



## ATO data-matching programs continue

The ATO has advised that it will continue with the following data-matching programs.

### **Credit and debit cards**

Data about credit and debit card transactions will be acquired for the 2015-2016 and 2016-2017 financial years from various financial institutions. The ATO will collect details (such as name, address and contact information) of merchants with credit and debit card merchant facility and the amount and quantity of the transactions processed. The program seeks to identify businesses that may not be meeting their tax obligations. It is estimated that around 950,000 records will be obtained, including 90,000 matched to individuals.

### **Online Selling**

Data will be acquired relating to registrants who sold goods and services to an annual value of \$12,000 or more during the 2015-2016, 2016-2017 and 2017-2018 financial years. The ATO said data will be sought from eBay Australia and New Zealand Pty Ltd. The data will be used to identify those apparently operating a business but failing to meet their registration and/or lodgement obligations. It is estimated that between 20,000 and 30,000 records will be obtained.

## ATO Develops work-related expenses risk profiles

The ATO has developed work-related expenses risk profiles to help it identify how work-related expense deduction amounts compare to similar taxpayers. The ATO said improvements in data analytics and modelling have allowed it to create a risk profile for tax agents practices based on comparing their clients work related expenses claims with those who made by similar tax payers.

The ATO has said to will share these risk profiles with some tax professionals where their clients' claims appear higher than expected.

**TIP: The ATO's increasing capacity to monitor the often difficult issue of work-related expenses claims means taxpayers and tax professionals need to take care when preparing returns. Contact us if you would like to discuss which of your work-related expense may be tax deductible.**

## Onus on taxpayers to show no fraud or evasion: Full Federal court

Several taxpayers have been unsuccessful in their appeals to the full federal court in which they challenged tax assessments that dramatically increased their assessable income for certain income years. In each case, the Court confirmed that where the Commissioner of Taxation has issued an amended or default assessment out of time on the grounds of taxpayer "fraud or evasion", the taxpayer bears the responsibility of proving that such fraud or evasion does not exist.

## Admin Penalties of 75% for failing to lodge FBT returns

The AAT has confirmed that 75% administrative penalties were rightfully imposed on several companies for failure to lodge their FBT returns over a four year period. The AAT found that the Commissioner of Taxation was obliged to impose a 75% administrative penalty because the FBT returns were not lodged, and that the "safe harbour" provisions do not apply to such an administrative penalty.

The AAT also found that it was not appropriate to exercise its discretion to remit the penalties in part or whole under the circumstances. The AAT relied on the criteria in Practice Statement Law Administration PS LA 2014/4 in arriving at its decision.

## New ATO data-matching program: ride-sourcing

The ATO has announced a new data-matching program involving ride-sourcing providers. Under the program, the ATO will acquire data to identify individuals who may be engaged in providing ride-sourcing services during the 2016-2017 and 2017-2018 financial years. Details of all payments made to ride-sourcing providers from accounts held by a ride-sourcing facilitator will be requested from the facilitator's financial institution from the 2016-2017 and 2017-2018 financial years. The ATO estimates that up to 74,000 individuals (ride-sourcing drivers) offer, or have offered, the services.

**TIP: If you work as a driver for Uber or a similar ride-sourcing facilitator, the money you make is assessable income that needs to be included in your tax return. Contact**

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**us for more information about how the ATO's data matching program may apply to your circumstances.**

### **Taxation ruling on commercial website deductibility**

A new taxation ruling from the ATO sets out the tax deductibility of expenditure incurred in acquiring, developing, maintain or modifying a commercial website for use in carrying on a business.

Broadly, the ruling explains that acquiring or developing a commercial website for a new or existing business is considered to be a capital expense, and is therefore not deductible. On the other hand maintain a website, including remedying software faults, is generally a revenue expenses, do may be deductible.

### **Depreciating assets: composite items**

Draft Taxation Ruling TR 2017/D1 sets out the Commissioner of Taxation's views on how to determine if an entire composite item is a depreciating asset or whether its component parts are separate depreciating assets. The draft ruling says that a "composite item" is an asset made up of a number of components that can exist separately.

Whether one or more of the items components can be considered separate depreciating assets is a question of fact and degree to be determined in the particular circumstances. For a component of a composite item to be considered a depreciating asset, the component must be separately identifiable as having commercial and economic value.

***TIP: The draft ruling usefully lists the main principles to take into account when determining whether a composite item is a single depreciating asset or is made up of multiple depreciating assets. Contact us if you would like to know more.***

### **Overtime meal expenses disallowed because no allowance received**

A Taxpayer has failed in claiming deductions for overtime meal expenses before the Administrative Appeals Tribunal (AAT). The AAT denied his appeal because he was not paid an allowance under an industrial agreement.

The AAT noted that whether overtime meal expenses are deductible according to the tax law depends on whether the taxpayer receives a food or drink allowance under an industrial instrument. The AAT agreed with the Commissioner of Taxation that the taxpayer had not received an allowance of

this kind and, in fact, had not received any allowance at all.

### **Time extension to review objection decisions disallowed – again!**

The Administrative Appeals Tribunal (AAT) has refused to allow a taxpayer extra time to apply for review of a decision made by the Commissioner of Taxation. The taxpayer had previously made the same application for an extension, seven years after the Commissioner's decision, but both the AAT and the Federal Court refused it.

In this later case, the AAT found that the taxpayer's application should not be allowed because he had still not adequately explained why it took him seven years to ask for an extension and a decision review.

***TIP: This decision illustrates that a taxpayer can continue to apply to the AAT for extension of time to apply for review of the Commissioner's decision in disallowing an objection, even after being previously rebuffed. The additional application must include new claims and that the taxpayer's case must have merit.***

### **Taxpayer denied deduction for work expenses of \$60,000**

The Administrative Appeals Tribunal (AAT) has confirmed that a mechanical engineer with a PhD qualification was not entitled to deductions for various work-related expense totally approximately \$60,000. The expense claims in question (for vehicle, self-education and other work expenses), were denied because the taxpayer was unable to establish the required connection between the outgoing amounts and the derivation of his assessable income as a mechanical engineer. Furthermore, in relation to a range of miscellaneous expenses (such as mobile phone and internet charges, professional membership fees, conference fees and depreciation), the AAT found that most of the deductions were not substantiated with sufficient (or any) evidence. The AAT did not exercise its discretion to allow these deductions on the basis of the "nature and quality" of any other evidence regarding the taxpayer's incurring the expenses.

***TIP: This case clearly shows the importance of properly substantiating any claims you make for work-related expense deductions. Contact us to discuss what documentation you should keep to make tax time easier.***