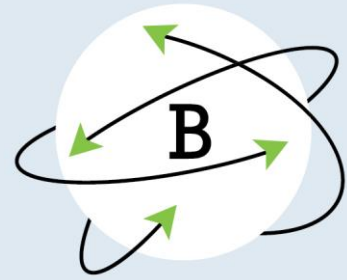


TAXWISE BUSINESS NEWS



LeCornu Lewis Hancock

June 2017

IN THIS ISSUE

- The end of the financial year is coming!
- 2017-18 Federal Budget small business measures
- 2017-18 Federal Budget GST measures
- Reduction in the company tax rate
- GST
- FBT
- Superannuation
- Single Touch Payroll starts 1 July 2017
- Improving the transparency of tax debts
- CGT withholding and indirect Australian real property interests
- ATO matters
- Small business support in one place
- Help for start-ups and budding Australian entrepreneurs

- Are there purchases or disposals of assets you should make prior to 30 June 2017?
- Are there any repairs and maintenance on assets you should carry out prior to 30 June 2017 so you can claim the deduction in your 2017 return?

It is also a good time to review things that you usually just think about at the time you put them in place but don't otherwise turn your mind to – eg, do you have the right mix of debt and equity funding for your business to carry you through the next financial year.

To do!

Your tax agent or adviser is the best person to help you with these decisions. As they know your business and have experience with other businesses similar to yours, they are able to offer you sound advice about how to best prepare your business for the start of the 2017-18 financial year.

The end of the financial year is coming!

The end of the financial year is coming and it is time to start thinking about your 2017 Income Tax Return. Now is a good time to start reviewing certain assets and liabilities owned by your business and consider if there is anything you should do prior to 30 June 2017.

- Is there any income you are due to derive that you may not have to recognise until next financial year?
- If you have an outstanding investment loan, see if you can prepay some of the interest prior to 30 June 2017 (you will need to speak to your lender).
- Are there any bad debts to write-off out of your receivables?
- Are there any recently announced measures in the May 2017-18 Federal Budget you should talk to your tax adviser about? Further information about these may be found below.
- Review your depreciable assets (capital allowances) register and write-off or dispose of any assets no longer used,.

2017-18 Federal Budget small business measures

1. **Small business CGT breaks to be tightened**

Access to the small business CGT concessions will be tightened from 1 July 2017 to deny eligibility for assets which are unrelated to the small business.

Small business CGT concessions assist owners of small businesses by providing relief from CGT on assets related to their business which helps them to re-invest and grow, as well as contribute to their retirement savings through the sale of the business.

However, some taxpayers have been able to access these concessions for assets which are unrelated to their small business by, for example, arranging their affairs so that their ownership interests in larger businesses do not count towards the tests for determining eligibility for the concessions.

The small business CGT concessions will continue to be available to small business taxpayers with aggregated turnover of less than \$2 million or business assets of less than \$6 million.

2. **Instant asset write-off and other depreciation measures from 2015-16 Budget extended**

To improve cash flow for small businesses and provide a boost to small business activity and investment, the Government is extending the \$20,000 instant asset write-off for small business by 12 months to 30 June 2018. Businesses with an aggregated annual turnover of less than \$10 million will be eligible for this concession.

Small businesses will be able to immediately deduct purchases of eligible depreciating assets costing less than \$20,000 provided they are first used, or installed ready for use, by 30 June 2018. Only a few assets are ineligible (such as horticultural plants and in-house software).

Depreciating assets valued at \$20,000 or more (which cannot be immediately deducted) can continue to be placed into the general small business pool (the pool) and depreciated at 15% in the first income year, and 30% for each income year thereafter. The pool can also be immediately deducted if the balance is less than \$20,000 over this period (including existing pools).

The current "lock out" laws from the simplified depreciation rules will also continue to be suspended until 30 June 2018. These rules prevent small businesses from re-entering the simplified depreciation regime for five years if they opt out.

From 1 July 2018, the immediate deductibility threshold, and the balance at which the pool can be immediately deducted, will revert back to \$1,000.

