
Total superannuation balances and pension transfer balance account reports

The concept of a person's "total superannuation balance" is now being used to determine whether you are eligible for various super concessions, including the \$1.6 million balance limit for non-concessional contributions, Federal Government co-contributions, the spouse contributions tax offset, carrying forward unused concessional contributions and self managed superannuation fund (SMSF) segregation.

The ATO has recently agreed to modify the reporting obligation for total superannuation balances, recognising that some funds are not in a position to correctly report their correct accumulation phase value for 30 June 2017.

The ATO has also set out when superannuation providers and life insurance companies must lodge transfer balance account reports. The ATO will use the reports to determine if individuals have exceeded their pension transfer balance cap.

An administrative concession will be provided for self managed superannuation funds (SMSFs), allowing later reporting to help the funds transition to event-based transfer balance cap reporting.

TIP: Super shouldn't be a "set and forget" arrangement. It's important to revisit your strategy and consider it carefully, especially in light of the wide range of super changes announced in this year's Federal Budget.

Fringe benefits tax: should an Uber be treated as a taxi?

Earlier in 2017, the Federal Court ruled that UberX drivers must be registered for GST, because they supply "taxi travel". There has been much discussion of this finding since, and the ATO is now examining whether Uber trips should be eligible for the "taxi travel" FBT exemption.

The FBT exemption, introduced in 1995, currently only applies to travel in a vehicle that is state or territory licensed to operate as a taxi. However, with the Federal Court's decision on GST for Uber, and some recent state and territory moves towards licensing changes, the ATO has decided to review its interpretation of the definition of "taxi" in the FBT law.

TIP: Any benefit arising from taxi travel by an employee is exempt from FBT if the travel is a single trip that begins or ends at the employee's workplace.

In a discussion paper open for comment until late October, the ATO has asked questions such as, "Should the FBT definition of 'taxi' be interpreted to include not just vehicles licensed to provide taxi services ... [but also] ride-sourcing vehicles and other vehicles for hire?"

TIP: Any benefit arising from an employee's taxi travel is also exempt from FBT if the travel is a result of the employee's sickness or injury and the journey is between the employee's workplace, residence and/or another place appropriate because of the sickness or injury.

Tax treatment of long-term construction contracts

In new Draft Taxation Ruling TR 2017/D8, the ATO explains the methods that taxpayers can use to return income derived and recognise expenses incurred in long-term construction projects. A construction project is considered long-term if it straddles two or more income years.

Two methods of accounting are available: the basic approach (essentially the accruals method) and the estimated profits approach.

Once a particular method is chosen, the ATO expects the taxpayer to apply it consistently for the entire contract. The same method should also be applied to all of the taxpayer's similar contracts.

The draft ruling also deals with several accounting methods that the ATO does not consider acceptable for long-term construction contracts, including the completed contracts method (bringing profits and losses to account when the contract is completed).

Foreign equity distributions to corporate entities

Two recent taxation determinations from the ATO deal with how the foreign equity distribution rules in the *Income Tax Assessment Act 1997* apply where the distribution recipient is a corporate partner in a partnership or a corporate beneficiary of a trust.

Under the rules, a foreign equity distribution is treated as non-assessable, non-exempt income if the recipient is an Australian corporate tax entity that holds a participation interest of at least 10% in the foreign company making the distribution.

The ATO's view is that a partnership or trust can hold a direct control interest in a foreign company for the purposes of the rules, so that an Australian corporate tax entity can have an indirect participation interest in the foreign company via the partnership or trust.

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