Chartered Accountants

Client Newsletter - Tax, Super & Business Ideas

October 2015

Taxing the "sharing economy"

Have you ever let a room on the popular accommodation site Airbnb? Ever shared a ride with pseudo taxi service Uber? If you participate in what's now called the "sharing economy", you may have some tax to pay.

The Tax Office says the sharing economy is a new way of "connecting buyers ('users') with sellers ('providers') for economic activity". That definition includes a host of new services like Airbnb, Uber, AirTasker and MenuLog.

For the last few months the Tax Office has been fighting with Uber to introduce goods and services tax (GST) on its share-drivers (that is, everyday people who decide to become casual Uber employees).

The Tax Office maintains that Uber drivers are viewed as being independent contractors, so they're required to register for GST like normal taxi drivers – no matter what their yearly earnings are.

That's one example of how the Tax Office is chasing sharing economy participants for its GST and income tax dues. There are more, but to begin with, the Tax Office says you're participating in the sharing economy if you:

- rent out or let a room or other property for accommodation
- rent out or let a car parking space

About this newsletter

Welcome to our monthly SRF newsletter, where we bring to your attention recent changes in the areas of Business, Taxation and Superannuation.

If you would like to discuss further any of the issues raised in the newsletter, please call your SRF advisor.

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- provide odd jobs, errands, deliveries or more skilled services on an ad-hoc basis, or
- use a car to transport members of the public for a fare (Uber).

Assessable income

Providing a sharing economy service for money most likely means you're earning assessable income. And that's what the Tax Office wants to tax – even if you're not "carrying on a business" in doing so. So if you're earning assessable income from providing sharing economy services, you'll need to keep records of:

- income from that activity, and
- any allowable deductions (apportioned for private use).

"These records will help you to include these amounts in a tax return," the Tax Office says, "and pay any tax owing from your activities on time."

What about GST?

If you provide sharing economy services (like those listed above) and you earn money from those services, you're carrying on an enterprise even if you're not registered as a business. So, if your annual turnover from that enterprise activity exceeds $75,000 you'll need to register for GST. That's not counting Uber drivers — if you provide "taxi travel" you need to be registered regardless of your turnover. If you do end up registering for GST, you need to:

- charge GST when you make a taxable supply
- claim any input tax credits you are entitled to for related purchases, and
- lodge an activity statement and remit any net GST from your activities.

Some handy examples from the Tax Office

The general rule of thumb is this: If you provide sharing economy services you'll have a liability to pay tax as an enterprise. Here are some helpful case studies from the Tax Office that explain trickier circumstances.

EXAMPLE 1

Renting out rooms in a house not subject to GST

Sue owns a house that contains two furnished bedrooms. She enters into an arrangement with a facilitator to have the rooms separately advertised to guests who will pay a fee for being able to rent the rooms on a nightly or weekly basis. Sue provides linen but does not supply meals to the guests who have access to the kitchen to prepare their own meals.

Renting out a room in your house is an input taxed supply of residential rent. Sue is not required to charge GST. Sue will also not be able to claim any GST included in expenses she incurs in relation to renting out the rooms.

At the end of the year, Sue includes all the rental income in her income tax return. She also claims a deduction for the fees charged by the facilitator and for a proportion of her mortgage, electricity and other expenses relative to her renting activity.

Sue is also aware that if she sells the home she will have some capital gains to account for as the home has been used partially for rental income purposes.

EXAMPLE 2

Driving passengers for a fare

Anton, an office worker, sees an advertisement about how he can earn some extra money by transporting passengers in his car.

The service is operated by a third-party facilitator, which notifies Anton of the location of possible passengers and provides a platform through which passengers can request transportation from Anton to a destination of their choice.

Anton charges a commercial fare that is based on distance and time, and he (or the facilitator on his behalf) issues invoices to his customers.

The frequency of Anton's arrangement varies from week to week. Most weeks, Anton transports between five and 15 passengers, but in some weeks he does not operate at all.

Anton is providing "taxi travel" and must be registered for GST from the very first time he takes a passenger. While Anton needs to account for the GST charged on the full fare, he also gets to claim input tax credits for a proportion of the GST he pays on fuel and other expenses for his car.

Anton is thinking about buying a new car and he knows he will be able to claim back some of the GST he is charged by the dealer. He also knows that there are some GST adjustments he needs to make when he sells his existing car, which he has been using to provide taxi travel. At the end of the financial year, Anton includes the income from his fares in his income tax return. He also claims a deduction for a proportion of his car expenses relative to its income-producing use.

