

## Indirect Tax Update

1 June 2015

### Goods and services tax (GST)

#### The sharing economy and tax

On 19 May 2015, the Commissioner of Taxation published *The sharing economy and tax* on the Australian Taxation Office (ATO) website. The publication discusses in particular the goods and services tax (GST) implications for persons engaged in 'sharing economy activities', such as:

- renting out or letting a room or other property for accommodation
- renting out or letting car parking space
- providing odd jobs, errands, deliveries or more skilled services on an ad hoc basis
- using a car to transport members of the public for a fare.

Generally, a person is required to register for GST where the person carries on an enterprise (which includes leasing) and their GST turnover (which does not include transactions that are 'input taxed') is at least \$75,000 over a rolling retrospective or prospective 12 month period.

In addition to this general position however, there are special rules that require registration regardless of the turnover. In the context of the Commissioner's publication, a person who provides 'taxi travel' is required to register for GST irrespective of the size of his or her turnover, and will thus be liable to pay GST on 'taxi travel' provided, even if the person fails to register for GST as required.

Taxi travel is defined in the GST legislation to mean "*travel that involves transporting passengers, by taxi or limousine, for fares*". However, the words taxi and limousine are not defined.

In the publication, the Commissioner gives a number of examples and outlines the ATO's position. In the case where a person (vehicle owner) engages the services of a third-party facilitator to identify passengers to be transported for a fee by the vehicle owner, the ATO's position as outlined in the publication is that the vehicle owner is providing a taxi service for a fee, and will be required to register for GST, and to account to the Commissioner for GST on fares received whether or not the person has actually registered for GST.

In addition to the need to register, other complications for a person providing a taxi service include the need to lodge Business Activity Statements, and the need to properly determine the business and private use of the vehicle. This is necessary from both a GST and an income tax perspective.

In the case where the 'sharing' takes the form of a letting of real property, the general registration requirements outlined above will apply. The effect of this is that where the letting is of 'residential premises', this will not of itself result in a requirement to register for GST, since 'residential rent' is an 'input taxed' supply and thus not included in determining whether the registration turnover threshold has been met. Whether the supply is a supply of residential premises is a question that would need to be considered on a case by case basis.

For further information contact Denis McCarthy on (02) 8266 3028.

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## **Customs**

Customs (ASEAN-Australia-New Zealand Rules of Origin) Amendment Regulation 2015 (No. 1) registered on 5 May

2015, amends the *Customs (ASEAN-Australia-New Zealand Rules of Origin) Regulations 2009* to fulfil Australia's obligations under the AANZFTA First Protocol which

contains changes to the Agreement establishing the ASEAN-Australia-New Zealand Free Trade Area.

## **Let's talk**

For a deeper discussion of how these issues might affect your business, please contact:

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