



R U N D L E S

C H A R T E R E D A C C O U N T A N T S

Rundles Report

tax news | views | clues

Winter 2017

Ride-sharing drivers must register for GST

In a recent decision, the Federal Court has held that the UberX service supplied by Uber's drivers constitutes the supply of "taxi travel" for the purposes of GST. The ATO has now advised that people who work as drivers providing ride-sharing (or ride-sourcing) services must:

- keep records;
- have an Australian Business Number (ABN);
- register for GST;
- pay GST on the full fare they receive from passengers;
- lodge activity statements; and
- include income from ride-sharing services in their tax returns.

If you work as a ride-sharing driver, you are also entitled to claim income tax deductions and GST credits on expenses apportioned to the services you have supplied.

TIP: You must register for GST if you earn any income by driving for a ride-sharing service. The usual \$75,000 GST registration threshold does not apply for these activities.

Tax offset for spouse super contributions: changes from 1 July 2017

The ATO has reminded taxpayers that the assessable income threshold for claiming a tax offset for contributions made to a spouse's eligible superannuation fund will increase to \$40,000 from 1 July 2017 (the current threshold is \$13,800). The current 18% tax offset of up to \$540 will remain in place. However, a taxpayer will not be entitled to the tax offset when their spouse who receives the contribution has exceeded the non-concessional contributions cap for the relevant year or has a total superannuation balance equal to or more than the general transfer balance cap immediately before the start of the financial year when the contribution was made. The general transfer balance cap is \$1.6 million for the 2017–2018 year.

The offset will still reduce for spouse incomes above \$37,000 and completely phase out at incomes above \$40,000.

TIP: Contact us for more information about making the most of super contributions for you and your spouse.

Super reforms: \$1.6 million transfer balance cap and death benefit pensions

Where a taxpayer has amounts remaining in superannuation when they die, their death creates a compulsory cashing requirement for the superannuation provider. This means the superannuation provider must cash the superannuation interests to the deceased

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person's beneficiaries as soon as possible. The ATO has released a Draft Law Companion Guideline to explain the treatment of superannuation death benefit income streams under the \$1.6 million pension transfer balance cap that will apply from 1 July 2017.

The Draft Guideline provides that where a deceased member's superannuation interest is cashed to a dependant beneficiary in the form of a death benefit income stream, a credit will arise in the dependant beneficiary's transfer balance account. The amount and timing of the transfer balance credit will depend on whether the recipient is a reversionary or non-reversionary beneficiary.

TIP: To reduce an excess transfer balance, you may be able to fully or partially convert a death benefit or super income stream into a super lump sum. Contact us if you would like to know more.

No deduction for carried-forward company losses

The Administrative Appeals Tribunal (AAT) has ruled that a company was not entitled to deductions for carried-forward losses of over \$25 million that it incurred in the 1990 to 1995 income years. The AAT found that the company did not satisfy the "continuity of ownership" and "same business" tests that applied in relation to the 1996 to 2003 income years, when it sought to recoup the losses. In relation to the continuity of ownership test, the AAT found that the interests the relevant shareholders held during the loss years were different from their interests recoupment years. The AAT noted that the taxpayer company was obligated to keep appropriate records, even though 25 years had passed since the first claimed loss year (1990). The Tribunal also found that the company had clearly not met the requirements of the "same business" test for the different years in question.

TIP: This decision illustrates the need for companies to keep appropriate ownership records year-by-year to support any future carried-forward loss claims.

Overseas income not exempt from Australian income tax

The Administrative Appeals Tribunal (AAT) has agreed with the ATO's decision that income a taxpayer earned when working for the United States Army was not exempt from Australian income tax. The taxpayer, who was a mechanic and electrician, played a critical role in plant construction in Afghanistan.

While the project the taxpayer worked on met the legal definition of an "eligible project", the AAT decided that the exemption he had claimed under S 23AF of the *Income Tax Assessment Act 1936* did not apply because the project was not one that the Trade Minister had approved in writing, and there was no evidence that the Trade Minister considered it "in the national interest".

