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Share economy participants reminded of tax obligations

The ATO has reminded people who earn income in the share economy that they have tax obligations. The type of goods or services you provide, and how much you provide, will determine what you need to do for tax. Popular sharing economy services include:

- providing “ride-sourcing” services for a fare;
- renting out a room or a whole house or unit on a short-time basis;
- renting out a car parking space; and
- providing personal services, such as creative or professional services like graphic design and website creation, or doing odd jobs like deliveries and furniture assembly.

The ATO notes that you need to get an ABN if you are carrying on an enterprise providing goods and services through the sharing economy, and register for GST if:

- your turnover is \$75,000 or more per year; or
- you are providing ride-sourcing services, regardless of how much you earn from doing so.

TIP: No matter how much you earn or your reasons for providing goods or services, it’s a good idea to maintain records of your income and expenses, so you can keep track of your activities and deal with tax obligations when they arise. Tax deductions may also be available in certain circumstances. Please contact our office for more information.

Itinerant worker claim denied, so travel deductions refused

An individual has been unsuccessful before the Administrative Appeals Tribunal (AAT), where he argued that he was an itinerant worker and was therefore entitled to claim tax deductions for travel expenses of some \$38,000 for the 2011–2012 income year.

The taxpayer worked a number of short-term jobs in various country towns across New South Wales. He and his wife had a house, but they would travel to the work locations, taking their car and a motorhome to live in. The individual argued he was entitled to claim deductions for car expenses and travel expenses such as meals and accommodation.

The AAT found that he was not an itinerant worker and that the expenses were private in nature and therefore not tax deductible. Among other things, the AAT noted

that his duties did not in fact require him to travel between and stay near the different workplace locations in the course of his employment.

ATO flags retirement planning schemes of concern

The ATO has launched the Super Scheme Smart initiative to inform people about retirement planning schemes that are of increasing concern. According to the ATO, people approaching retirement are most at risk of becoming involved in schemes that are “too good to be true”. While retirement planning schemes can vary, you should be aware of some common features of problematic schemes. These schemes generally:

- are artificially contrived and complex, and usually connected with a self managed super fund (an SMSF);
- involve a lot of paper shuffling;
- are designed to leave you paying minimal or no tax, or even receiving a tax refund; and/or
- aim to give you a present -day benefit.

The ATO has previously issued statements about concerning schemes that involve non-arm’s length limited borrowing arrangements, dividend stripping and diverting personal services income.

TIP: The ATO encourages people to report their involvement in such schemes early. In specific circumstances, penalties may be reduced. Please contact our office for more information.

Deductibility for gifts to clients and airport lounge membership fees

The ATO has recently released the following Taxation Determinations:

- TD 2016/14 states that business taxpayers are entitled to a tax deduction for the outgoing incurred for a gift made to a former or current client, if the gift is made for the purpose of producing future assessable income. The gift is not deductible if the outgoing is capital, relates to gaining “non-assessable, non-exempt” income, or is non-deductible under another provision.
- TD 2016/15 states that employer taxpayers are entitled to a tax deduction for annual fees incurred on an airport lounge membership for use by employees, if that membership is provided because of the employment relationship.

Changes to \$500,000 lifetime super cap confirmed

The Federal Treasurer has confirmed that there will be some changes to the Government's proposal for a lifetime cap of \$500,000 on non-concessional superannuation contributions. A number of exemptions will be available.

Scott Morrison said in a radio interview that he had previously spoken about the changes and that draft legislation on the measures, to be released soon, will contain a number of changes. He said if someone gets a pay-out "as a result of an accident or something like that, then that is exempted from the \$500,000 cap". He also said that if someone had entered into a contract before Budget night to settle on a property asset out of their SMSF and they use after-tax contributions to settle that contract, "that won't be included" in the \$500,000 cap. Mr Morrison said there also would be "other measures" in the exposure draft legislation.

He effectively ruled out lifting the \$500,000 cap amount, saying "the only people that would benefit are people who [...] already on average have \$2 million in their superannuation scheme, have already put \$700,000 in after tax contributions".

TIP: The ATO can only calculate the amount of your non-concessional contributions available based on the information it has. You may wish to review your own history of contributions. Please contact our office for more information.

Home exempt from land tax for "world-traveller"

An individual has been successful before the Victorian Civil and Administrative Tribunal (VCAT) in seeking the principal place of residence land tax exemption for his home located in Shoreham, Victoria, despite being a "world-traveller" whose wife lives overseas.

In 2003, the taxpayer was left the property in Shoreham in his mother's will. After moving into the property, he continued his interest of overseas travel, meeting and marrying his now wife, who continues to live in Canada. Broadly, for each of the five tax years in question, the taxpayer spent a couple of months in Australia at the property, with the balance spent mostly in Canada and other overseas destinations. He submitted that he considered the Shoreham property his "home", where he kept "all his personal treasures", among other things. He also noted "significant and communal family ties" in Victoria (including his three children and eight grandchildren in Melbourne) and "financial ties" to Australia.

In finding in favour of the taxpayer, VCAT said that in this day and age people are far more mobile than in the past, and it is not unreasonable that someone would have a base at a particular place to which they intend to return and resume occupation. In this regard, the Tribunal was of the view that the land tax exemption applied to the taxpayer's circumstances.

TIP: Land tax regimes differ from state to state. Please contact our office for assistance or more information.

Important: Clients should not act solely on the basis of the material contained in Client Alert. Items herein are general comments only and do not constitute or convey advice per se. Also changes in legislation may occur quickly. We therefore recommend that our formal advice be sought before acting in any of the areas. Client Alert is issued as a helpful guide to clients and for their private information. Therefore it should be regarded as confidential and not be made available to any person without our prior approval.