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TOP LINES:

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- On 20 May 2015, the ATO issued guidance on the tax law consequences for the 'sharing economy', including 'ride sharing'. Ride sharing is a form of 'sharing economy'.
- The ATO gave 'ride-sharing' drivers until 1 August 2015 to register and charge for GST, regardless of their turnover. This rule currently applies to traditional taxi drivers.
- Uber has challenged the ATO's view in the Federal Court.

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- Ride-sharing businesses can legally enter Canberra market from 30 October 2015.

KEY FACTS AND FIGURES

- In general, business income earned by Australian residents is subject to Australian income tax. Income earned by Australian resident, for example Uber drivers ^{Section 22} is likely to be subject to Australian income tax, if they are considered to be operating a business. ^{Section 22}

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- Uber advised the Senate inquiry into corporate tax avoidance that funds are remitted to Uber Netherlands through their app. Around 75% of the funds are then paid to the driver.
 - ∴ Therefore, for a \$100 fare, Uber Netherlands would generally retain \$25 (not subject to Australian tax) and the driver \$75 (likely to be subject to Australian tax). Uber Australia is separately paid for their costs plus 8.5 per cent (costs are determined by Uber Netherlands).
- Australian resident businesses must register and charge GST whenever their turnover is above \$75,000 per annum. However, 'taxi' businesses must register and charge GST, regardless of their turnover.

- The ATO have confirmed that people who provide ride-sourcing services, such as Uber drivers, are providing 'taxi travel' under the GST law. ACT Government was the first jurisdiction in Australia to regulate ride-sharing businesses from 30 October 2015. The first stage allowed the regulated entry of ridesharing into the Canberra market and reducing fees for taxis and hire cars. The second stage will include a customised CTP and property insurance regime for rideshare activity and further reductions in regulatory burdens for taxis.
- NSW Government are likely to formally announce changes to the taxi industry on 23 November 2015. This could include Uber drivers paying a licence fee, while taxi drivers would receive compensation for losing exclusivity, as the value of their plates drops. Taxis would retain the sole rights to use cab ranks, and to be hailed in the street. Changes are anticipated to be similar to rules introduced by the ACT in October 2015.

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<http://www.smh.com.au/business/the-economy/uber-sends-25pc-of-fares-to-the-netherlands-20151118-g1yq5.html#ixzz3rz5D4mNp>, retrieved 20 November 2015.

BACKGROUND:

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- UberX (passenger transport services or ride-sourcing services) is an example of businesses operating in the 'sharing economy'.
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- The ATO recently issued broad guidance on the sharing economy and specific guidance on ride sourcing – essentially that the 'sharing economy' is subject to the same tax laws as 'traditional economy'.
 - The ATO concludes that the GST law applies to ride sharing services in the same way as it applies to taxis and taxi services.
 - The application of the GST law in respect of 'taxi travel' is a separate issue to whether ride-sharing vehicles are 'taxis' for state and territory regulatory purposes.
- The ATO consulted extensively with key industry stakeholders as well as state and territory regulatory bodies in forming its view. The ATO has also been engaged in ongoing consultation with a major ride-sharing facilitator, seeking to provide a compliance solution to commercial realities whilst publishing the ATO view of the tax law for the general public.
 - The ATO categorically refutes the claims made by the facilitator and remains committed to continued consultation with the industry, including drivers and the ride-sharing facilitator, to ensure compliance with the law.

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