicle from Delta Dealership for $22,000. As a fleet customer, Christina is entitled to receive a rebate of $2,200 from Max Manufacturer and elects to receive the rebate as a cheque. Delta Dealership ordered the vehicle for $11,000.*



Is there a supply for consideration?

133. *The only supply for consideration is the supply of the motor vehicle by Delta Dealership to Christina. The consideration provided for that supply is Christina's payment of $22,000. Delta Dealership is therefore liable for GST of $2,000. Christina has an input tax credit of $2,000 for her acquisition of the motor vehicle.*

134. *As Max Manufacturer has not made a creditable acquisition, it is not entitled to any input tax credits in relation to the incentive payment.*

Are there any adjustments under Division 134?

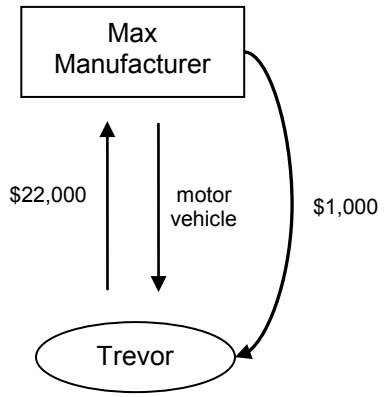
135. *The fleet payment is made in respect of a vehicle that Christina acquires from Delta Dealership as it indirectly alters the price of the vehicle acquired by Christina. Max Manufacturer has a decreasing adjustment of $200 under section 134-5 and Christina has an increasing adjustment of $200 under section 134-10.*

Worked Example 5: fleet rebate paid to customer who acquires vehicle directly from manufacturer

136. *Max Manufacturer runs a fleet program under which a fleet customer who purchases a fleet vehicle directly from Max Manufacturer (rather than from an authorised dealership) is entitled to a $1,000 'cashback' rebate after the vehicle has been purchased. However, as Max Manufacturer does not have suitable facilities from which customers can collect their vehicles, Max Manufacturer delivers the vehicles to an authorised dealer so that customers are able to pick up the vehicle.*

137. *Trevor purchases a vehicle directly from Max Manufacturer for $22,000. Max Manufacturer delivers the vehicle to Delta Dealership's premises for Trevor to collect the vehicle.*

138. *Max Manufacturer then sends Trevor a cheque for $1,000.*



Is there a supply for consideration?

139. *Max Manufacturer makes a supply of a motor vehicle to Trevor for consideration of $22,000.*

140. *As Max Manufacturer has not made a creditable acquisition, it is not entitled to any input tax credits in relation to the incentive payment.*

Are there any adjustments under Division 134?

141. *No. As Trevor purchased the vehicles directly from Max Manufacturer, no adjustments arise under Division 134.*

142. *However, the payment of the rebate changes the consideration for the supply of the vehicle to Trevor and gives rise to an adjustment event under paragraph 19-10(b). Max Manufacturer has a decreasing adjustment under section 19-55. If Trevor is registered for GST and claimed input tax credits for purchasing the vehicle then he has an increasing adjustment under section 19-80. The payment is not a discount that is 'certain' as the payment is made separate to the acquisition of the motor vehicle and paid after the acquisition has taken place.*[41]

Run-out model incentive payments

143. These payments are made where dealers sell specified types of vehicles at or below a specified price to encourage dealers to reduce their floor stock. Generally, the payment is not required to be passed on to the customer.

144. Some manufacturers may make similar payments where dealers sell ex-demonstrator vehicles at a discount. The GST treatment for these payments will generally be the same as for run-out model incentive payments.

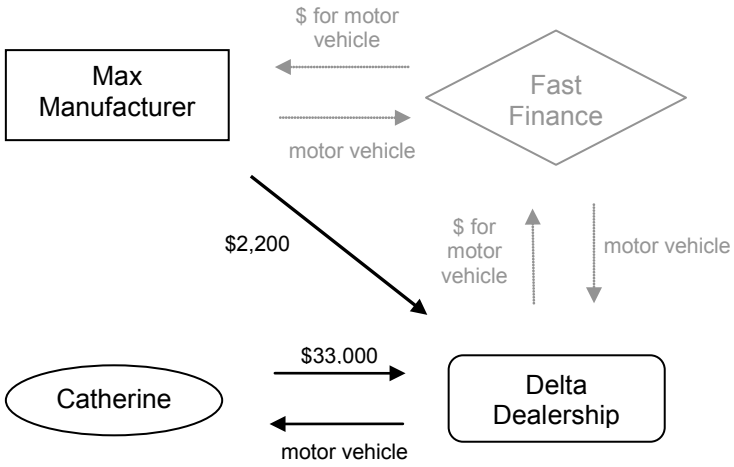
Worked Example 6: run out model incentive payment

145. *In January 2014, Max Manufacturer issues a sales bulletin to its dealers informing them of a new incentive program to encourage dealers to reduce their floor stock of specified 2013 models in preparation for the introduction of the 2014 range.*

146. *As part of the program, Max Manufacturer will pay its dealers $2,200 for each CPR XIII model that is sold and delivered to a customer in January.*

147. *Catherine purchases a CPR XIII from Delta Dealership for $33,000. Delta Dealership makes full payment to its finance company and title is transferred to Delta Dealership then to Catherine. Max Manufacturer pays Delta Dealership $2,200.*

[41] See paragraph 23 of GSTR 2000/19.



Is there a supply for consideration?

148. *Delta Dealership makes a taxable supply of the vehicle to Catherine for consideration comprising the $33,000 paid by Catherine and the $2,200 incentive payment from Max Manufacturer (which is third party consideration for the supply of the vehicle to Catherine). Delta Dealership is liable for GST of $3,200.*

Purchase price paid by Catherine	*$33,000*	
Incentive payment from Max Manufacturer	*$2,200*	
Total consideration	***$35,200***	
Including GST of		***$3,200***

149. *As Max Manufacturer has not made a creditable acquisition, it is not entitled to any input tax credits in relation to the incentive payment.*

Are there any adjustments under Division 134?

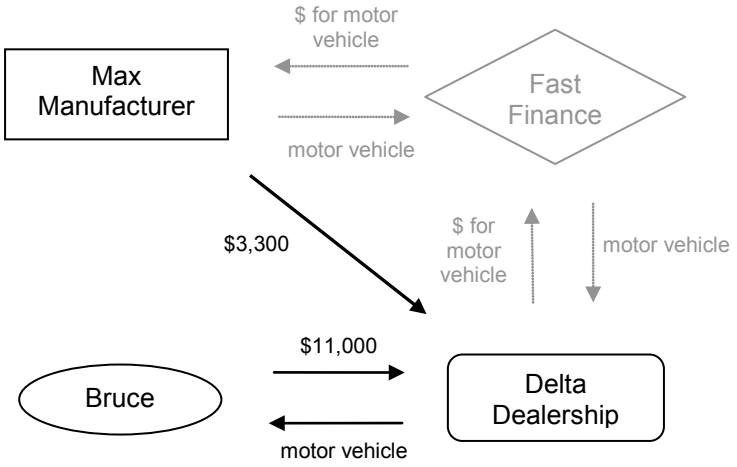
150. *Max Manufacturer has made a payment to Delta Dealership, which acquired the vehicle that Max Manufacturer supplied to the interposed finance company as a taxable supply. Further, the payment is made for the inducement of Delta Dealership's acquisition of the vehicle as the payment relates to Delta Dealership's acquisition of the vehicle because the $2,200 indirectly alters the price Delta Dealership paid for the vehicle by $2,200. Max Manufacturer therefore has a decreasing adjustment of $200 under section 134-5 once Delta Dealership acquires the motor vehicle.*

151. *Delta Dealership does not have an increasing adjustment as the payment is consideration for the supply of the motor vehicle from Delta Dealership to Catherine. Therefore paragraph 134-10(1)(e) is not satisfied.*

Worked Example 7: incentive payment for the sale of ex-demonstrators

152. *Max Manufacturer issues a sales bulletin to its dealers informing them of a new incentive program to encourage dealers to sell their ex-demonstrator stock. Max Manufacturer makes a payment to its dealers for each ex-demonstrator sold to a customer, provided that the dealer maintained the required pool for the year.*

153. *Delta Dealership is one of Max Manufacturer's dealers and sells an ex-demonstrator from its 2013 pool to Bruce for $11,000. Max Manufacturer pays Delta Dealership a demonstrator support payment of $3,300.*



Is there a supply for consideration?

154. *The reason for Max Manufacturer's payment is Delta Dealership's supply of the particular ex-demonstrator vehicle to Bruce and the payment is third party consideration for that supply. Delta Dealership is therefore liable for GST of $1,300.*

Purchase price paid by Bruce	*$11,000*	
Incentive payment from Max Manufacturer	*$3,300*	
Total consideration	***$14,300***	
	Including GST of	***$1,300***

155. *As Max Manufacturer has not made a creditable acquisition, it is not entitled to any input tax credits in relation to the incentive payment.*

Are there any adjustments under Division 134?