GST on low-value imported goods

A Bill has been passed by Parliament to make Australian goods and services tax (GST) payable on supplies of items worth less than A\$1,000 (known as "low value goods") that consumers import into Australia with the assistance of the vendor who sells the items. For example, GST would apply when you buy items worth less than \$1,000 online from an overseas store and the seller arranges to post them to you in Australia.

Under the new measures, sellers, operators of electronic distribution platforms or redeliverers (such as parcel-forwarding services) would be responsible for paying GST on these types of transactions. The GST could also be imposed on the end consumer by reverse charge if they claim to be a business (so the overseas supplier charges no GST).

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but in fact use the goods for private purposes. Previously the measures were to come into force on 1 July 2017. However, that date has been pushed back to 1 July 2018.

Alternative assessments not tentative: Federal Court

The Federal Court has found that a company's tax assessments were not tentative or provisional, and therefore were valid.

For the 2011 to 2014 income years, the Commissioner of Taxation had notified the taxpayer, which was the trustee of a discretionary trust, that it was liable to pay tax assessed in two different amounts calculated by two different methods. The Commissioner explained to the taxpayer in writing how the two assessments applied.

The taxpayer argued that the assessments were tentative because, for each year, they imposed two separate and different income tax liabilities on its single trustee capacity. The Court denied this claim, agreeing with the ATO that a trustee's liability to pay income tax is of a "representative character" and the relevant tax law provisions allow for a trustee's liability to multiple assessments regarding different beneficiaries' entitlements to a share of the net trust income. Accordingly, in effect the Court found that the primary and alternative assessments were comparable to assessments issued to two or more taxpayers in relation to the same income in the same income year, and were not liable to be set aside as tentative or provisional.

Tax assistance for people affected by Cyclone Debbie

The ATO has said it will fast-track refunds for people affected by extreme weather and flooding associated with Tropical Cyclone Debbie and ex-Cyclone Debbie in Queensland and New South Wales, and will allow extra time for those taxpayers and their agents to lodge income tax returns and activity statements.

Tax Commissioner Chris Jordan said taxpayers do not need to apply for a deferral or a faster refund. "If your business or residential address is in one of the identified affected postcodes it will happen automatically", Mr Jordan said. "We understand that for many people their tax affairs are the last thing on their minds right now. When people are ready, we will make sure they are supported in meeting their tax obligations."

Automatic deferrals of one month apply for tax lodgment and payment dates for people in the affected postcodes. Employers still need to meet their ongoing super guarantee obligations for employees.

The ATO is offering a range of other support measures, and can help reconstruct tax records where documents have been damaged or destroyed.

ATO adds value to developing financial literacy

The ATO is helping teachers add tax and super to their classes this year with dedicated educational resources.

In partnership with the Australian Curriculum, Assessment and Reporting Authority (ACARA) and the Australian Securities and Investment Commission (ASIC), the ATO has developed resources that align to the Australian Curriculum for students in years seven to 10.

"Understanding tax and super is an important skill for young Australians, and we are pleased it is now part of the Australian curriculum", Assistant Commissioner Kath Anderson said.

The ATO says it wants to make it easy for teachers and students to access information, and now offers online learning and teaching resources, activities, videos and webinars

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through ACARA's new Curriculum Connections. School visits can also be arranged to cover topics including tax file numbers, preparing for work and how to lodge a tax return.

Does your business import or export goods and services?

The ATO reminds business owners that if your business imports or exports goods or services in Australia, it is important to be aware of your GST responsibilities so you can get the information on your business activity statement (BAS) right.

Exports from Australia are generally GST-free, but special conditions apply in some situations. For example, if it takes longer than 60 days for you to receive payment for your exports, then GST could be charged.

When importing, you are generally required to pay GST (10% of the value of the taxable importation). This GST is usually paid to the Department of Immigration and Border Protection Service before the goods are released, unless you are part of the deferred GST (DGST) scheme.

TIP: Talk to us to find out more about your GST obligations. The ATO accepts voluntary disclosures about mistakes in GST reporting, and you may find your business is eligible for the DGST scheme.