Rental property claims that are often misunderstood

The Tax Office has found that there are some landlords who may not be entirely sure about whether they are correctly claiming their rental property deductions. In particular, it has found that many property investors are making simple mistakes that could be avoided with a little guidance.

The Tax Office has identified some of the common errors that have been made by rental property owners in past income years.

These include:

- claiming rental deductions for properties "not genuinely available" for rent
- incorrectly claiming deductions for properties only available for rent part of the year (like a holiday home)
- incorrectly claiming structural improvement costs as repairs when they are capital works deductions, such as re-modelling a bathroom or building a pergola, and
- overstating deduction claims for the interest on loans taken out to purchase, renovate or maintain a rental property.

There are two categories of rental property expenses you can claim:

- expenses deductible in the year you paid them — like council rates, repairs, insurance and loan interest, and
- expenses that are deductible over a number of years — like borrowing costs, claims for structural improvements and the costs of depreciating assets (for example, a stove).

Claims for expenses in the same income year

Repairs and maintenance

A non-capital repair to correct defective or worn-out parts of an investment property, or to return a deteriorated part to its former condition, is deductible. However, the renewal or replacement of a complete structure is usually considered to be a capital expense and is not deductible.

This could include for example a fence that is completely replaced or a stove that is scrapped and replaced with a new one. Similarly, repairs to a rental property shortly after purchase is typically a capital expense if the repair is to rectify a defect that existed at the time of purchase (referred to as an "initial repair").

Care should be exercised when the materials used in conducting a repair are superior to the original product as the expenditure may be considered capital in nature on the basis that the asset has been "improved".

Examples of deductible and non-deductible repairs may include:

Deductible repairs:

- Replacing broken windows
- Maintaining plumbing
- Repairing electrical appliances.

Non-deductible repairs:

- Landscaping
- Insulating a house/unit
- Replacing an entire roof.

Interest

Interest on a loan is deductible provided the loan is to purchase a rental property and meet improvement costs or running expenses while the property is rented, or is available for rental. It may be the case that interest is deductible over the time that a property, which is to become income producing, is under construction. If you start to use the property for private purposes, you cannot claim any interest expenses you incur after the time you commence using it

in that manner. Speak to us for more information on this.

Deductible interest is also available on a loan taken out to:

- carry out renovations
- purchase depreciating assets (for example, furniture), and
- make repairs or carry out maintenance.

Telephone, stationery and postal expenses

Calls to or letters to tenants, real estate agents and tradesmen are deductible, so be sure to keep good records.

Agent fees and commissions

Claims are allowed for fees and commissions paid to real estate agents to let properties and collect rent. You **cannot** however claim the cost of commissions paid to a real estate agent or other person for the sale or disposal of a rental property and you cannot claim the cost of the buyer's agent fees paid to a person you engage to find you a suitable rental property to purchase. This is normally included in the cost base of the property.

Body corporate fees

Body corporate fees and charges that are incurred to cover day-to-day administration costs, maintenance or put into a special purpose fund are deductible. However, payments to a special-purpose sinking fund to cover the cost of capital improvements or capital repairs are not immediately deductible as they typically constitute capital works.

Drawing up leases

The costs of drawing up a lease are typically deductible. It includes a deduction for the cost of preparing, registering or stamping a lease of a property – including costs associated with an assignment or surrender of a lease – where the property is used solely for the purpose of producing assessable income.

Travelling expenses

While you cannot claim the cost of travelling expenses while searching for a property to buy, travel expenses once you own the rental property are typically deductible if incurred:

- inspecting the property
- collecting rent
- showing prospective tenants through the property
- carrying out repairs, including travel to acquire material for those repairs, or
- visiting the real estate agents for purposes such as leaving keys, signing lease agreements or discussing matters relevant to the letting.

A full deduction is allowed when the sole purpose of the trip relates to the rental property. However, if the trip also includes a private purpose, only a partial deduction will be allowed.

Letting residence while on transfer of employment

If the property is let on an arm's length commercial basis during the transfer of employment, losses and outgoings in relation to the letting of it during that time are deductible. This includes deductions for interest incurred during that time, and depreciation on furniture and fittings for the period that the house is let. However, repairs of faults which existed at the time of first being let are not deductible.

If you have other costs from your rental property that you think may be immediately deductible, please contact us.

Expenses that need to be deducted over time

There are some expenses you will need to deduct over a number of years as a landlord.

