Gig economy taxation guidance

Gig Economy Taxation Guidance

The Gig Economy Taxation Guidance provides a general guidance around different types of gig economy activities and their tax treatment, but it exhaustive list of all issues that may warrant consideration when providing taxation advice in regards to such activities..

This information is based on legislation current as at 25 May 2023.

**About the author**

This guidance was prepared by SW Accountants and Advisors on behalf of CPA Australia.

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# What is gig economy income?

Gig work is certain activity you do to earn income using online platforms, such as:

* driving a car or motorcycle for a ride-sharing or delivery service,
* renting out a property or part of it,
* sharing assets,
* selling assets,
* providing creative or professional services,
* providing other temporary, on-demand or freelance work.

Income from the below activities are not considered part of the gig economy:

* online selling or classifieds,
* cryptocurrency exchanges
* peer-to-peer finance or crowdfunding.

Income generated from the gig economy will generally be taxable. The same Australian taxation principles apply to income generated from online platforms as it would under ordinary principles.

Given the increase in business activity in the gig economy, the Australian Taxation Office (**ATO**) has increased their data matching capabilities. This is to ensure that income generated from these platforms is properly characterised as assessable and reported in the taxpayer’s tax return. Information on the ATO’s data matching capabilities can be found [here](https://www.ato.gov.au/general/gen/data-matching-protocols/).

The *section 396-55 of Taxation Administration Act 1953* has been amended to extend the Taxable Payments Reporting System to include transactions undertaken through electronic distribution platforms that operate in the share economy. This amendment applies to transactions for ride sourcing or short term accommodation effective from 1 July 2023 and all other reportable transactions from 1 July 2024.

The below table summarises the income tax and GST implications for each different type of gig activity. Importantly, the GST section is prepared on the basis that the person in the gig economy is not an employee. Although the Fair Work Ombudsman concluded that Uber drivers were not employees, there are currently cases before Australian courts on this matter. Practitioners may need to ask their clients to seek their own legal advice on this matter.

Types of gig economy activity and their tax treatment

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| Type of gig economy activity | Income tax | GST |
| **Ride sharing1**  |
| Ride sharing arrangement consists of: A driver makes a car available for public hire for passengers The passenger uses a third party to book a rideThe driver uses his/her car to drive the passenger for a fee.1 Delivery services are considered below at ‘Services’. | Income tax applies to the ride sourcing income and this income must be included in the income tax return regardless of frequency and the level of income. The income which must be declared includes fares, tips or bonuses from the digital platform.Deductions are available for expenses incurred while providing ride sharing services. Deductible expenses incurred in deriving assessable income can include: * Tolls not paid by the passenger
* Depreciation for assets owned
* Fees charged by digital platform
* Fuel
* Lease payments for a car
* Parking fees
* Cleaning
* Car expenses (such as apportioned insurance and maintenance costs)

Given the car used for ride sharing service is likely to be used for personal usage, the expenses must be apportioned. There are two methods which can be used to determine the car expenses eligible to be deducted: cents per kilometres and logbook method. Different methods can be used for different vehicles and the method adopted can change from year to year. Ownership expenses cannot be claimed for a car owned or leased by someone else, including your employer or another member of your family.Some expenses which are not eligible to be deducted are: * Drivers licence fees
* Fines
* Fuel tax credits
* Personal/private expenses incurred during breaks
 | All ride-sourcing drivers need to have an Australian business number (ABN) and be registered for GST from the day ride sharing income is first earned. Regardless of the level of income earned, GST registration is required, and GST is payable on the full fare. If you already have an ABN but are not registered for GST, you have 21 days to register from the time you started providing ride-sourcing services.Once registered for GST, Business Activity Statements must be lodged monthly or quarterly (annual lodgements are not available) Ride-sourcing income is subject to goods and services tax (GST). GST credits can be claimed for any goods and services purchased for your business.Tax invoices must be provided to passengers (if requested) for a fare over $82.50 (including GST) within 28 days of their request. The tax invoice provided must include your ABN. |
| **Renting a property** |
| Rental income will arise when part of or all of your residential house or unit is rented through a digital platform.Income from property that you have rented or acquired specifically for the purpose of deriving gig economy income (for example Airbnb income) should also be included as assessable income. There is no difference between renting your home and other properties except the apportionment factor for deductions should be higher for specifically rented or acquired property. | Rental income earned must be declared in your tax return. Income will be declared by the owners of the property by legal ownership or lease interest. Deductions for associated expenses must be apportioned based on:* The number of days the property is rented during the year, and
* The portion of the property that has been rented (eg, a room or the whole property). Please refer to ATO guidance on apportionment [here](https://www.ato.gov.au/General/Sharing-economy-and-tax/renting-out-all-or-part-of-your-home/income-and-deductions-for-renting-out-your-home/#Rentingoutpartofahome).

When renting a portion of your home, that portion will be considered as available for private use if not occupied / rented. Common expenses which can be claimed (subject to apportionment) are: * Council rates
* Interest on a loan for the property
* Electricity and gas
* Insurance
* Cleaning.