156. *Max Manufacturer has a decreasing adjustment of $300 for the payment as the payment is made in connection with Delta Dealership's acquisition of the vehicle – the payment relates to Delta Dealership's acquisition and the $3,300 indirectly reduces the acquisition price of the vehicle for Delta Dealership.*

157. *Delta Dealership does not have an increasing adjustment as the payment is consideration for the supply of the motor vehicle from Delta Dealership to Bruce. Therefore paragraph 134-10(1)(e) is not satisfied.*

Driveaway support payments

158. Dealers sometimes sell vehicles at a 'driveaway' price, which means that the costs of registration, stamp duty and third party insurance have already been paid for.

159. In recognition that these costs tend to vary depending on the location of the dealership, manufacturers may make payments to its dealers to ensure that the same model vehicle can be sold at the same 'driveaway' price irrespective of where the dealership is located. The amount of the payment will vary from dealer to dealer depending on the relevant costs in each location. These payments generally give rise to adjustments under Division 134.

160. In other cases, manufacturers may make payments to dealers to pay for their customers' on-road costs. These payments are generally third party consideration for the supply of the vehicle by the dealer to the customer.

Worked Example 8: driveaway prices

161. *Under a 'driveaway support program', Max Manufacturer pays each of its dealers an amount to equalise the on-road costs (for example, stamp duty, registration and compulsory third party insurance) across all of its dealerships nationwide. The payment allows each dealer to sell a particular model vehicle at the same price irrespective of the dealership's location. The dealer pays for the registration and insurance, and sells a registered and insured vehicle at the specified price to the customer.*

162. *Max Manufacturer has two dealerships – Delta Dealership in Victoria and Evelyn's Dealership in Queensland. Max Manufacturer advertises a new range vehicle at $55,000 drive away.*

163. *The on-road costs for this model vehicle is $4,320 in Victoria, and $4,100 in Queensland. In order to ensure that both Delta Dealership and Evelyn's Dealership are able to retail the vehicle at the same driveaway price of $55,000, Max Manufacturer pays Delta Dealership $220 to compensate for the $220 difference in on-road costs.*

164. *Mark purchases a vehicle from Delta Dealership for $55,000.*

		Delta Dealership	***Evelyn's Dealership***
	On-road costs	*$4,320*	*$4,100*
plus	*Other costs + margin*	*$50,900*	*$50,900*
	Total costs	***$55,220***	***$55,000***
less	*Incentive from Max Manufacturer*	*$220*	*-*
	Driveaway price	***$55,000***	***$55,000***

Is there a supply for consideration?

165. *Delta Dealership makes a supply of a vehicle to Mark.*

166. *The supply to Mark is not the reason for the $220 payment – the reason for the payment is to equalise Delta Dealership and Evelyn's Dealership's costs of acquiring the vehicle – that is, to ensure that both Delta Dealership and Evelyn's Dealership bear the same costs of acquiring the vehicle so that they can sell the vehicle at the same price. Therefore, the $220 payment is not third party consideration for the supply to Mark.*

167. *Further, Delta Dealership has not made a supply for consideration to Max Manufacturer as Delta Dealership has not done anything for that payment.*

168. *As Max Manufacturer has not made a creditable acquisition, it is not entitled to any input tax credits in relation to the incentive payment.*

Are there any adjustments under Division 134?

169. *While the payment is not for any supply by Delta Dealership, the payment is in connection with Delta Dealership's acquisition of the motor vehicle from its finance company and the eventual sale to Mark. The payment relates to registering and insuring the acquired vehicle and indirectly alters Delta Dealership costs associated with acquiring the motor vehicle (in effect, to bring it in line with the costs incurred by Evelyn's Dealership). As such, Max Manufacturer has a decreasing adjustment of $20 under section 134-5 and Delta Dealership has an increasing adjustment of $20 under section 134-10.*

Payments made to dealers relating to free accessories or parts

170. Manufacturers may make payments to dealers in relation to parts or accessories, for example, to provide customers with free accessories with the purchase of a vehicle. These payments may be made under different arrangements.

171. The GST treatment of an incentive payment relating to parts depends on:

- whether the payment relates to the dealer's acquisition of the parts, or the dealer's sale of a 'parts inclusive' vehicle, and
- whether the dealer acquired the parts from the entity making the payment.

172. Some payments are made to a dealer where they fit or install parts into a vehicle which is sold to a customer. Where payment is made for the dealer fitting or installing the parts, the dealer makes a supply of a service to the manufacturer for the payment.

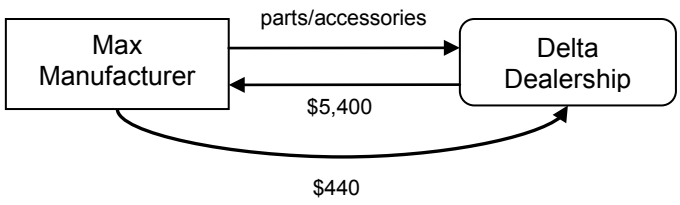
173. On the other hand, a payment may be made for the dealer to ensure that a customer who purchases a particular motor vehicle is given free accessories. These payments are third party consideration for the supply of the motor vehicle to the customer.

174. A payment made to a dealer for acquiring a 'target' volume of parts or accessories from the manufacturer that makes the payment gives rise to an adjustment event under section 19-10 as it changes the consideration for a supply (being the manufacturer's supply of the parts to the dealer).

Worked Example 9: payment made for dealer acquiring parts from manufacturer

175. *Max Manufacturer runs a new incentive program to encourage its dealers to purchase genuine parts and accessories directly from them. Under the program, Max Manufacturer sets a monetary target for each dealer such that if a dealer acquires parts and accessories from Max Manufacturer to the value of that target in a month, the dealer is entitled to a payment of $440.*

176. *For the month of June, Max Manufacturer sets its dealers a target of acquiring $5,000 worth of parts and accessories. Delta Dealership is an authorised dealer who purchases $5,400 worth of parts and accessories in June. In July, Max Manufacturer pays Delta Dealership $440.*

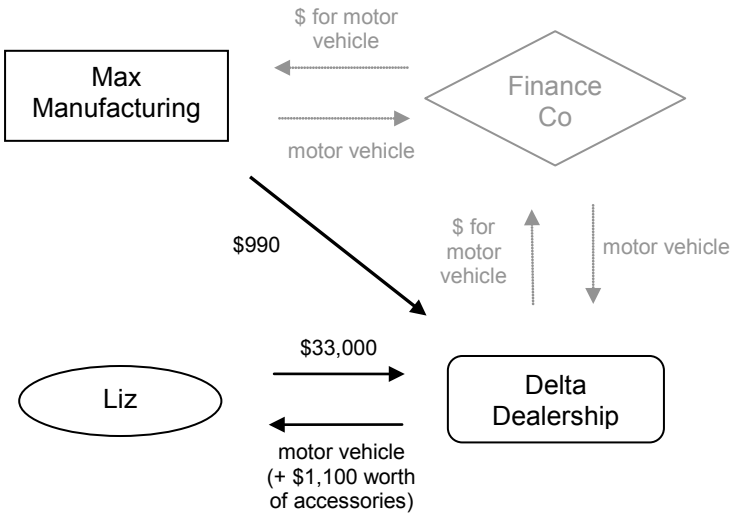


177. *Max Manufacturer has made supplies of parts and accessories to Delta Dealership for consideration. The payment of $440 reduces the consideration for the supply of parts and accessories previously made by Max Manufacturer to Delta Dealership by $440. Therefore, there is an adjustment event under section 19-10. Max Manufacturer has a decreasing adjustment of $40 and Delta Dealership has an increasing adjustment of $40.*

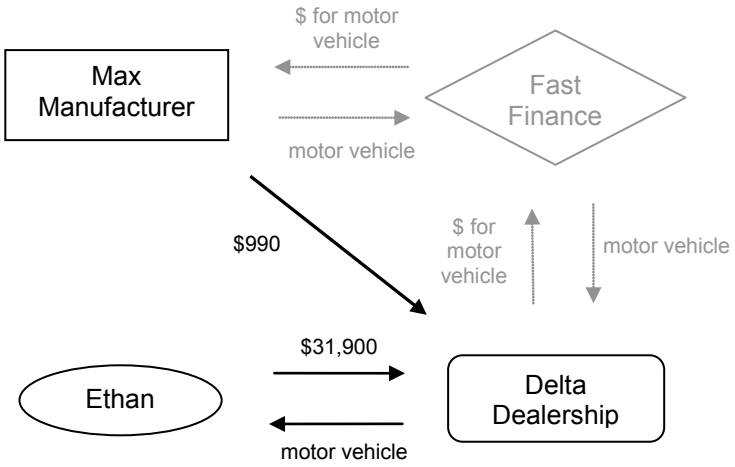
Worked Example 10: payment made for dealer providing customer with option of discount on purchase price or free accessories to the same value

178. *Max Manufacturer runs a new promotional campaign where every customer who purchases an 'Invictus' vehicle from an authorised dealer has the option of either $1,100 worth of free accessories, or $1,100 off the price of the vehicle. For every vehicle sold, Max Manufacturer will pay its dealers $990.*

179. *Liz purchases an 'Invictus' from Delta Dealership, an authorised dealer, for $33,000 and chooses to receive the $1,100 worth of free accessories. Delta Dealership provides Liz with the vehicle together with accessories worth $1,100. Max Manufacturer pays Delta Dealership $990.*



180. *Ethan also purchases an 'Invictus' from Delta Dealership for $33,000 but chooses to reduce the purchase price of the vehicle by $1,100. Delta Dealership sells the vehicle to Ethan for $31,900. Max Manufacturer pays Delta Dealership $990.*



Is there a supply for consideration?

