

How Does the ATO Treat Uber and Airbnb-Style Services?

Uber is calling for drivers and Airbnb is seeking more hosts, but what are the implications of becoming part of the sharing economy?

The basics of tax apply regardless of how you earn money. That is, even though you may be earning income from different sources or using different platforms to generate income, the fundamental tax issues remain the same. You don't have to be carrying on a business to pay tax on income you earn.

And given that so many of these services are through sharing platforms, the Australian Tax Office (ATO) has the capacity to data match money flowing through to financial institutions specifically from these platforms.

'Sharing' a Room or an Entire House

Sharing a room or your house through services such as Airbnb can be a great way to earn income from an existing asset. The tax treatment of what you earn from these services is the same as any other residential rental property arrangement. This means you must include the rental income in your income tax return. For example, if a husband and wife jointly own a property that they rent out through a sharing service, whatever they earn needs to be declared on their income tax returns in the same proportion as the ownership of the house in the year they earned the income.

Hosts can also claim tax deductions for expenses associated to the rental, such as the interest on your home loan, professional cleaning, fees charged by the facilitator, council rates, insurance, etc. But these deductions need to be in proportion to how much and how long you rent your home out. For example, if you rent your home for two months of the financial

year, then you can only claim up to $\frac{1}{6}$ of expenses such as interest on your home loan as a deduction. This would need to be further reduced if you only rented out a specific portion of the home.

GST does not generally apply to residential rental income.

Be aware that renting out your home may have a direct impact on your tax-free main residence exemption for capital gains tax (CGT) purposes. In general, your home is exempt from CGT when you sell it. However, if you use your home to earn assessable income, then you might only qualify for a partial exemption on the sale unless special concessions apply. If you are renting out part of your home while still living in the property, then it is unlikely that any gain you make on your home will be fully CGT-free. You might also need to obtain a valuation of your home at the time it was first used to generate rental income.

Hosting for Investors

A number of investors are generating income from renting residential investment properties exclusively on sharing services rather than traditional longer-term rental arrangements – rental income can be higher for short-term accommodation and the host has the capacity to increase prices easily for peak periods. Just a quick look at properties available around the world on sharing sites shows how quickly this style of arrangement has attracted investors, particularly where the property is located in high demand tourist areas.

But what are the tax implications if you own one or multiple investment properties and rent them on a sharing service? Firstly, it's important to get good advice as this can be a complex area and being on the wrong side of the tax law can have significant implications. For example, if the ATO deems you to be providing commercial residential accommodation, they will treat your activities in the same way as hotels and motels meaning that the rent could trigger a GST liability for you (although you might be able to claim back some GST credits on expenses you pay). Broadly, accommodation falling into this category would have multiple occupancies such as a block of apartments, central management of the properties, and provide services to the guests beyond the accommodation such as breakfast or room servicing.

Before becoming a host, as a minimum, it's important to understand the tax implications of your arrangement, check if there are council restrictions and ensure that you have the right insurance in place.

Sharing Property Owned by your SMSF

Can your self-managed superannuation fund (SMSF) become a host and rent residential property on sites such as Airbnb? There is nothing that prevents an SMSF from providing host services assuming that the investment strategy of the fund allows for the risks associated to this style of rental and the liquidity issues have been thought through by the trustees. In general, the rules apply the same way as other residential rental property arrangements, in particular no one associated to the fund including the members, their relatives or their associates can use the property. And because the fund is not using a commercial property agent, for audit purposes it will be essential to keep excellent paperwork to prove how, when and to whom the property was rented. Also check the insurance is appropriate to protect the fund's assets.

Ride-Sharing and Sourcing

The ATO regards ride-sourcing services as a taxi service, which means that if you are providing these services you need to register for GST regardless of how much you earn from driving.

Normally, taxpayers need to reach the \$75,000 threshold before they are forced to register and remit GST, but in the case of 'taxi services' this threshold does not apply. The ATO is definitive in its stance that ride-source drivers provide taxi services. The grace period for drivers to comply with the ATO's strict stance expired on 1 August 2016 so all ride-source drivers should now be registered for GST.

If you already have an individual ABN (for example you might do IT contracting) then you can use the same ABN for ride-source services and register for GST using this ABN.