These can include:

- borrowing expenses – including loan establishment fees, title search fees, costs for preparing and filling mortgage documents, mortgage broker fees and stamp duty charged on the mortgage. If you take out an insurance policy to cover the loan in case you cannot meet repayments, these premiums are not deductible. Landlord insurance premiums can however be deducted.
- amounts for decline in the value of depreciating assets such as air conditioners, heaters, hot water systems, vacuum cleaners, dishwashers, clothes dryers and so forth
- capital works deductions – deductions for certain types of construction like the reconstruction of a garage destroyed by a fire where the work constitutes a structural improvement to the rental property.

The amount of time these expenses are spread across depends on the type of expense. For instance, a loan expense is spread over the lesser of five years or the life of the loan under special rules. Assets that depreciate in value do so over their "effective" life and certain construction work deductions may be spread across 40 years.

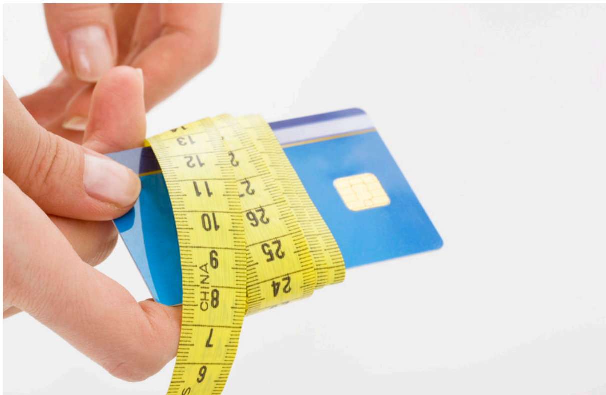
What you cannot claim

Common expenses that are not deductible include:

- acquisition and disposal costs – such as purchase cost of the property, advertising expenses, stamp duty on the transfer of the property and legal costs (although they may be included in the calculation of a capital gain or loss on disposal)
- expenses that your tenants pay such as electricity or water charges, and
- expenses not related to the rental of a property such as during personal use of a holiday home that is rented out for part of the year.

The above is not an exhaustive list of all claimable and non-claimable rental property expenses. Contact us for more.

Tax Office to data match credit card purchases against declared income



The Tax Office this tax time revealed it has undertaken the task of matching income declared on business tax returns against credit and debit card records that have been generated by certain banks and financial institutions throughout the 2014-15 financial year.

As part of the unprecedented blitz, the regulator will ask major Australian financial institutions for the online purchase details of almost 90,000 business-owning taxpayers.

Those details will be used to match around 900,000 sets of transactions with merchant accounts to determine the real amount and value of transactions processed in that same year.

The Tax Office said in a statement the blitz aims to ensure "merchants are correctly meeting their taxation obligations in relation to their business income".

"These obligations include registration, lodgement, reporting and payment responsibilities."

The Tax Office said businesses should make voluntary disclosures to correct mistakes before the sweep begins.

Here's a list of the banks and financial institutions earmarked for data collection:

- American Express Australia
- Australia and New Zealand Banking Group
- Bank of Queensland
- Bendigo and Adelaide Bank
- BWA Merchant Services
- Commonwealth Bank of Australia
- Diners Club Australia
- National Australia Bank
- St George Bank
- Tyro Payments
- Westpac Banking.

Contact us if you wish to understand more about the Tax Office's recent data matching activities.

Booster strategy for your GST credit claims

Businesses are required to deal with the goods and services tax (GST) in various ways — from charging customers 10% and paying the Tax Office the tax collected, to claiming GST on purchases. While most businesses would typically be entitled to claim GST credits on their purchases, there are some instances where credits cannot be fully claimed – particularly when "financial supplies" are made, such as providing credit for goods sold. We examine certain situations where all credits can be claimed when financial supplies are made under a special GST rule.

Rule for claiming GST credits

The general rule under GST law is that you cannot claim a GST credit for expenses if they relate to income that

is not subject to GST itself. Under the GST laws, one of the exceptions to this rule applies to "financial supplies" (discussed below).

Even though your business may not be a financial institution, it is still possible for you to make a financial supply. If you provide credit to customers so they can make a purchase, and charge some interest on that credit, this is a financial supply.

The Tax Office lists the following examples of financial supplies:

- lending or borrowing money
- providing your customers with goods on credit for a fee
- buying or selling shares or other securities
- creating, transferring, assigning or receiving an interest in, or a right under, a superannuation fund
- providing or receiving credit under a hire purchase agreement entered into before July 1, 2012 if the credit is provided for a separate charge that is disclosed to the purchaser. (For hire purchase agreements entered into after June 30, 2012 the provision of credit is taxable).