181. *In both cases, the reason for Max Manufacturer's payment is Delta Dealership's supply of the respective vehicles to Liz and Ethan. This is the case irrespective of whether the customer chooses to have the purchase price reduced by $1,100 or whether chooses the free accessories. Therefore, the payment is third party consideration for that supply.*

182. *Delta Dealership is liable for GST of $3,090 for its supply of the vehicle with free accessories to Liz.*

Purchase price paid by Liz	*$33,000*	
Incentive payment from Max Manufacturer	*$990*	
Total consideration	***$33,990***	
Including GST of		***$3,090***

183. *Delta Dealership is liable for GST of $2,990 for its supply of the vehicle to Ethan.*

Purchase price paid by Ethan	*$31,900*	
Incentive payment from Max Manufacturer	*$990*	
Total consideration	***$32,890***	
Including GST of		***$2,990***

184. *As Max Manufacturer has not made a creditable acquisition in respect of either supply, it is not entitled to any input tax credits in relation to the incentive payments.*

Are there any adjustments under Division 134?

185. *In respect of both supplies, Max Manufacturer has a decreasing adjustment of $90 for each payment as the payment is made in connection with Delta Dealership's acquisition of the vehicles – each payment indirectly reduces the acquisition price of the vehicle for Delta Dealership by $990.*

186. *Delta Dealership does not have an increasing adjustment for either payment as each payment is consideration for a supply from Delta Dealership to Liz and a supply from Delta Dealership to Ethan. Therefore paragraph 134-10(1)(e) is not satisfied.*

Volume targets

187. Manufacturers often make payments to dealers for achieving certain targets. The targets may be calculated on a per vehicle basis, or as a lump sum for the total amount sold or acquired.

Worked Example 11: retail target incentive payment

188. *Max Manufacturer runs a retail target incentive program for its dealers.*

189. *In June, Max Manufacturer informs its dealers that if dealers achieve their sales target for the month, Max Manufacturer will pay them an incentive payment of $150 for each vehicle sold.*

190. *In July, Max Manufacturer modifies the program such that if dealers achieve (or exceed) their sales target for the month, Max Manufacturer will pay them a flat dollar amount of $12,000.*

191. *Delta Dealership, one of Max Manufacturer's authorised dealerships, achieves its retail target for both June and July and receives both incentive payments.*

Is there a supply for consideration?

192. *In all cases, there is no supply for consideration as Delta Dealership is not doing anything specific for Max Manufacturer in selling the vehicle – selling cars is merely part of Delta Dealership's general business operations. The reason for the payment is Delta Dealership selling the total number of vehicles in that month, and not the supply of any particular vehicle. Accordingly, Delta Dealership does not have a GST liability in relation to the payment.*

193. *As Max Manufacturer has not made a creditable acquisition, it is not entitled to any input tax credits in relation to the incentive payment.*

Are there any adjustments under Division 134?

194. *While Delta Dealership is not doing anything specific for the payments, the payments are made in connection with the dealers' acquisitions of the vehicles. This is because, under a floor plan arrangement, the supply of a motor vehicle by Delta Dealership to a customer occurs immediately after Delta Dealership's acquisition of the motor vehicle from the finance company, and no acquisition would take place if the vehicle is not sold. As such, when Delta Dealership sells the target number of vehicles, it has also acquired that target number of vehicles.*

195. *Therefore, the payment indirectly alters Delta Dealership's acquisition costs in respect of the target number of vehicles acquired and subsequently sold. Therefore, Max Manufacturer has a decreasing adjustment under section 134-5, and Delta Dealership has an increasing adjustment under section 134-10.*

Worked Example 12: wholesale target incentive payment

196. *Max Manufacturer runs a wholesale target incentive program in which it will make a payment to a dealer where the dealer orders vehicles in excess of a specified monthly target set by Max Manufacturer.*

197. *The targets are set based on the size and past performance of the particular dealer. There is a maximum ordering entitlement that the manufacturer sets for each dealer for any given month. A dealer cannot order more than their maximum ordering entitlement.*

198. *For the month of November, Max Manufacturer sets a target of 100 vehicles and the payment is determined based on 1.5% of the dealer invoice price for each vehicle that the dealer orders from Max Manufacturer.*

199. *Delta Dealership orders 105 vehicles in November. In December, Max Manufacturer makes a payment to Delta Dealership for achieving the November target. Delta Dealership subsequently sells all 105 vehicles to its customers.*

200. *In December, Max Manufacturer sets another target of 100 vehicles, but this time the payment is calculated as a flat payment of $11,000. Delta Dealership orders 110 vehicles and subsequently sells all those vehicles to its customers.*

Is there a supply for consideration?

201. *In all cases, there is no supply for consideration as Delta Dealership is not doing anything specific for Max Manufacturer in acquiring the vehicles. Acquiring cars is merely part of Delta Dealership's general business operations. The reason for the incentive payments is Delta Dealership acquiring the target number of vehicles in each month, and not the supply of any particular vehicle. Accordingly, Delta Dealership does not have a GST liability in relation to any of the payments.*

202. *As Max Manufacturer has not made a creditable acquisition, it is not entitled to any input tax credits in relation to the incentive payment.*

Are there any adjustments under Division 134?

203. *Both payments are connected to, and payable in respect of, Delta Dealership's acquisition of the particular vehicles during those months. How the amount of the payment is determined is not relevant – instead, it is the fact that the payment indirectly alters Delta Dealership's costs of acquiring the vehicles that means the payment is connected to the acquisition of the vehicles.*

204. *Max Manufacturer has a decreasing adjustment under section 134-5 for each payment it makes, and Delta Dealership has an increasing adjustment under section 134-10 for each payment it receives.*

Performance targets not related to motor vehicles

205. Payments may be made where the dealer achieves certain performance targets that are not related to the supply or acquisition of vehicles. The payments may be made in relation to the dealer meeting certain customer service standards, holding a particular market share or conforming to particular showroom requirements.

Worked Example 13: payment for meeting standards

206. *Max Manufacturer makes payments to its dealers under a 'Drive to the Sky' program, which is designed to encourage dealers to run their dealerships more efficiently and to be more profitable.*

207. *Under the program, each dealer is assessed and scored for satisfactorily meeting standards prescribed by Max Manufacturer. These standards include complying with showroom presentation requirements, levels of customer service, holding a certain market share and achieving certain sales targets.*

208. *Max Manufacturer pays an annual bonus to qualifying dealers that is calculated on a percentage of the dealer's monetary turnover which is referable to the score received.*

209. *Delta Dealership is a participating dealer in Max Manufacturer's 'Drive to the Sky' program. Delta Dealership is given a score of 75 out of 100. Under the rules of the program, the score of 75 points entitles Delta Dealership to a payment of 7.5% of Delta Dealership's turnover for 2012, which is $2,500,000. Max Manufacturer pays Delta Dealership a bonus calculated as 7.5% of $2,500,000.*

Is there a supply for consideration?

210. *As Delta Dealership has not done, or agreed to do, anything specific for Max Manufacturer, Delta Dealership has not made a supply for consideration. The criteria on which the dealer is scored are for the purposes of calculating the payments and are largely about meeting general standards.*

211. *Further, there is no specific obligation on the dealers to meet these standards. The payments are simply the encouragement of the overall business relationship between Max Manufacturer and Delta Dealership to the mutual benefit of both.*

212. *As Max Manufacturer has not made a creditable acquisition, it is not entitled to any input tax credits in relation to the incentive payment.*

Are there any adjustments under Division 134?

213. *Max Manufacturer does not have a decreasing adjustment under section 134-5 and Delta Dealership does not have an increasing adjustment under section 134-10 because the payment is not made in connection with Delta Dealership's acquisition of anything.*

Incentive payments made to reimburse dealer for the cost of incurring financing and bailment charges

214. Under a floor plan arrangement, the finance company generally imposes a bailment charge on dealers. The charge starts accruing from the date the finance company purchases the vehicle (generally once the vehicle is dispatched from the manufacturer's assembly plant) until the vehicle is in a saleable condition.