To do!

Discuss with your tax adviser how these changes might affect your small business.

2017-18 Federal Budget GST measures

1. **Purchasers of new residential properties to remit GST**

From 1 July 2018, purchasers of newly constructed residential properties or new subdivisions will be required to remit the GST directly to the ATO as part of the settlement.

Under the current law (where the GST is included in the purchase price and the developer remits the GST

to the ATO), some developers have been failing to remit the GST to the ATO despite having claimed GST credits on their construction costs. The new measure is an integrity measure to strengthen compliance with the GST law and will ensure the relevant GST amounts will be remitted.

Reduction in the company tax rate

As announced in the 2016-17 Federal Budget, the company tax rate will be progressively reduced to 25% over the next 10 years. However, the measure was amended by Parliament. The amended measure will apply as follows:

- 2016-17 financial year: 27.5% for small businesses with an aggregated turnover of less than \$10 million;
- 2017-18 financial year: 27.5% for small businesses with an aggregated turnover of less than \$25 million;
- 2018-19 financial year: 27.5% for small businesses with an aggregated turnover of less than \$50 million.

From 1 July 2024 onwards, the corporate tax rate will progressively decrease every financial year, eventually falling to 25% in the 2026-27 financial year. If the amendments are approved by the House of Representatives, then the following rates will apply:

- Commencing 1 July 2024: 27%
- Commencing 1 July 2025: 26%
- Commencing 1 July 2026: 25%.

The current company tax rate and turnover threshold are contained in the table below:

Income Year	Annual aggregated turnover threshold	Rate for entities under the threshold	Other corporate tax entities
2016-17	\$10 million	27.5%	30%
2017-18	\$25 million	27.5%	30%
2018-19	\$50 million	27.5%	30%
2019-20	\$50 million	27.5%	30%
2020-21	\$50 million	27.5%	30%
2021-22	\$50 million	27.5%	30%
2022-23	\$50 million	27.5%	30%
2023-24	\$50 million	27.5%	30%
2024-25	\$50 million	27%	30%
2025-26	\$50 million	26%	30%
2026-27	\$50 million	25%	30%

On 11 May 2017, the [Treasury Laws Amendment \(Enterprise Tax Plan No. 2\) Bill 2017](#) was introduced into the House of Representatives. This Bill proposes to progressively extend the lower 27.5% corporate tax rate to all corporate tax entities by the 2023-24 income year, as was originally intended in the 2016-17 Budget

measure. The corporate tax rate will then be cut, for all corporate tax entities, to:

- for the 2024-25 income year: 27%;
- for the 2025-26 income year: 26%; and
- for the 2026-27 income year and later income years: 25% (per the table above).

At the time of writing, this Bill was before Parliament.

GST

1. **Uber loses GST battle with ATO: ordered to pay GST**

[Uber BV v Commissioner of Taxation \[2017\] FCA 110](#)

The Federal Court has held that services provided by an Uber driver providing uberX services constituted a supply of "taxi travel" within the meaning of s 144-5(1) of the [A New Tax System \(Goods and Services Tax\) Act 1999](#) (Cth) (GST Act). The Uber driver was therefore required to be registered for GST.

At the heart of this proceeding is the question of whether persons who are Uber drivers are required to be registered for GST purposes.

Enterprises with a turnover of less than A\$75,000 do not need to register for GST, but there is a special rule or exemption, created by s 144-5 in [Pt 4-5\(1\)](#) of the GST Act, which has the effect that taxi and limousine operators are required to be registered, regardless of turnover. That provision requires a person who is carrying on an enterprise to be registered for GST purposes "if, in carrying on your enterprise, you supply taxi travel" (s 144-5(1)).

The phrase "taxi travel" is defined in s 195-1 of the GST Act as meaning "travel that involves transporting passengers, by taxi or limousine, for fares".

The court said that the core issue is whether, in carrying on the enterprise of providing uberX services to passengers (who are known as "uberX riders"), uberX drivers (who are known as "uberX partners") supply "taxi travel" as defined. If so, they must register for GST purposes.