If you drive infrequently for a bit of cash on the side, you also need to declare any money you earn on your income tax return. You can also claim any expenses you paid for providing ride-sharing services if you own or lease the car you use for ride-sourcing (i.e. it's owned or leased in your name). If you drive less than 5,000 kilometres in the financial year in the course of earning income, you could choose to simply claim a 66 cent per km deduction for the kilometres you travel while providing ride-source services. Or you can keep a log book for 12 weeks to work out your deductions that way. And because you are registered for GST you can also claim GST credits on expenses you incur in providing ride-source services. Just be aware that if the car is not used exclusively for ride-sourcing, you can only claim deductions and GST credits for the portion of expenses that apply to providing ride-source services – not everything you spend. Simply turning on the app is not

enough – you need to be actually providing the service to claim a deduction.

If you are in the business of providing ride-sharing services – for example ride-sourcing is all you do and you have set up a business structure to support it – like any other business you have access to a broader range of deductions. This might include access to a broad range of small business concessions, including an immediate tax deduction on assets costing up to \$20,000 (GST exclusive). However, you could also be subject to some strict rules which apply to losses made from business activities.

Other Sharing Economy Services

There are a wide range of other services that could potentially be provided through the sharing economy. This could include using your ute or other commercial vehicle to provide removal or delivery services.

In each case, it is important to work through the basic rules to determine whether the activities amount to a business, the income and deductions that need to be declared on your tax return, the records that need to be kept in order to support the claims that are being made, as well as the ABN and GST issues that go along with providing services.

This is an area that is clearly on the ATO's radar so it is important to ensure that all relevant tax obligations are identified and are being managed appropriately.

What Postcode Loses the Most Super?

There is over \$11.7 billion in lost super sitting with the ATO, and Mackay in Queensland is responsible for \$49,256,340.55 of it.

While Mackay and its surrounding suburbs top the list, Cairns comes in a close second with \$49,101,868.85.

But it's not all holiday zones that make the top 10 lost super postcodes – Liverpool NSW, Campbelltown NSW and Sydney's CBD all make the list.

If you have registered for myGov, you can link your account to the ATO's online services and bring up any super accounts attached to your tax file number.

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Chartered
Accountants

WCA's City Office has Moved

Further to our recent email, our city office has moved to:

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Record Keeping

We are often asked how long records need to be kept before being destroyed, and have compiled a summary below:

Australian Taxation Office -
<https://www.ato.gov.au/Individuals/Lodging-your-tax-return/In-detail/Record-keeping/Keeping-your-tax-records/>

Individuals, Companies, Trusts -
https://www.ato.gov.au/Individuals/Lodging-your-tax-return/In-detail/Record-keeping/Keeping-your-tax-records/?page=3#How_long_to_keep_your_records

You need to keep written evidence for five (5) years from the due date of lodging your return – or five years from the date you lodge your return – whichever is later. However, there are shorter retention dates for taxpayers with “simple tax affairs”, i.e. if you are an individual taxpayer and:

- Your income consists only of:
 - Salary or wages (other than from associates).
 - Interest paid by a financial institution or government body.
 - Dividends from an Australian company listed on the Australian Stock Exchange (ASX).
- You claim deductions only for:
 - The cost of managing your tax affairs.
 - Bank fees and charges, including taxes and duties.
 - Deductible gifts of money and donations of money.
- You are not:
 - A foreign resident for the year of income.
 - Entitled to a foreign tax credit.

- Required to adjust your taxable income because of payments to or from your associates.
- In receipt of a capital gain or loss that must be taken into account in your tax return.
- In receipt of foreign employment income, or income from service or an approved overseas project that is exempt from tax in Australia.

Self-Managed Superannuation Funds (SMSF's) -
<https://www.ato.gov.au/super/self-managed-super-funds/administering-and-reporting/record-keeping-requirements/>

You need to keep the following records for a minimum of five (5) years:

- Accurate and accessible accounting records that explain the transactions and financial position of your SMSF.
- An annual operating statement and an annual statement of your SMSF's financial position.
- Copies of all SMSF annual returns lodged.
- Copies of any other statements you are required to lodge with the ATO or provide to other super funds.

You need to keep the following records for a minimum of ten (10) years:

- Minutes of trustee meetings and decisions (if matters affecting your fund were discussed, for example, you reviewed the fund's investment strategy).
- Records of all changes of trustees.
- Trustee declarations recognising the obligations and responsibilities for any trustee, or director of a corporate trustee, appointed after 30 June 2007.
- Members' written consent to be appointed as trustees.
- Copies of all reports given to members.
- Documented decisions about storage of collectables and personal use assets.

Australian Securities & Investments Commission -
<http://asic.gov.au/for-business/running-a-company/company-officeholder-duties/what-books-and-records-should-my-company-keep/>

ASIC requires that financial records that enable an assessment of the company's financial position and performance and are sufficient for financial statements to be prepared (and audited if necessary) must be kept for at least seven (7) years after the transactions are completed.