215. Manufacturers may pay allowances to dealers to compensate for these finance charges accrued while:

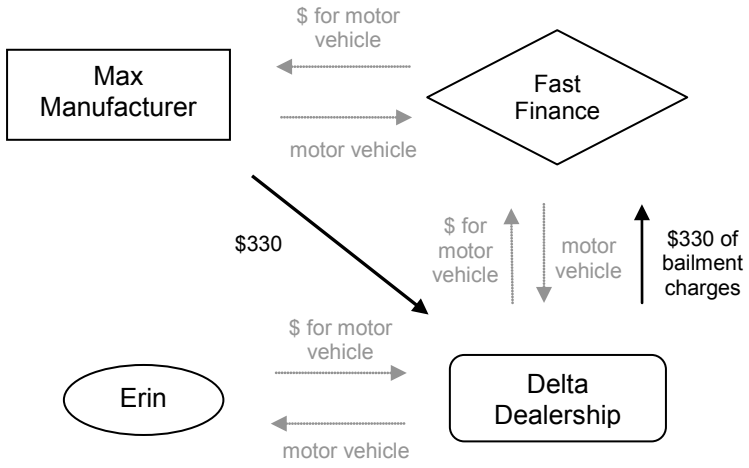
- the vehicle is in transit to the dealer and the dealer does not have physical possession of the vehicle (in some cases, this is known as a 'delivery allowance')
- the dealer has physical possession of the vehicle but the vehicle is not yet in saleable condition (in some cases, this is known as a 'pre-delivery allowance'), or
- the dealer's customer has possession of the vehicle but there are delays in settlement such that the customer has not paid in full for the vehicle and title has not yet passed.

216. The allowances may be calculated based on the current Bank Bill Rate plus a margin specified by the manufacturer, and are payable for a set period of time depending on the type of allowance.

Worked Example 14: delivery allowance

217. *Max Manufacturer makes a payment to Delta Dealership to compensate for bailment charges imposed on Delta Dealership by the interposed finance company, Fast Finance, for vehicles that Delta Dealership orders while the vehicles are in transit from the assembly plant to Delta Dealership. The payment is calculated based on the period nominated in days required for vehicle shipment to the nominated delivery destination at the prevailing Bank Bill rate plus a margin of 1.5%. If the motor vehicle is not acquired, Delta Dealership is required to repay the allowance to Max Manufacturer.*

218. *Delta Dealership orders a vehicle from Max Manufacturer under the floor plan arrangement. Four days later, the vehicle is delivered to Delta Dealership's showroom. The bailment charge incurred by Delta Dealership during this period is $330. Max Manufacturer makes a payment of $330 to Delta Dealership. Delta Dealership eventually sells the vehicle to Erin, a retail customer.*



Is there a supply for consideration?

219. *Delta Dealership does not make a supply for consideration to Max Manufacturer as Delta Dealership does not do anything specific for Max Manufacturer.*

220. *The payment is also not third party consideration for the supply of the motor vehicle to Erin. The payment is made to reimburse Delta Dealership for the bailment charges it incurs and not for the supply of the vehicle to Erin.*

221. *As Max Manufacturer has not made a creditable acquisition, it is not entitled to any input tax credits in relation to the incentive payment.*

Are there any adjustments under Division 134?

222. *Under the bailment, Fast Finance makes two separate supplies to Delta Dealership for which two separate payments are made:*[42]

- *the supply of the right to display or use the vehicle prior to Delta Dealership paying the purchase price in full and the transfer of title from Fast Finance to Delta Dealership, for which the bailment charges are payable, and*
- *the supply of the motor vehicle itself to Delta Dealership for which the purchase price of the vehicle is payable.*

223. *While the delivery allowance is not for the supply of the motor vehicle by Fast Finance to Delta Dealership, the payment is in connection with Delta Dealership's acquisition of the motor vehicle from Fast Finance.*

224. *This is because the delivery allowance is paid to compensate Delta Dealership for the bailment charges incurred while the vehicle is in transit. That is a cost incurred by Delta Dealership in relation to its acquisition of the motor vehicle from Fast Finance under the floor plan arrangement. The payment indirectly alters Delta Dealership's acquisition costs.*

225. *Therefore, Max Manufacturer has a decreasing adjustment under section 134-5 and Delta Dealership has an increasing adjustment under section 134-10.*

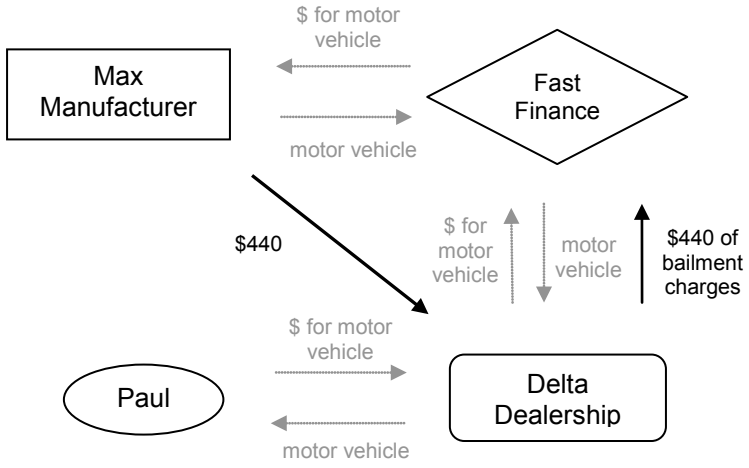
[42] See paragraph 29 of GSTR 2000/29 *Goods and services tax: attributing GST payable, input tax credits and adjustments.*

Worked Example 15: pre-delivery allowance

226. *Max Manufacturer makes a payment to Delta Dealership to compensate for bailment charges imposed on Delta Dealership by the interposed finance company, Fast Finance, for the period required to prepare new vehicles for sale. The vehicles are already in Delta Dealership's possession but are not yet ready for sale. The pre-delivery period involves Delta Dealership undertaking inspection, mechanical checks, cleaning and other services as specified by Max Manufacturer. The payment covers four days' worth of interest calculated at the prevailing Bank Bill rate plus a margin of 1.5%. If the motor vehicle is not acquired, Delta Dealership is required to repay the allowance to Max Manufacturer.*

227. *Delta Dealership orders a vehicle from Max Manufacturer under the floor plan arrangement. The vehicle is delivered to Delta Dealership's showroom but is not ready for display. Delta Dealership undertakes the required mechanical checks and cleans the vehicle before displaying the vehicle in its showroom. Delta Dealership eventually sells the vehicle to Paul, a retail customer.*

228. *Max Manufacturer makes a payment of $440 to Delta Dealership to cover the four days of interest expense incurred.*



Is there a supply for consideration?

229. *Delta Dealership does not make a supply for consideration to Max Manufacturer as Delta Dealership does not do anything specific for Max Manufacturer.*

230. *The payment is also not third party consideration for the supply of the motor vehicle to Paul. The payment is made to reimburse Delta Dealership for the bailment charges it incurs and not for the supply of the vehicle to Paul.*

231. *As Max Manufacturer has not made a creditable acquisition, it is not entitled to any input tax credits in relation to the incentive payment.*

Are there any adjustments under Division 134?

232. *Under the bailment, Fast Finance makes two separate supplies to Delta Dealership for which two separate payments are made:*[43]

- *the supply of the right to display or use the vehicle prior to Delta Dealership paying the purchase price in full and the transfer of title from Fast Finance to Delta Dealership, for which the bailment charges are payable, and*
- *the supply of the motor vehicle itself to Delta Dealership for which the purchase price of the vehicle is payable.*

233. *While the pre-delivery allowance is not for the supply of the motor vehicle by Fast Finance to Delta Dealership, the payment is in connection with Delta Dealership's acquisition of the motor vehicle from Fast Finance.*

234. *This is because the pre-delivery allowance is paid to compensate Delta Dealership for the bailment charges incurred while the vehicle is in Delta Dealership's possession but is not yet ready for sale. That is a cost incurred by Delta Dealership in relation to its acquisition of the motor vehicle from Fast Finance under the floor plan arrangement. The payment indirectly alters Delta Dealership's acquisition costs.*

235. *Max Manufacturer has a deceasing adjustment under section 134-5 and Delta Dealership has an increasing adjustment under section 134-10.*

Worked Example 16: settlement delay allowance where manufacturer and financier are in the same GST group

236. *Max Manufacturer and Fee For Finance are members of the same GST group. Anita's Dealership (which is not a member of the same group) acquires a motor vehicle from Max Manufacturer, through Fee For Finance, under a floor plan arrangement.*

237. *Max Manufacturer makes a payment to Anita's Dealership to compensate it for finance charges imposed by Fee For Finance when there is a delay in the settlement of a sale of a vehicle by Anita's Dealership to a Government fleet customer. The payment is calculated based on the number of days between the day the vehicle is delivered to a customer and the customer making full payment for the vehicle at the prevailing Bank Bill rate plus a margin of 1.5%. If the motor vehicle is not acquired, Anita's Dealership is required to repay the allowance to Max Manufacturer.*