The parties to the proceedings ultimately agreed that the core issue is encapsulated in the more specific question of whether the applicant is entitled to a declaratory order that he did not supply taxi travel within the meaning of section 144-5(1) of the GST Act.

The applicant submitted that the terms "taxi" and "limousine" should take on their ordinary meaning, supporting a "trade or non-legal technical meaning". However, the Commissioner submitted that the

applicant's reliance on what it claims are 15 characteristics of a taxi as supporting a "trade or non-legal technical meaning" of "taxi" was misdirected because the States and Territories do not adopt consistent nomenclature and impose requirements and restrictions that differ from jurisdiction to jurisdiction. For example, there are certain taxis where taximeters are not mandated, such as Pt VII of the [Transport \(Country Taxi-car\) Regulations 1982](#) (WA) and reg 5 of the [Country Taxi-Cars \(Fares and Charges\) Regulations 1991](#) (WA).

The Commissioner submitted that the applicant's reliance on a regulatory concept of "taxi" was also misguided because in applying s 144-5 there is no basis for concluding that the Parliament intended the Court to embark on an analysis of the operation of, and difficulties in, the "taxi industry" and the perceived need for "regulatory intervention" in that channel.

The court rejected the applicant's contention that the meaning of the phrase "taxi travel" was influenced by the "regulatory concept" of taxi. As such, the court declared the uberX services supplied by the driver constituted supply "taxi travel" within the meaning of s 144-5(1) (as defined in s 195-1) of the GST Act. The court also considered that the word "taxi" is sufficiently broad in its ordinary meaning to encompass the uberX service supplied by the applicant.

Note!

If you earn income as an Uber driver, you should discuss with your tax agent or adviser your GST obligations, if any, that might arise as a result of this case.

2. **GST on low value imported goods**

In previous editions of *TaxWise Business*, the impending application of GST to low value goods has been mentioned.

It is intended that from 1 July 2017, the changes to the GST rules will:

- make supplies of goods valued at \$1,000 or less at the time of supply connected with Australia if the goods are, broadly, purchased by consumers and are brought to Australia with the assistance of the supplier and therefore subject to GST;
- treat the operator of an electronic distribution platform as the supplier of low value goods if the goods are purchased through the platform by consumers and brought to Australia with the assistance of either the supplier or the operator;
- treat re-deliverers as the suppliers of low value goods if the goods are delivered outside Australia as part of the supply and the re-deliverer assists with their delivery into Australia as part of, broadly,

a shopping or mailbox service that it provides under an arrangement with the consumer;

- allow non-resident suppliers of low value goods that are connected with Australia only because of these amendments to elect to be a limited registration entity and as such access the simplified registration and reporting system; and
- prevent double taxation by making importations of goods non-taxable importations if the supply of the goods is a taxable supply only as a result of these amendments and notice is provided in the approved form.

If you are registered for GST and buy low value imported goods for your business from overseas, you will need to supply your ABN at the time of purchase so you won't be charged GST.

If your business is not registered for GST, you will be treated as a consumer and unable to recover the GST charged by the overseas business.

At the time of writing, the Bill containing these changes had not yet passed Parliament, though it is anticipated the Bill will pass shortly. A Senate Committee had also recommended the implementation date be deferred until 1 July 2018.

3. GST on services and digital products: new rules to apply from 1 July 2017

In previous editions of *TaxWise Business*, the impending rules to impose GST on cross-border supplies of digital products and other services by Australian consumers has been mentioned.

Products affected include digital products such as streaming or downloading of movies, music, apps, games and e-books and services such as architectural or legal services.

Non-resident businesses who supply these services and meet the A\$75,000 annual turnover threshold will need to register for Australian GST.

To do!

Talk to your tax agent about the GST implications for you if goods and supplies you have been acquiring from an overseas business that you may have been using in your business become subject to GST.