Fees or commission charged by the renting platform do not need to be apportioned as they solely relate to earning assessable income. Capital gains tax (CGT) implications must be considered when selling a property that has been rented (partially or wholly). Even if the property is your main residence, renting out any part of the property may impact the utilisation of the CGT main residence exemption.If a sharing economy platform is used to rent out all or part of a property that you do not own, CGT will not apply to you. | GST is not payable on residential rent received. Accordingly, GST credits cannot be claimed for associated residential expenses. This applies even if you are registered for GST for a separate business. However, if you are renting out commercial residential premises, such as a commercial boarding house, you will have different GST obligations. For more guidance please refer to the [ATO website](https://www.ato.gov.au/General/property/property-used-in-running-a-business/commercial-residential-premises-and-gst/).  |
| **Sharing assets (excluding accommodation)** |
| There are many assets that can be shared through a platform:* personal assets (e.g., bicycles, cars and or car parking spaces and offices)
* personal belongings (e.g., equipment and clothes)
 | Income earned from sharing assets (that are owned or leased) is assessable income and must be reported in your income tax return regardless of the level of income or frequency. If the asset is jointly owned with another person, the income earned, and expenses claimed will need to declared based on the share of ownership. When reporting the income and expenses in your tax return (if you're not an employee of the platform or carrying on a business) the income is reported under other income and the expenses are reported under other deductions. You can only claim a deduction for the income-producing portion. You will need to work out the percentage that reasonably relates to the income-producing use and apportion the expense.Common expenses which can be claimed (subject to apportionment) are: * Maintenance or servicing of the asset
* Depreciation of the asset
* Insurance
* Registration fees.

Fees or commission charged by the asset-sharing platform may be fully deducted as they solely relate to earning assessable income. | An ABN registration is only required if you're running a business, or renting, or leasing assets. If your GST turnover is $75,000 or more, you must register for GST. When determining your GST turnover, you must include income from all of your businesses. If you are registered for GST, you can claim GST credits for business related expenses. When claiming GST credits for purchasing an asset, you must only claim the GST credits for the business use portion. |
| **Services** |
| ServicesThere are many types of services that you can provide through a digital platform.Delivering goods (e.g., Eat Now, Hark Hark, Freightlancer) Performing tasks and activities (e.g., Airtasker, PKUP, Urban You or Paw Shake)Providing professional services (e.g., 99designs, OneFlare, or Upwork) | If you are providing services as a business, the income and expenses will be reported in the business section of your tax return. When earning income for services, you need to consider whether the personal services income (PSI) rules apply. If the PSI rules apply, this will affect the amounts that can be claimed in your tax return. Please refer to Taxation Ruling [TR 2022/3](https://www.ato.gov.au/law/view/view.htm?docid=%22TXR%2FTR20223%2FNAT%2FATO%2F00001%22) for further guidance on PSI rules. If you are not providing services as a business, income and expenses will be reported in other income and other deductions section of your tax return. Common expenses which can be claimed are: * Travel expenses
* Repairs and maintenance
* Assets
* Home office expenses.
 | If your GST turnover is $75,000 or more, you must register for GST. When determining your GST turnover, you must include income from all of your businesses. If you are registered for GST, you can claim GST credits for business related expenses. When claiming GST credits for purchasing an asset, you must only claim the GST credits for the business use portion. |

Further consideration

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| Superannuation  |  |   |  |
| As an employee your employer is legally required to make compulsory super contributions. As a contractor you may still be eligible to super if you are paid wholly or principally for your labour. If you're not entitled to have super paid on your behalf, you can make your own contributions. Please refer to ATO guidance on personal superannuation contributions [here](https://www.ato.gov.au/individuals/super/growing-your-super/adding-to-your-super/personal-super-contributions/).The ATO has recently released the following pronouncements in relation to the employee contractor distinction following two High Court cases:* TR 2022/D3 Income tax: pay as you go withholding – who is an employee? And
* Draft Practical Compliance Guidance - PCG 2022/D5 Classifying workers as employees or independent contractors - ATO compliance approach

CPA has previously released information in relation to the draft ATO guidance [here](https://www.cpaaustralia.com.au/-/media/project/cpa/corporate/documents/policy-and-advocacy/consultations-and-submissions/taxation/2023/ato-tr-2022-d3-who-is-an-employee-pcg-2022-d5-classifying-workers-cpa-australia-submission.pdf?rev=cd5d80b4731a4126b1a5261e2580a299).Consideration can be made to maximise your superannuation balance by utilising the concessional contribution cap of $27,500 for the 2023 income year. Tax deductions may be available on personal super contributions on after tax income.  |

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| Cryptocurrency |
| If gig workers receive crypto payments in exchange for goods and services, the monetary value of the cryptocurrency is ordinary income of the business at the time the income is derived. Please refer to [ATO website](https://www.ato.gov.au/Business/Income-and-deductions-for-business/Crypto-assets-and-business/Crypto-assets-used-in-business/) for more guidance on cryptocurrency in business. Note that digital currencies which are not issued by or under the authority of a foreign government agency are not taxed as ‘foreign currencies’ under Division 775 of ITAA97. This treatment has been clarified in the Treasury Laws Amendment (2022 Measures No. 4) Bill 2022 and Taxation Determination [TD 2014/25.](https://www.ato.gov.au/law/view/document?docid=TXD%2FTD201425%2FNAT%2FATO%2F00001) |