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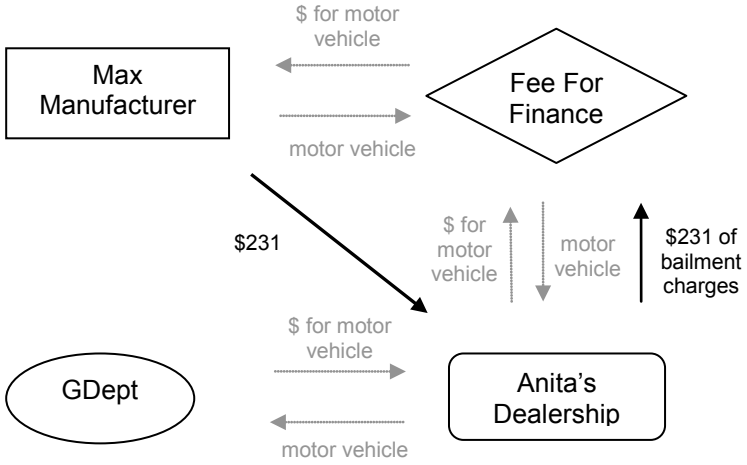
[43] See paragraph 29 of GSTR 2000/29 *Goods and services tax: attributing GST payable, input tax credits and adjustments.*

238. *Anita's Dealership orders a vehicle from Max Manufacturer under the floor plan arrangement. GDept, a Government fleet customer, enters into a contract of sale with Anita's Dealership to purchase the vehicle. Under the terms of that agreement, GDept is given possession of the vehicle, with a deferred payment date.*

239. *As Anita's Dealership has not yet received full payment from GDept for the vehicle, it does not pay Fee For Finance for the vehicle, and continues to incur floor plan charges. When GDept makes full payment a month later, Anita's Dealership pays Fee For Finance for the vehicle in full and title is transferred to Anita's Dealership and then to GDept.*

240. *Max Manufacturer pays Anita's Dealership $231 for the bailment charges it incurred in relation to that vehicle that month.*



Is there a supply for consideration?

241. *Anita's Dealership does not make a supply for consideration to Max Manufacturer, as Anita's Dealership does not do anything specific for Max Manufacturer.*

242. *The payment is also not third party consideration for the supply of the motor vehicle to GDept. The payment is made to reimburse Anita's Dealership for the bailment charges it incurs and not for the supply of the vehicle to GDept.*

243. *As Max Manufacturer has not made a creditable acquisition, it is not entitled to any input tax credits in relation to the incentive payment.*

Are there any adjustments under Division 134?

244. *While the allowance is not for the supply of the motor vehicle by Fee For Finance to Anita's Dealership, the payment is in connection with Anita's Dealership's acquisition for the motor vehicle from Fee For Finance.*

245. *This is because the allowance is paid specifically to compensate Anita's Dealership for incurring the bailment charges while the vehicle is in GDept's possession, but before full payment is made. That is a cost incurred by Anita's Dealership in relation to its acquisition of the motor vehicle from Fee For Finance under the floor plan arrangement. The effect of the payment is that it indirectly reduces Anita's Dealership's costs of acquiring the vehicle.*

246. *As Fee For Finance and Max Manufacturer are members of the same GST group the supply of the motor vehicle by Max Manufacturer to Fee For Finance is treated as if it were not a taxable supply under subsection 48-40(2). However, as the supply of the motor vehicle by Max Manufacturer to Fee For Finance would have been a taxable supply if Max Manufacturer and Fee For Finance were not in the same GST group (and Anita's Dealership is not a member of the same GST group), subparagraph 134-5(1)(b)(ii) is satisfied.*

247. *Therefore, Max Manufacturer has a decreasing adjustment under section 134-5 and Anita's Dealership has an increasing adjustment under section 134-10.*

Demonstrator support payments

248. These payments are generally for holding a specified pool of demonstrator vehicles, and may compensate for costs dealers incur in holding that pool of demonstrator vehicles.

Worked Example 17: demonstrator support rebate

249. *Under the dealership agreement, Max Manufacturer requires its dealer, Delta Dealership, to hold a certain number and range of demonstrator vehicles. Max Manufacturer makes a lump sum payment to Delta Dealership for holding the required pool of demonstrator vehicles.*

Is there a supply for consideration?

250. *While the requirement is contained in the dealership agreement, the payment is made for Delta Dealership doing something specific for Max Manufacturer – that is, holding the required pool of demonstrator vehicles. Therefore, Delta Dealership makes a supply to Max Manufacturer, for which the payment is consideration. This can be contrasted with the payment in Worked Example 7, where the payment is for the sale of an ex-demonstrator to a customer.*

251. *Delta Dealership is liable for GST on the supply it makes to Max Manufacturer, and provided the other requirements for a creditable acquisition are satisfied, Max Manufacturer has an input tax credit.*

Are there any adjustments under Division 134?

252. *As the payment is consideration for a supply made by Delta Dealership to Max Manufacturer, paragraphs 134-5(1)(e) and 134-10(1)(e) are not satisfied, there are no decreasing or increasing adjustments under Division 134.*

Miscellaneous payments

Worked Example 18: dealer has dedicated showroom for vehicles by manufacturer

253. *Max Manufacturer manufactures a range of vehicles targeted exclusively at high end buyers. In order to maintain the exclusivity of the brand, Max Manufacturer runs a campaign under which it undertakes to pay a bonus to each dealer that either only sells Max Manufacturer's vehicles, or those that have a dedicated standalone showroom for Max Manufacturer's vehicles. The payment is calculated at 1% of the dealer's yearly turnover.*

254. *Delta Dealership is a dealer which sells vehicles from a range of manufacturers. However, Delta Dealership has a showroom which only displays Max Manufacturer's vehicles. Delta Dealership's staff are not allowed to advertise or sell any other brand of vehicle from that showroom.*

Is there a supply for consideration?

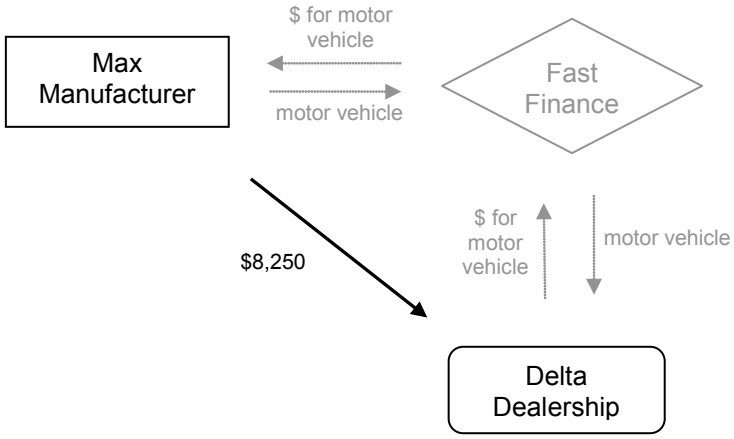
255. *The payment is for Delta Dealership doing something specific for Max Manufacturer – that is, only selling Max Manufacturer's vehicles in the dedicated showroom. Therefore, Delta Dealership makes a supply to Max Manufacturer for consideration.*

256. *As there is a supply for consideration, Delta Dealership is liable to pay GST for that supply. Similarly, as Max Manufacturer has made a creditable acquisition, it may claim an input tax credit for that payment.*

Worked Example 19: floor stock payments

257. *Max Manufacturer issues a dealer bulletin informing its dealers that it will make a payment of $550 for each Stormtrooper III that the dealers have in stock at the end of June. This is to encourage dealers to ensure they have appropriate stocks of Stormtrooper III vehicles made available to customers to purchase during the July sales.*

258. *Delta Dealership has 15 Stormtrooper III vehicles in stock at the end of June. Max Manufacturer pays Delta Dealership $8,250.*



Is there a supply for consideration?

259. *Delta Dealership does not make a supply for consideration as it does not do anything specific for Max Manufacturer. The payment is simply made because Delta Dealership already has the vehicles in stock.*

260. *As Max Manufacturer has not made a creditable acquisition, it is not entitled to any input tax credits in relation to the incentive payment.*

Are there any adjustments under Division 134?