4. GST accounting for food retailers made easier

There are five simplified accounting methods available to help work out the amount of GST food retailers are liable to pay at the end of each tax period.

If you are a food retailer, you can find out more about the [simplified accounting methods for food retailers](#) to determine which one best suits your business.

FBT

1. Fringe benefits change and tax offsets

The Government has changed the way fringe benefits will be treated for the calculation of several tax offsets from 1 July 2017.

The meaning of "adjusted fringe benefits total" has been modified so that the gross rather than the adjusted net value of reportable fringe benefits is used. This change impacts the way a taxpayer's entitlement for certain tax offsets is calculated. The low income superannuation tax offset, the seniors and pensioners tax offset, the net medical expenses tax offset and the dependent tax offsets are all affected.

Currently, the reportable fringe benefits amount is adjusted down for the purposes of calculating the adjusted taxable income for those benefits.

Note!

If you provide fringe benefits to your employees, talk to your tax agent to find out if this change impacts your business.

2. New ATO videos on car fringe benefits and lifestyle asset fringe benefits

To help small business owners understand their fringe benefits tax (FBT) obligations, the ATO has produced the following videos that outline FBT obligations for employees who have been provided a business car or who have been given a reward beyond their usual salary:

- Car fringe benefits video – https://www.youtube.com/watch?v=kvla_xtDL8M
- Lifestyle asset fringe benefits video – https://www.youtube.com/watch?v=kvla_xtDL8M

Superannuation

1. *Superannuation reform changes: what you need to know and do before 1 July 2017*

The [new superannuation tax laws](#) substantially commence from 1 July 2017. Many of the measures require careful consideration for super fund members, trustees and their advisers. This includes a number of matters that need to be considered prior to 1 July 2017, including:

- **Transfer balance cap for members who will have more than \$1.6 million in pension accounts in retirement phase (including defined benefit pensions)** – action will need to be taken before 1 July 2017 under the transfer balance cap measure to commute such pensions back to accumulation phase so that pension accounts do not exceed \$1.6 million to ensure they do not incur excess transfer balance tax: [LCG 2016/9](#).
- **Death benefit pensions** – will be subject to the \$1.6 million transfer balance cap (with a modified cap for child pensions) with any excess being required to be cashed out of the superannuation system. From 1 July 2017, whether a pension is auto-reversionary on death, has more significance: [LCG 2017/D3](#).
- **Transition to Retirement Income Streams (TRIS)** – consider the ongoing appropriateness of transition to retirement income streams and whether they should be continued or commuted post 30 June 2017. Some members may be in a position to convert their TRIS to a pension account in retirement phase if they have retired or satisfied a condition of release with a nil cashing restriction: [LCG 2016/8](#).
- **Elections for transitional CGT relief (cost base reset)** – there are different applications of the relief depending on whether the fund has used the segregated method or the proportionate method – this will need to be considered. Availability for funds that have used the segregated method will require action prior to 1 July 2017. However, a decision for funds that have applied the proportionate method may be deferred up to the date of the lodgment of the fund's FY2017 tax return: [LCG 2016/8](#).
- **Valuations** – consider whether it is prudent to obtain new or updated valuations to support any CGT relief elections (cost base reset) and the balance of any transfer balance accounts.
- **Defined benefit pensions** – will generally be counted for the purposes of the transfer balance by the application of a special value for a lifetime pension, life expectancy and marked linked pension to the annualised first retirement phase pension payment following 30 June 2017, and

generally 50% of a member's annual defined benefit pensions that exceed \$100,000 will be taxed at marginal tax rates: [LCG 2016/11](#).