Senate Committee holds corporate tax avoidance hearing The Senate Economics References Committee is inquiring into tax avoidance and aggressive minimisation by corporations registered in Australia and multinational corporations operating in Australia, including looking at the adequacy of Australia's current laws. The Committee held a public hearing in Perth on 28 April 2017, where it heard from representatives of Woodside Energy Limited, BHP Billiton, ExxonMobil Australia, Shell Australia, BP Australia, Chevron Australia, the ATO, the WA Department of Mines and WA Treasury. Discussion of the Petroleum Resource Rent Tax (PRRT) occupied much of the hearing. The Committee is due to report by 30 September 2017.

Higher education HELP changes: faster repayments and threshold changes

The Higher Education Reform Package – takes effect generally from 1 January 2018. The details include:

- an increased maximum student contribution from 1 January 2018;
- no up-front fees or deregulation of fees;
- a new set of repayment thresholds from 1 July 2018, changing repayment timings and quantities for all current and future Higher Education Loan Program (HELP) debtors;
- a new minimum repayment threshold at \$42,000 of income from 1 July 2018 with a lower 1% repayment rate, and a new maximum threshold of \$119,882 of income with a repayment rate of 10%;
- phasing in increased maximum student contributions by 1.8% each year between 2018 and 2021, cumulating in a 7.5% increase; and
- from 1 July 2019, indexation of HELP repayment thresholds, currently linked to Average Weekly Earnings (AWE), will be changed to align to the Consumer Price Index (CPI).

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Super guarantee non-compliance: Senate Committee report

On 2 May 2017, the Senate Economics References Committee released its report into Superannuation Guarantee (SG) non-payment, calling for the ATO to take a more proactive stance in identifying and addressing SG non-compliance. As part of its inquiry, the committee heard that employers failed to pay \$5.6 billion in SG contributions in 2013–2014, affecting 2.76 million employees who lost over \$2,000 on average in a single year.

Other key recommendations include:

- requiring monthly contributions (instead of quarterly);
- removing the current \$450 monthly threshold for SG eligibility;
- ensuring salary sacrificed contributions cannot count towards the employer's compulsory SG obligation, and do not reduce the earnings base upon which SG is calculated;
- strengthening the ATO's ability to recover SG liabilities through the director penalty notice (DPN) framework to stop directors undertaking fraudulent phoenix activity; and
- amending the Fair Work Regulations 2009 to require payslips to display further details about super contributions.

Illegal SMSF early access scheme leads to \$6,000 fine

ASIC reports that a man from South Melbourne has pleaded guilty in the Melbourne Magistrates Court and been fined \$6,000 for operating a financial services business without an Australian financial services (AFS) licence. ASIC's investigation arose from ATO intelligence that raised concerns about the promoter's conduct. The offence related to a scheme the man promoted and operated to facilitate illegal early release of his clients' superannuation benefits through the creation of self managed superannuation funds (SMSFs).

Between 2010 and 2012, the man placed newspaper advertisements in Victoria and South Australia offering loans dependent upon future superannuation entitlements. A round-robin scheme was operated whereby the promoter's clients transferred their superannuation funds into newly created SMSFs. The SMSFs lent funds to a company the promoter operated, and then an amount, less a fee, was loaned by either the company or personally back to the trustees of the SMSF in their personal capacity. The promoter has never been granted an AFS licence or a credit licence and has never been an authorised representative of a licensee. ASIC said the promoter exploited his clients' trust through an illegal scheme that exposed them to potential legal and financial risk.

ASIC urges consumers to deal only with licensed representatives of the financial services and credit industries.

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Noel's News



Film Reviews – by Corey Lisle

Churchill ★ ★ ★

Brian Cox stars in *Churchill*, a semi-biopic that follows the Prime Minister of London in 1944, approximately 72 hours before the famous D-day landing mission goes ahead.

The performance, score and costumes are incredible.

Director Jonathan Teplitzky manages to recreate the era without appearing overly nostalgic or sentimental. Churchill is unbalanced and broken here, completely isolated in the past but also ever-fearful of the future that the war may bring. Miranda Richardson as Mrs Churchill also gives a sound performance and it is interesting watching the power dynamics between the couple unravel.