261. *The payment is connected to Delta Dealership's acquisition of the Stormtrooper III vehicles as the payment indirectly alters Delta Dealership's costs of acquiring the vehicles.*

262. *Max Manufacturer has a decreasing adjustment of $750 under section 134-5, and Delta Dealership has an increasing adjustment of $750 under section 134-10 once each vehicle is acquired.*

Worked Example 20: discounted servicing

263. *Max Manufacturer writes to existing customers who purchased their LOKI X model informing them that they are entitled to a free check-up and service at an authorised dealer. For customers that own the next generation LOKI XI models, Max Manufacturer offers discounted check-up and service.*

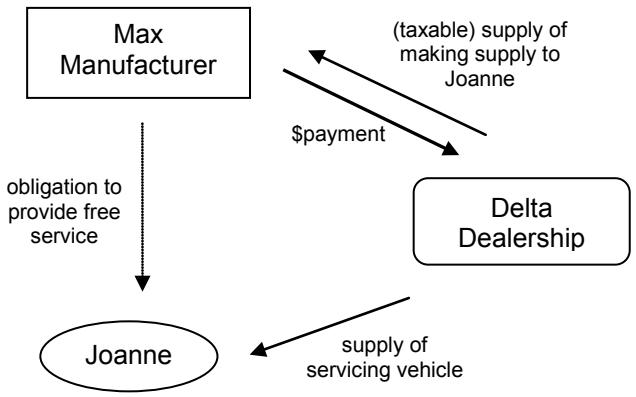
264. *Customers can take up this offer by taking their vehicles into an authorised dealer. If the customer does so, Max Manufacturer makes a payment to the dealer for each vehicle serviced representing all or part of the costs of servicing (as applicable).*

265. *Joanne owns a LOKI X and John owns a LOKI XI. Joanne and John both take up the offer and take their vehicles into Delta Dealership, an authorised dealer.*

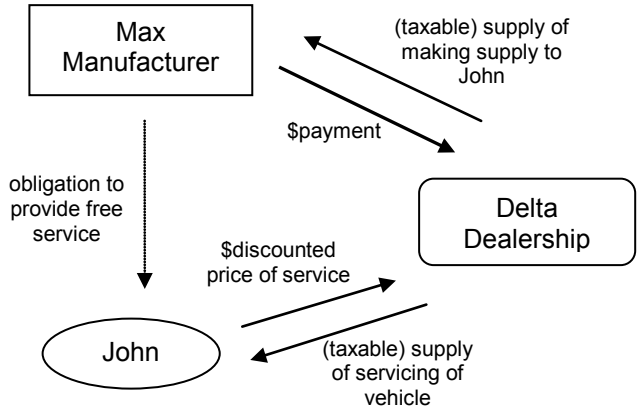
Is there a supply for consideration?

266. *In both cases, Delta Dealership makes two supplies: one to the customer and one to Max Manufacturer. The first supply is the supply of servicing each of Joanne and John's vehicles. The second supply is a supply to Max Manufacturer of supplying the service to each of Joanne and John. This enables Max Manufacturer to satisfy its obligations to Joanne and John.*

267. *In Joanne's case, the check-up and servicing is free and there is only one taxable supply made by Delta Dealership even though there are still two supplies. This is because no consideration is provided by Joanne for the supply made to her. The taxable supply is the supply by Delta Dealership to Max Manufacturer, for which Max Manufacturer pays the total costs of the service.*



268. *In John's case, the check-up and servicing is discounted, and there are two taxable supplies made by Delta Dealership: the supply to John, for which John pays a discounted price, and the supply to Max Manufacturer – for which Max Manufacturer pays the remaining portion of the costs of the service.*



Are there any adjustments under Division 134?

269. *As both payments are consideration for supplies from Delta Dealership, neither Max Manufacturer nor Delta Dealership has any adjustments under Division 134.*

Date of effect

270. This Ruling applies to tax periods starting on or after 1 May 2014.

271. However, the Ruling will not apply to taxpayers to the extent that it conflicts with the terms of settlement of a dispute agreed to before the date of issue of the Ruling (see paragraphs 75 to 76 of Taxation Ruling TR 2006/10).

271A. Changes made to this Ruling by Addenda that issued on 27 April 2016 and 9 May 2018 have been incorporated into this version of the Ruling.

272. The Decision Impact Statement for *AP Group* explains the Commissioner's approach to compliance action in respect of earlier tax periods.

Commissioner of Taxation
1 October 2014

Appendix 1 – Explanation

This Appendix is provided as information to help you understand how the Commissioner's view has been reached. It does not form part of the binding public ruling.

The *AP Group* decision

273. In *AP Group*, the Full Federal Court considered the GST treatment of four specific types of incentive payments made by various manufacturers to the dealer (Toyota fleet rebates, Toyota run-out model support payments, Ford retail target incentive payments and Subaru wholesale target incentive payments).

274. The Court agreed with the findings of the Administrative Appeals Tribunal (Tribunal) that, in respect of each of the payments, there was no supply made by the dealer to the manufacturer for the payment. Instead, the Court held that the fleet rebates and run-out model support payments were **third party consideration** for supplies made by dealers **to their customers** (rather than to the manufacturers), and that the retail and wholesale target incentive payments were **not consideration for any supplies**, and therefore did not attract GST.

275. A fifth category of payment (Holden transit / interest protection payments) was only considered by the Tribunal at first instance in *AP Group Limited v. Commissioner of Taxation* [2012] AATA 409; (2012) 83 ATR 493; 2012 ATC 10-256. The Tribunal held that the dealer did not make any supplies to either the manufacturer or the customer for that payment.

276. As the decision concerned payments made in the May 2007 and March 2008 tax periods, neither the Tribunal nor the Full Federal Court considered the application of Division 134, which applies to certain third party payments made on or after 1 July 2010.

Supply by a dealer to a manufacturer for consideration

277. In *AP Group*, the Full Federal Court found that the overall business relationship between the manufacturer and the dealer involves 'a whole raft of obligations from one to the other all, presumably, with the ultimate objective of maximising their respective commercial positions' and which 'contemplates a continuing dialogue between wholesaler and retailer in which promises are routinely exchanged'.[44] In agreeing with the Tribunal's decision, the Court concluded that 'there is no supply of a service to the manufacturer by the dealer simply complying with those overall arrangements'.[45]

[44] *AP Group* at [53].
[45] *AP Group* at [49].

278. While the dealership agreement between a manufacturer and a dealer may contain any number of obligations by either party, this does not mean that all payments made by the manufacturer to the dealer will give rise to a supply to the manufacturer for consideration. Whether the dealer makes a supply for consideration is to be determined objectively in the facts and circumstances of each individual case.

279. In some cases, a payment may be for the dealer doing something specific as required in the dealership agreement. In these cases, the dealer may be making a supply to the manufacturer, for which the payment is consideration.

280. An indicator that a payment is for conduct that is merely part of the overall business relationship is where it can be demonstrated that, regardless of the payment, the dealer would have conducted its business in the same way. As the Court explained in *AP Group*, in these cases, the dealer will always want to run its business in a certain way to sell as many vehicles as practicable and operate its business efficiently. If there is evidence to show that the dealer would otherwise conduct itself in the same way for free, then this may point towards the payment being part of the overall business relationship rather than for any specific supply by the dealer to the manufacturer.[46]

The supply can be in any form

281. Supply is defined broadly in subsection 9-10(1) to be 'any form of supply whatsoever'. For example, if the manufacturer pays the dealer to do something specific for it, the relevant supply is the supply of services provided by the dealer to the manufacturer.[47]

282. If the manufacturer pays the dealer for agreeing to do (or refraining from doing) something specific for the incentive payment, the relevant supply is the dealer's entry into an obligation to do (or refrain from doing) something.[48] The dealer may also make a supply of goods, or a supply in any other form, to the manufacturer.

Supply by a dealer to a retail customer for consideration (third party consideration)

283. There is a supply by the dealer to the customer for which the payment by the manufacturer is third party consideration, where the supply of the **particular** motor vehicle to the customer is the reason for the manufacturer making the payment to the dealer.[49]

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[46] *AP Group* at [53].
[47] Paragraph 9-10(2)(b).
[48] Paragraph 9-10(2)(g).
[49] *AP Group* at [44].

284. In *AP Group*, the Court stated that the level at which the assessment of whether there is a supply for consideration should be undertaken varies depending on the facts.[50] Where the focus of the incentive payment is on the sale of a particular vehicle to a customer, then this would generally indicate that the payment is for, and in connection with, the supply of the vehicle to the customer.[51] In these circumstances, the dealer is generally not required or expected to do anything other than sell the vehicle and undertake the related actions (such as entering the sale into the relevant sale recording system) in order to receive the payment – it is the supply of the particular motor vehicle that is the reason for the manufacturer making the payment to the dealer.[52]

285. The timing of the payment is not determinative – consideration may be provided for a supply before or after a supply takes place,[53] and can be provided in several stages. An incentive payment may be consideration for a supply if it is for the inducement of a supply that has not yet been made, but is eventually made. If the reason for the payment is that eventual supply, then there will be a taxable supply for the purposes of paragraph 9-5(a).