These being "input taxed" means that you don't pay GST on any financial supplies made, and generally can't claim GST credits for the tax that is included in the cost of anything you buy to make those supplies. However, with regard to the above mentioned financial supplies, there are certain exceptions.

A business can claim GST credits for the tax paid on relevant purchases if any of the following applies:

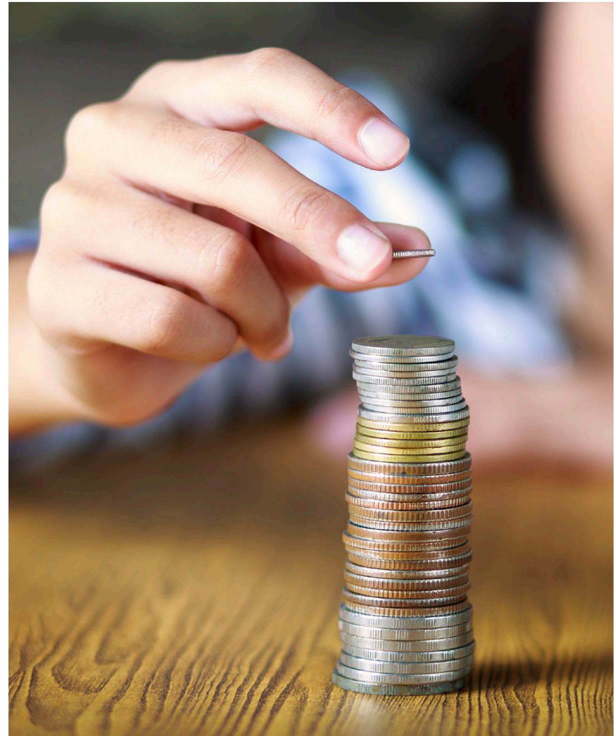
- you do not exceed the financial acquisitions threshold of $150,000 (see below)
- your purchase relates to a borrowing you make, which in turn you use for making sales that are not input taxed
- your purchase is a "reduced credit acquisition" that you use to make a financial supply (which generally gives rise to a 75% claim).

The financial acquisitions threshold is exceeded if you make, or are likely to make, financial acquisitions where the input tax credits related to making those acquisitions would exceed the lesser of either:

- $150,000 (on or after 1 July 2012), or
- 10% of the total amount of input tax credits to which you would be entitled.

Ask this office if you require further explanation of any of these exceptions as these rules can be quite complex.

The subsequently available credits will vary depending on the particular business activities of an enterprise — but every little bit helps, as GST credits for financial supplies can build up over a year.



How it works

By way of example, let's look at Lisa, who is a share trader. The share trades she makes are "financial supplies" and therefore input taxed. This means Lisa is not required to register for GST. However, she registers voluntarily as she is running an enterprise.

Her turnover from the share trading is $80,000 and she incurs expenses relating to this income that have GST credits attaching to them. Provided these credits do not exceed the financial acquisition threshold of $150,000 (or 10% of the total credits to which her business would be entitled), she is able to claim GST credits on valid expenses that relate to this supply.

The credits attaching to such things as brokerage and relevant research publications on the purchase and sale of the shares would therefore be claimable. The purchase of the shares themselves however would not attract GST.

Another example

Consider Nath's 'Yak Shack, which sells a kayak to Jack for $1,000 (plus GST of 10%, so a total of $1,100). The shop sells the kayak to Jack on credit and charges interest. As providing the credit is an input taxed financial supply, the retailer does not include GST on the amount of interest it charges to Jack.

In total, he pays $1,165, made up of the $1,100 purchase price (including $100 GST) plus interest of $65. Nath's 'Yak Shack can claim a GST credit relating to purchases made to provide that financial supply (the credit provided to Jack) if the business has not exceeded the financial acquisitions threshold.

Potholes to watch on the SMSF road to retirement wealth

An SMSF can be a very powerful retirement savings vehicle. It's good for long-term wealth accumulation and asset protection within a tax-effective structure. There is plenty of scope, however, to lose your footing over some of the required (and admittedly numerous) compliance tasks.

If mishandled, the potential pitfalls can work to outweigh the benefits of saving for retirement through your SMSF.

As a trustee of an SMSF you need to know about them, and as a trustee you should use an adviser like us to help you navigate this administration.

Overshooting the contributions cap

One of the more common mistakes that we observe is exceeding the annual concessional contributions cap. While this can affect anyone in superannuation, an added complication for SMSFs is that many, if not most, funds will have their administration tasks completed annually, and in arrears.