- **Non-concessional contributions cap of nil for members with more than \$1.6 million in total superannuation benefits across all funds (including defined benefits)** – applies for each financial year commencing on 1 July 2017 with the total superannuation benefits measured at 30 June of the immediately preceding year. Considering liquidity issues for self-managed superannuation funds affected by a member's inability to make further [non-concessional contributions from 1 July 2017](#) will be important.
- **Non-concessional contributions cap for members with less than \$1.6 million in benefits** – the [non-concessional contributions cap](#) will reduce from 1 July 2017 to \$100,000 (\$300,000 bring-forward rule). However, the current cap of \$180,000 or \$540,000 under the bring-forward rule remains available until 30 June 2017.
- **The concessional contributions cap** – the [concessional contributions cap](#) will reduce to \$25,000 from 1 July 2017. However, the current cap of \$30,000 (or \$35,000 for members aged 49+ at the end of the previous financial year) will be available until 30 June 2017.
- **Tax deductibility available for contributions made by employees** – from 1 July 2017, the 10% rule for tax deductibility of member contributions is removed and it may not be necessary for employees to maintain salary-sacrifice arrangements (but check availability for public sector funds and some corporate defined benefit funds).
- **Different measurements** – the \$1.6 million transfer balance cap (relevant for determining an excess transfer balance of pensions in retirement phase) is measured differently from the \$1.6 million total superannuation balance measure (which is relevant for the non-concessional contributions cap): [LCG 2016/12](#).

To do!

You should seek advice from your tax agent or adviser regarding how these superannuation changes affect you. You should also consider if there are any impacts on the contributions you make to superannuation on behalf of your employees.

2. *Non-payment of the superannuation guarantee*

The ATO recognises the importance of the Superannuation Guarantee (SG) to the community and its vital role in providing for people's retirement.

The [ATO website](#) has calculators and guidance to help employees determine whether they are being paid enough SG. When the ATO recovers outstanding superannuation amounts from employers, payments are then sent to the employee's superannuation fund.

On 14 March 2017, the Senate Economics References Committee held a public hearing on the Committee's inquiry into the impact of non-payment of the superannuation guarantee. The transcript was released on 22 March 2017 and can be found on the [Parliament website](#).

Note!

If you have any concerns about whether you are meeting your superannuation guarantee requirements, you should discuss this with your tax adviser.

3. 2017-18 Federal Budget measures on superannuation

- a) Integrity of non-arm's length arrangements

On Budget Night, the Government announced that from 1 July 2018 the [non-arm's length income \(NALI\) provisions applying to superannuation fund earnings](#) will be amended to consider expenses associated with a transaction.

- b) Integrity of limited recourse borrowing arrangements

On Budget Night, the Government announced that [limited recourse borrowing arrangements \(LRBAs\) entered into after 30 June 2017](#) will be treated differently to improve the integrity of the superannuation system.

The outstanding balance of a relevant LRBA will be included in a member's Total Superannuation Balance (TSB).

Repayments of a relevant LRBA from a member's accumulation account that result in an increase in the value of a retirement phase account will become credits for Transfer Balance Account purposes.

4. Common errors on SMSF annual returns

Trustees are reminded that it is now a requirement for all SMSFs to provide the ATO with your fund's superannuation bank account details. In addition, if your SMSF has an electronic service address (ESA) alias, you should include this information in your annual return.

For more information, visit the [ATO website](#).

Tip!

There are a lot of changes affecting superannuation – both for individuals and for business-owners – that you need to be aware of. It is always a good idea to sit down with your tax agent or adviser and review all relevant aspects of superannuation.

Single Touch Payroll starts 1 July 2017

Single Touch Payroll is a government initiative to streamline how employers report their tax and superannuation information to the ATO. Employers will be able to report salary or wages, PAYG withholding and super information directly to the ATO at the same time as they pay their employees.

Single Touch Payroll will become available for employers from 1 July 2017 who wish to voluntarily register. Single Touch Payroll will be mandatory for employers with 20 or more employees from 1 July 2018.

For more information on what you need to know, visit the [ATO website](#) or refer to the previous edition of *TaxWise Business*.

Improving the transparency of tax debts

The Government has announced that from 1 July 2017 it will allow the ATO to disclose debt information to credit reporting bureaus of taxpayers that are not effectively engaged with the ATO to manage their debts.

Taxpayers are encouraged to pay taxation debts in a timely manner to avoid it affecting their credit rating.