Practical consequences for dealers

286. For dealers that do not account on a cash basis, the GST payable on the supply of the motor vehicle is attributable to the tax period in which any of the consideration is received or an invoice is issued for the supply[54]. In practical terms, this means that a dealer must account for all of the GST on the supply (including any GST arising from the incentive payment) once the dealer receives any payment from the customer or issues an invoice to the customer, even though the dealer may not have yet received the incentive payment.[55]

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[50] *AP Group* at [43].
[51] *AP Group* at [43], Edmonds and Jagot JJ note that '[t]he appropriate level for the assessment is the particular supply of the car in question by the dealer and the payment which that supply triggers'.
[52] *AP Group* at [44].
[53] See subsection 9-15(1), which defines 'consideration' to include 'any payment […] in connection with a supply of anything' and 'any payment […] in response to or for the inducement of a supply of anything'.
[54] Section 29-5.
[55] In some cases, a dealer may receive an incentive payment for the supply of a vehicle in a tax period before the vehicle is supplied to a customer. A legislative instrument applies under section 29-25 on and from 1 January 2015 that determines particular GST attribution rules where the dealer will not know the total consideration for the sale of the vehicle at the time the incentive payment is received or the invoice is issued – see *A New Tax System (Goods and Services Tax) (Particular Attribution Rules for Certain Motor Vehicle Incentive Payments Made to Motor Vehicle Dealers) Legislative Instrument 2015*. For transactions that occurred prior to 1 January 2015 dealers can apply *A New Tax System (Goods and Services Tax) (Particular Attribution Rules Where Total Consideration Not Known) Determination (No. 1) 2000.*

287. While section 29-70 provides that, for a document to be a tax invoice, the price of the supply (which includes the amount of an incentive payment) and the GST payable on the supply must be clearly ascertainable from the document,[56] a dealer is only required to issue a tax invoice if requested by a customer.[57] The Commissioner has made a determination to allow recipients of a supply of a motor vehicle to attribute their input tax credit entitlements without a tax invoice if they hold a document that satisfies the requirements set out in the legislative instrument.[58]

GST inclusive market value of a car

288. The market value of a car is worked out according to accepted valuation principles.[59] In this context, the market value will usually be the purchase price paid by the customer at the time of the purchase, as long as this is representative of the price paid in the market according to comparable sales. The term 'GST inclusive market value' in this context is not based on the market value of the consideration provided for the car.

Division 134 – third party payment adjustments

289. Division 134 applies to create adjustments for payers and payees in respect of certain third party payments made on or after 1 July 2010.

Dealer must acquire something that the manufacturer supplied to another entity (paragraphs 134-5(1)(a) and 134-10(1)(a))

290. Under paragraphs 134-5(1)(a) and 134-10(1)(a), the payment must be made to an entity (the payee) that acquires a thing that the payer supplied to another entity.

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[56] See GSTR 2013/1 for further discussion on the information requirements for a tax invoice.

[57] Subsection 29-70(2). If a tax invoice is requested, the dealer may ask the Commissioner to exercise his discretion under subsection 29-70(1B) to treat the document given to the customer as a tax invoice.

[58] See *A New Tax System (Goods and Services Tax) Waiver of Tax Invoice Requirement (Motor Vehicle Incentive Payment Made to Motor Vehicle Dealer) Legislative Instrument 2014*.

[59] Goods and Services Tax Ruling GSTR 2001/6 *Goods and services tax: non-monetary consideration* at paragraphs 140, 141 and,145; see also *Spencer v. Commonwealth* (1907) 5 CLR 418.

291. This requires there to be an acquisition of a thing by the dealer and a supply of a thing by the manufacturer. The term 'thing' is broadly defined in section 195-1 as 'anything that can be supplied or imported'. However, for the requirement to be satisfied the thing that the dealer acquired must be the same thing that the manufacturer supplied,[60] and the acquisition by the dealer must be from another entity in the supply chain rather than directly from the manufacturer.[61]

292. Under a typical floor plan arrangement, a dealer acquires a motor vehicle supplied by the manufacturer to the interposed finance company. In this context, the acquisition by a dealer of an individual vehicle will generally satisfy paragraphs 134-5(1)(a) and 134-10(1)(a).

293. Where the dealer acquires the thing directly from the manufacturer or where the dealer acquires the thing from another entity but the manufacturer never supplied that thing at any stage of the supply chain then the requirement of paragraphs 134-5(1)(a) and 134-10(1)(a) are not satisfied. This situation more commonly arises for payments relating to parts or accessories.

294. It is noted that an incentive payment that is made in situations where the dealer acquires the thing directly from the manufacturer may have consequences under the adjustment rules in Division 19.[62]

Payment must be made in connection with, in response to or for the inducement of the dealer's acquisition of the thing (paragraphs 134-5(1)(d)and 134-10(1)(d))

295. Under paragraphs 134-5(1)(d) and 134-10(1)(d), the payment must be made in connection with, in response to, or for the inducement of the payee's acquisition of the thing.

296. The language used in those paragraphs mirror the language used in subsection 9-15(1) which defines the term 'consideration'. The term 'consideration' is defined in subsection 9-15(1) to include, among other things, any payment in connection with, in response to or for the inducement of a supply of anything.

297. As discussed in other public rulings, whether a payment is 'consideration' under subsection 9-15(1) involves determining whether there is a sufficient nexus between a particular payment and a particular supply.[63] A tenuous or remote connection with a supply will not be enough to constitute consideration.[64]

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[60] Explanatory Memorandum to the Tax Laws Amendment (2010 GST Administration Measures No. 1) Bill 2010 (Explanatory Memorandum) at [1.8].
[61] Explanatory Memorandum at [1.2].
[62] See GSTR 2000/19.
[63] Paragraph 50 of GSTR 2001/6 and paragraph 75 of GSTR 2001/4.
[64] *AP Group* at [35].

298. Given the similarity in language used in subsection 9-15(1) and in paragraphs 134-5(1)(d) and 134-10(1)(d), principles relevant to determining whether there is a sufficient nexus in the context of subsection 9-15(1) as discussed in those public rulings may also be considered relevant in determining whether there is a sufficient nexus for adjustments under Division 134.

299. In determining whether there is a sufficient nexus, regard needs to be had to the true character of the transaction. An arrangement between parties will be characterised not merely by the description that parties give to the arrangement, but by looking at all of the transactions entered into and the circumstances in which the transactions are made.[65]

300. For the purpose of paragraphs 134-5(1)(d) and 134-10(1)(d), a payment may be consideration for a supply made by the dealer and also be in connection with the dealer's acquisition of a thing, if the payment indirectly alters the price of the particular thing acquired.

*Acquisition of a **particular** thing or **particular** things*

301. The use of the words 'the thing' in paragraphs 134-5(1)(d) and 134-10(1)(d) indicate that for the paragraph to be satisfied, the third party payment must relate to the payee's acquisition of a particular thing or particular things, being the same thing or things that the payer supplied to another entity as identified under paragraphs 134-5(1)(a) and 134-10(1)(a).

302. The construction of paragraphs 134-5(1)(d) and 134-10(1)(d) and the method for calculating the amount of the adjustment indicate the payment must relate to the dealer's acquisition of a particular thing (or particular things) that the manufacturer supplied to another entity, and not simply to the dealer's general business operations.

303. Where the payment simply relates to the dealer's general business operations, the requirement of paragraphs 134-5(1)(d) and 134-10(1)(d) would not be satisfied.

304. The requirement that there be an acquisition of a particular thing (such as a particular motor vehicle or particular motor vehicles) is also reflected in the calculation of the amount of the decreasing adjustment and increasing adjustment under subsections 134-5(2) and 134-10(2) respectively, both of which require the 'consideration' for the taxable supply to be identifiable.

305. It follows that, in order to work out the amount of the decreasing or increasing adjustment, a particular thing, or particular things, must be identifiable.

[65] Paragraph 71 of GSTR 2001/6 and paragraph 96 of GSTR 2001/4.

Payment must relate to the dealer's acquisition of a particular thing

306. As the Full Federal Court stated in *HP Mercantile Pty Limited v. Commissioner of Taxation* [2005] FCAFC 126; (2005) 60 ATR 106; 2005 ATC 4571 (*HP Mercantile)*, 'the words 'relates to' are wide words signifying some connection between two subject matters' and that 'the degree of relationship implied by the necessity to find a relationship will depend upon the context in which the words are found.'[66]

307. In the context of Division 134, an incentive payment will relate to the dealer's acquisition of a particular thing if the payment has the substantive effect of indirectly reducing the price of the thing acquired.

308. Contextual support for this can be found in subsection 134-5(2), which provides that the amount of the decreasing adjustment is equivalent to the difference between the amount of GST payable on the taxable supply made by the payer, and the amount of GST that would have been payable had the consideration for the supply been reduced by the amount of the payment made to the dealer.

309. Similarly, subsection 134-10(2) provides that the amount of the increasing adjustment is equivalent to the difference between the amount of the input tax credit for the payee's acquisition and the amount of the input tax credit if the consideration for the acquisition had been reduced by the amount of the payment.