Because of this, members may not find out that a contribution took the fund over the contributions cap until the fund's accounts are reviewed, which could be months after the end of the relevant financial year. Ongoing updates of contributions received can save headaches, so keep us in the loop.

Property pitfalls

Another way to be tripped up is investing in property. This can come about if, for example, a potential investor identifies a good investment property but does not have an SMSF. A deposit may be put on the real estate to secure it, and then the SMSF is established with the aim of owning that property through the fund. But in these circumstances, it will not be your SMSF that has bought the real estate but you as an individual.

Note once your SMSF is established, the rules stipulate that non-commercial property cannot be transferred into the fund. (Remember an SMSF is permitted to hold "business real property" in the fund.)

With any investment decision, you should contact us to discuss the correct vehicle for you to use otherwise it might be too late or two expensive to correct.

Tangles on pension tax and exceeding limits

Ordinary income and statutory income that a complying SMSF earns from assets held to provide for superannuation income stream benefits is exempt from income tax. This is referred to as exempt current pension income (ECPI), and the Tax Office reports that this is an area that has caused a lot of headaches for SMSFs claiming tax deductions in the past.

We have observed that calculation errors are mostly at fault when trustees perform their own calculations without any checking from their adviser. For the inexperienced, investment expenses and management and administration expenses are also mistakenly claimed against ECPI.

The Tax Office recommends that funds may need an actuarial certificate to determine the correct amount of exempt income they can claim.

The Tax Office says it is important to make sure that:

- all assets are re-valued to current market value before starting to pay a pension
- if the fund has income tax losses, not capital losses, the loss amount is reduced by the net ECPI amount. Any remaining tax losses can be offset against the SMSF's assessable income
- all income earned during the financial year in the

SMSF annual return is reported, even if the fund is in 100% pension phase,

- funds don't claim a deduction for expenses relating to pension assets as the income is non-assessable
- if the fund has both assessable and non-assessable income, the expenses should be apportioned appropriately.

Also on the subject of pension payments, another item on the list of inadvertent mistakes is not meeting pension limits when the SMSF is in pension mode (minimum and maximum drawdowns) – either not meeting the minimum pension, or exceeding the maximum. We encourage you to ask this office for more details if you are contemplating going down this path.

Collectible and personal use of assets

The rules for collectible and personal use assets in SMSFs are changing. SMSF trustees who hold collectibles and personal use assets prior to July 1, 2011 will have to adjust to a new set of rules from July 1, 2016 or dispose of these investments prior to June 30, 2016. The purpose of the regulations is to ensure any investment is made for genuine retirement purposes rather any other ancillary purpose.

These include:

- artwork
- antiques and artefacts
- coins and stamps
- rare folios, manuscripts or books
- memorabilia
- wine or spirits
- motor vehicles and recreational boats; and
- memberships of sporting or social clubs.

If you think you have these types of assets in your SMSF, please discuss this with us well before July 1, 2016.

Did you know...

Deduction for association subscription eligibility can endure into retirement

Many professional, business or trades people are members of an association, and during their working life subscribe to an appropriate organisation.

In most cases the membership of a trade union for example, or professional association relevant to workers in a particular occupation, would qualify for deduction under the general deduction provisions of the tax laws.

However the tax law also allows a deduction for such memberships, where there is no requirement that the taxpayer derives assessable income associated with that subscription. The downside however is that the deduction is limited to only $42. So if the taxpayer was a member of two associations each costing $50, the deduction would be limited to $84. It has been that amount for decades and it is not adjusted for inflation.

A taxpayer could also qualify for either deduction for different subscriptions. For example, a person who is qualified as an engineer but who also works as an accountant for an engineering firm might claim a $42 deduction for the membership of an engineer's association, and claim a full deduction for membership of an accounting body.

What about special fees or levies?

Sometimes, in addition to periodic subscriptions, associations may charge members joining fees, special levies and other contributions, such as a special fund for one-off purposes (for example, a trade union's strike fighting fund). The deductibility for those fees depends on whether there is a clear and necessary nexus between the activities by which the assessable income is derived and the purpose for which the fees are made.

On the other hand, the payment of a special levy or contribution is an allowable deduction if the purpose is clearly linked to the activities by which the assessable income is derived. For example, a special levy or contribution that workers may have paid to their union for pay negotiations qualifies for tax deduction. However, if the levies and contributions are used to assist a political party or families of employees suffering financial difficulties as a result of strike action, these payments are not deductible.

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