However, the pacing is slow and tiring, and you will likely find yourself checking your watch despite the film's short run-time. History buffs would do well to catch a session, while others need not rush out to see it.

Transformers: The Last Knight ★

Director Michael Bay's latest explosion-filled entry into the *Transformers* franchise has all the bombastic aggression and incoherence of a film directed by a 10-year-old boy.

The series has been running for 10 years now and the latest entry offers nothing new, interesting or engaging to provide any value for money or time whatsoever.

To explain the story here is giving the film too much credit, as any resemblance to a plot is consistently brushed aside in favour of sexualised images of female actresses, Mark Wahlberg's biceps or trying to justify Sir Anthony Hopkins' pay cheque. Also infuriating are the contrasting aspect ratios that occur throughout the film, illustrating a director that has either lost touch with what looks visually appealing or didn't even bother rocking up to the editing room. It's simple, do not see this film.

Some may argue that it is worth seeing for the visual effects, or to switch your brain off. I disagree, society becomes dumber one *Transformers: The Last Night* ticket at a time, so save your money and the gene pool.

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Theatre Review – by Mark Lisle

The Book of Mormon Princess Theatre, Melbourne

A thoroughly entertaining show from start to finish. I wasn't rolling in the aisles laughing, as some reviews suggested I would, but I had a smile on my face throughout. *The Book of Mormon* is a very clever production, with lots of humour, dancing and singing.

The show unashamedly pokes fun at the Mormon beliefs and at religion generally. It has been described by critics as irreverent and that probably sums it up pretty well. The overall message that comes across is, don't worry if it all sounds like fairy tales, just believe. In fact, one of the songs in the show is titled "Mormons Just Believe". Some would say that this principle is true of most religions.

Regardless of your religious beliefs, you would be hard pressed not to enjoy the show. Well worth the expensive ticket price.



Restaurant Review - by Mark Lisle

Elyros 871 Burke Road, Camberwell

I would describe Elyros as *Upmarket Greek*. It is a bit more formal than most Greek restaurants (or taverns) that I have been to in the past and certainly more contemporary. The menu is a mixture of traditional Greek dishes, along with some modern dishes I hadn't seen in Greek restaurants before. We certainly loved the food and are looking forward to going back to try some of the other dishes. We noticed that there are some sharing menus that would be great for groups.

The décor is stylish and the seating is well laid out (ie. tables not too close together). The wait staff are very pleasant and knowledgeable and the wine list has a good mixture of local and imported wines. Elyros is not cheap but I would say it is still good value. As I said, we'll be going back soon!

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Sporting Predictions – as seen by Brad Roach

AFL

The AFL season is now past the halfway mark, and most of my top 8 predictions in our Autumn 2017 issue are on their way to securing a spot in the eight. Only Port Adelaide & Richmond looking to replace my original selections of Sydney and St Kilda in those final positions. Dusty, Danger and Rory are all still a huge chance for the Brownlow, however, it looks like the Coleman won't be heading to the Eagles, with Kennedy injured. It'll be great to see a small forward win it, only one can do it – Eddie Betts.

FOOTBALL

The FIFA Confederations Cup is currently underway and while Ausyrali did not progress to the finals stage, they came away with some creditable performances. I expect Germany and Portugal to play off in the final, with C. Ronaldo starring for his country. As far as our World Cup hopes go, winning our remaining two qualifiers will see us make it to Russia, however, a draw to Japan and a win against Thailand should do the job.

TENNIS

Wimbledon is always an exciting event. I would like to see Federer in the final, however, expect the championship to be battled out between Andy Murray and Stan Wawrinka, with Andy lifting the trophy once again. Unfortunately, I don't see the Aussie boys making it past the first couple of rounds (expect Kyrios & Tomic to embarrass themselves and their country with their petulant behavior). With Serena out of the game pregnant, the women's draw is a lot less predictable. Even though the Aussie women will fair better than the men, Daria and Sam will be knocked out before the final stages, with Kerber winning the championship.

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