310. The term 'price' is defined as the total consideration for a supply.[67] In effect, this means that the amount of an adjustment is calculated by reference to the 'original price' of the thing supplied by the manufacturer and acquired by the dealer, and what the price would have been had the manufacturer reduced the original price of the thing by the amount of the payment.[68]

311. Similarly, the amount of an increasing adjustment for a dealer (or GST registered customer, if applicable) is calculated by reference to the price paid for the acquisition of the thing by the dealer (original price) and what the price would have been had the original price been reduced by the amount of the payment.[69]

312. Further contextual support for this proposition can be found in paragraph 1.1 of the Explanatory Memorandum which states:

> Schedule 1 to this Bill amends the A New Tax System (Goods and Services Tax) Act 1999 (GST Act) to ensure that the appropriate amount of goods and services tax (GST) is collected and the appropriate amount of input tax credits claimed in situations where there are payments between parties in a supply chain **which indirectly alter the price paid or received by the parties for the things supplied.** [emphasis added]

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[66] *HP Mercantile* at [35].
[67] Subsection 9-75(1).
[68] Subsection 134-5(2).
[69] Subsection 134-10(2).

313. Paragraph 1.6 of the Explanatory Memorandum further explains that where the payment to the payee indirectly reduces the amount the payer receives for a supply, the payer will be entitled to a decreasing adjustment reflecting the difference between the GST remitted on the original supply and the GST which would have been payable on the supply if the consideration was calculated net of the third party payment. The payee will have an increasing adjustment if the acquisition was for a creditable purpose.

Combined recipient created tax invoice and third party adjustment note

314. The requirements for a recipient created tax invoice and a third party adjustment note are set out in subsection 29-70(1) and subsection 134-20(1). Neither provision excludes a document that satisfies the requirements of one subsection from also satisfying the requirements of the other.

315. Both subsections 29-70(1) and 134-20(1) require that certain information is clearly ascertainable. This means that the information does not have to be specifically stated or in a particular format. What is required is that the information can be found in the document or determined from information within the document. It further means that to be clearly ascertained, enough information must be present and it must be clear what the information represents.[70]

316. It must be clearly ascertainable from the document that the document was intended to be a recipient created tax invoice.[71] A combined document would therefore need to make clear that the document is still intended to be a recipient created tax invoice, despite it also being a third party adjustment note (which has no similar requirement).

317. Third party adjustments may be shown on a recipient created tax invoice. For example, a monthly statement or report may be issued by the manufacturer that shows the supplies made to it during the month, as well as any third party adjustments it made. The monthly statement is also a third party adjustment note if it includes the information required by subsection 134-20(1).

[70] See paragraphs 13 to 15 of GSTR 2013/1 *and* paragraphs 25 to 27 of GSTR 2013/2.
[71] See paragraph 29-70(1)(d).

Appendix 2 – Summary of GST consequences for specific incentive payments

This Appendix does not form part of the binding public ruling.

318. The Commissioner recognises that determining the GST consequences of motor vehicle incentive payments can be more complex following *AP Group* because there are now differing GST treatments depending on the incentive payment. The Commissioner is committed to assisting the industry to determine the GST treatment of motor vehicle incentive payments in the most practical way possible.

319. The tables below set out a summary of the GST consequences for manufacturers, dealers and GST registered customers in respect of specific incentive payments made under a bailment arrangement that are discussed in the Worked Examples.

320. The tables do not purport to be comprehensive as the GST consequences will depend on the relevant facts and circumstances. The tables should be read with this Ruling.

321. Given the evolving nature of these payments, if the circumstances surrounding a particular incentive payment are not specifically covered in this Ruling, the Commissioner generally does not intend to allocate compliance resources in reviewing whether the incentive payment should have been treated as consideration for a supply to the manufacturer or as an adjustment. However, the Commissioner will take appropriate compliance action if there is evidence of fraud, evasion or tax avoidance, if there are inappropriate GST outcomes or if any relevant parties seek to exploit the GST system.

Guide to reading these tables

322. The tables that follow use the following acronyms:

Acronym	Term
M	manufacturer
D	dealer
C	GST registered customer
ITC	input tax credit
↓adj	decreasing adjustment under section 134-5
↑adj	increasing adjustment under section 134-10
Nil	no GST, ITC, or adjustments under Division 134

323. Note that in each case, the dealer is liable for GST on the supply of the motor vehicle and Division 19 adjustments are not discussed in these tables.

Table 1: Supply by dealer to manufacturer for consideration (paragraphs 14 to 24 of the Ruling)

Payment type	M	D	Relevant Example
Payments for services rendered to M (for example, preparing a vehicle for sale, installing or fitting parts to a vehicle)	ITC	GST	Ruling Examples 1 and 3 Worked Example 20
Payment for entering into a specific obligation	ITC	GST	Ruling Example 2
Payment for doing something for M (for example, organising marketing)	ITC	GST	Ruling Example 9
Payment for holding minimum pool of demonstrator vehicles • Paid where D meets minimum requirements • The ultimate sale by D to C at discounted price is not the reason for the payment (see demonstrator support payment above)	ITC	GST	Worked Example 17
Payment for agreeing to sell or promote only vehicles manufactured by M • There must be an agreement	ITC	GST	Worked Example 20

Table 2: Supply by dealer to retail customer for consideration (third party consideration) (paragraphs 25 to 43 of the Ruling)

Payment type	M	D	Relevant Example
Fleet rebate paid to D • D's sale of a particular vehicle to a particular class of customers is the reason for the payment	↓ adj	GST	Ruling Examples 5 and 10 Worked Examples 1 and 2
Preferred customer payment • D's sale of a particular vehicle to a preferred class of customers is the reason for the payment	↓ adj	GST	Worked Example 3
Run-out model support payment paid to D • D's sale of a particular vehicle of a specific model at or below a specified price is the reason for the payment	↓ adj	GST	Ruling Example 4 Worked Example 6
Ex-demonstrator support payment • Retail rebate paid to allow D to sell an ex-demonstrator vehicle at a discounted price if required pool of demonstrator vehicles is held	↓ adj	GST	Worked Example 7

Payment type	M	D	Relevant Example
Discount or free accessories payment • D's sale of a particular vehicle to C for below a specified price or for the specified price with 'free accessories' is the reason for the payment	↓ adj	GST	Worked Example 10

Table 3: Payments made to customer

Payment type	M	C	Relevant Example
Fleet rebate paid to C who acquires vehicle from D • D's sale of a particular vehicle to a particular class of customers is the reason for the payment • No payment made to D	↓ adj	↑ adj	Worked Example 4
Fleet rebate paid to C who acquires vehicle directly from M • No payment made to D • C picks up vehicle from D's premises • Payment changes consideration for supply of vehicle to C	↓ adj under Div 19	↑ adj under Div 19	Worked Example 5

Table 4: No supply for consideration (paragraphs 44 to 46 of the Ruling)

Payment type	M	D	Relevant Example
Driveaway price offers • Paid to D to equalise on-road costs (stamp duty, third party insurance and registration) between dealers in different states • Payment is not directly referable to any particular on-road costs and does not cover total costs • On-road costs not charged to C	↓ adj	↑ adj	Worked Example 8
Payment for acquiring parts • Paid to D where D achieves a target amount of parts and accessories • D acquires parts and accessories directly from M	↓ adj under Div 19	↑ adj under Div 19	Worked Example 9
Retail incentive paid per car • D achieving a target number of vehicles sold is the reason for the payment • Paid for each vehicle sold	↓ adj	↑ adj	Worked Example 11

Payment type	M	D	Relevant Example
Retail incentive paid as a lump sum payment • D achieving a target number of vehicles sold is the reason for the payment • Lump sum is paid whether the target is met or exceeded	↓ adj	↑ adj	Worked Example 11
Wholesale incentive paid per car • D ordering a set number of vehicles is the reason for the payment • Paid for each car ordered	↓ adj[72]	↑ adj[68]	Worked Example 12
Wholesale incentive paid as a lump sum payment for D acquiring: • a specific number of vehicles, or • in excess of, or within a range of, number of vehicles	↓ adj[68]	↑ adj[68]	Worked Example 12
Payment for meeting standards • D achieving certain standards unrelated to the supply or acquisition of a vehicle is the reason for the payment • Can be paid as a lump sum 'bonus' or as a proportion of monetary turnover	Nil	Nil	Worked Example 13
Transit/interest protection payment • Paid to compensate D for interest fees charged by finance companies while the vehicle is in transit and/or not yet in saleable condition • Calculated at the Bank Bill Rate plus a margin, for a specified period of time depending on the allowance	↓ adj[68]	↑ adj[68]	Worked Examples 14 and 15
Delayed settlement allowance • Paid to compensate D for interest fees charged by finance companies where there is a delay in the settlement of a sale of the motor vehicle to a Government customer • Calculated at the Bank Bill Rate plus a margin, for a specified period of time depending on the allowance	↓ adj[68]	↑ adj[68]	Worked Example 16
Payment to reimburse D for general business expenses such as FBT where: • the activities of M and D's employees incur FBT expenses; and • D has no involvement in those activities apart from incurring the FBT expenses.	Nil	Nil	Ruling Example 6

[72] There must be an acquisition.

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324. The following is a detailed contents list for this Ruling:

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