Providing transparency of tax debts owed by disengaged taxpayers aims to influence taxpayer behaviour and reduce the unfair financial advantage gained by taxpayers that do not pay their tax on time. It will also help to provide visibility of tax debt information to other businesses (such as suppliers) and credit providers.

Taxpayers who effectively engage with the ATO to resolve their debt will not have it reported.

In conjunction with Treasury, the ATO is consulting with the community, including business, industry groups and associations (including the Australian Small Business and Family Enterprise Ombudsman), to ensure that the measure is implemented and administered effectively.

Please note that this measure is not yet law and is subject to the normal parliamentary process.

For more information, visit the [ATO website](#).

To do!

If you are concerned about debts you may owe the Australian Taxation Office, talk to your tax agent to discuss whether this proposed measure will impact you.

CGT withholding and indirect Australian real property interests

If you purchase [indirect Australian real property interests](#) from a relevant foreign resident vendor, you will need to withhold from the purchase price. This applies to contracts entered into from 1 July 2016.

Indirect Australian real property (IARP) interests are membership interests in an entity that, subject to exclusions, satisfies two tests:

- [non-portfolio interest test](#)
- [principal asset test](#).

Membership interests include shares and units in taxable Australian real property rich (over 50%) trusts or companies.

ATO matters

1. ATO focusing on cash businesses

The ATO is focusing on businesses that rely heavily on cash transactions. The ATO will be working closely with industry associations, tax practitioners and businesses to understand any issues they may have. The ATO will use up-to-date third-party data and sophisticated risk-analysis to identify who may not be doing the right thing or may need a bit more help.

Detailed information on the following topics can be found on the [ATO website](#):

- [ATO's focus on cash businesses](#)
- [Find out how the ATO is protecting honest businesses](#)
- [Businesses in focus](#)
- [If you have made a mistake](#)
- [Results from past visits](#)

2. Using social media? Be aware of tax scams

If you use social media for your business, you may be a target for scammers. [Learn](#) what you can do to help keep you and your business safe.

You can also check your online security practices by completing the ATO's [online security self-assessment questionnaire](#).

3. Small business benchmarks updated with the latest data

The ATO has updated their [small business benchmarks](#) with information from the 2014-15 financial year. The benchmarks are available for more than 100 industries.

4. MyDeductions for sole traders

If you are a sole trader, the ATO app's [myDeductions tool](#) can help you with record-keeping.

Small business support in one place

There are a range of government measures designed to help small businesses. You can find out what's available in one place using the filter at [business.gov.au/smallbusiness](#).

Help for start-ups and budding Australian entrepreneurs

On 28 February 2017, the Minister for Small Business, the Hon Michael McCormack MP, released a statement regarding the new products that are now available to help Australians who are starting a business for the first time.

Government agencies, including the ATO, Australian Securities and Investments Commission (ASIC) and the Department of Industry, Innovation and Science, recently partnered with young small business owners to form a [fix-it squad](#).

If you are starting a business, you can download ASIC's [First Business App](#) or visit the Plan & Start page on [business.gov.au](#) for valuable information including:

- checklists to help with setting up a business
- ideas for developing business networks, and
- advice about planning and setting goals.

Tip!

Your tax agent or adviser is also able to assist you with what you need to do when starting a business, including ensuring you have all the right registrations in place and in particular, your tax registrations.

DISCLAIMER

TaxWise® News is distributed by professional tax practitioners to provide information of general interest to their clients. The content of this newsletter does not constitute specific advice.

Any financial product advice included in this newsletter is provided by LLH Financial Services Pty Ltd AFSL No. 487699. The information provided is general in nature and is not personal financial product advice. The information provided has been prepared without taking into account your objectives, financial situation or needs and because of this you should, before acting on it, consider the appropriateness of it having regard to your objectives, financial situation and needs. You should carefully read and consider any Product Disclosure Statement that is relevant to any financial product that has been discussed before making any decision about whether to acquire the financial product.

Please contact LeCornu Lewis Hancock if you would like advice on specific matters.