

# VKC Business Tax News

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## Tax News Snapshot

The **Black Economy Taskforce** was set up on 14 December 2016 by the Minister for Revenue and Financial Services to combat the 'black economy' (activities carried out outside the Australian tax system and/or businesses that are misreporting their tax and super obligations)

The new **Australian-Germany tax treaty** has been brought into force on 7 December 2016 further to the exchange of instruments of ratification between Australian and Germany. The tax treaty aligns with the recent OECD tax treaty developments to minimise tax avoidance opportunities and create a more certain business environment for taxpayers.

**Franked distributions funded by capital raisings** made after 19 December 12:00pm will be deemed to be unfranked distributions if the distribution to the company's shareholders is outside or in addition to the company's normal dividend cycle to the extent that it is funded by capital raising activities resulting in new equity interests.

### Taxation Ruling TR 2016/3 – Commercial Website Expenditure

- Costs incurred in acquiring or developing a website for a new or existing business is capital expenditure. In some cases, this expenditure may be classified as 'in-house software'.
- Costs incurred in maintaining a website is a revenue expense. Maintenance activity is routine and expected. Remedying software faults is regarded as maintenance. Modifications to websites may be considered either as it is a matter of fact and degree. The addition of a new functionality is considered capital.
- Social Media presence is a capital asset of a business separate from its website. The cost of setting up the profile is trivial but any additional expenditure incurred is treated as revenue expense.
- A website is not a depreciating asset (under Division 40 and Div 328) except to the extent it can be classified as "in-house software".



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*Plan Ahead*

*Succeed*

*Peace of Mind*

## King Street Café

We have been working very closely with King Street Café during the last few months.

Needless to say, we tried a number of their specialties during our meetings and they were mind-blowing!

Give them a go. You won't be disappointed.

Where: 172 King Street, Perth

P: (08) 9322 5078

FB: [@kingstreetcafep Perth](https://www.facebook.com/kingstreetcafep Perth)



King Street Cafe

## ATO issues warning on contrived trust arrangements

The ATO recently released Taxpayer Alert [TA 2016/12](#) cautioning against arrangements that minimise tax by creating artificial differences between the taxable net income and distributable income of closely held trusts.

Deputy Commissioner Michael Cranston said the ATO is investigating arrangements where trustees are engineering a reduction in trust income to improperly gain favourable tax breaks, or sometimes pay no tax at all.

The ATO identified these arrangements through ongoing monitoring and reviews by the Trusts Taskforce, and continues to look for these arrangements using sophisticated analytics.

The Trusts Taskforce was established in 2013 to undertake targeted compliance action against people involved in tax avoidance or evasion using trusts. Since this time, the ATO has raised \$772 million in liabilities and collected \$164.5 million. In addition to cash collected, assets of \$55 million have been restrained under proceeds of crime legislation.

## Foreign resident capital gains withholding

New rules apply to vendors disposing of certain taxable Australian property under contracts entered into from 1 July 2016. A 10% non-final withholding will be applied to these transactions at settlement.

Australian resident vendors selling real property will need to obtain a clearance certificate from the ATO prior to settlement, to ensure they don't incur the 10% non-final withholding.

This new withholding legislation assists the collection of foreign residents' Australian tax liabilities. It imposes an obligation on purchasers to withhold 10% of the purchase price and pay it to the ATO, where a vendor enters into a contract on or after 1 July 2016 and disposes of certain asset types (or receives a lease premium for the grant of a lease over Australian real property).

The foreign resident vendor must lodge a tax return at the end of the financial year, declaring their Australian assessable income, including any capital gain from the disposal of the asset. A tax file number (TFN) is required to lodge a tax return; they will need to apply for a TFN if they don't have one. The vendor may claim a credit for any withholding amount paid to us in their tax return.

- Australian resident vendors can avoid the 10% withholding by providing one of the following to the purchaser prior to settlement:
  - for Australian real property, a clearance certificate obtained from the ATO
  - for other asset types, a vendor declaration they are not a foreign resident.
- Foreign resident vendors may apply for a variation of the withholding rate or make a declaration that a membership interest is not an indirect Australian real property interest and therefore not subject to withholding.



## Top Cyber-Security Tips

It is important that businesses keep all their business and client information secure. If data is lost or compromised, it can be very difficult or very costly to recover.

The ATO has released a [list of tips](#) on how to keep your business and client data safe from hackers and identity thieves:

- Ensure your passwords are strong and secure.
- Remove system access from people who no longer need it.
- Ensure all devices have the latest available security updates.
- Do not use USBs or external hard drives from an unfamiliar source.
- Use a spam filter on your email account.
- Secure your wireless network and be careful when using public wireless networks.
- Be vigilant about what you share on social media.
- Monitor your accounts for unusual activity.
- Use a PO Box, or ensure your mail is secure.
- Do not download programs or open attachments unless you know the program is legitimate.
- Do not leave your information unattended – secure your electronic devices.

Purchasers must pay the amount withheld at settlement to the Commissioner of Taxation.

### **Note!**

If you are buying or selling property and a foreign resident party is involved in the transaction, talk to your tax agent to ensure you meet your tax obligations in relation to this transaction.



## **Credit and debit card, online selling, and ride sourcing data matching**

The ATO is collecting data from financial institutions and online selling sites as part of their data matching programs for credit and debit cards, online selling and ride sourcing.

The data will include:

- the total amount of credit and debit card payments businesses received
- online sellers who have sold at least \$12,000 worth of goods or services
- payments made to ride sourcing drivers from accounts held by the ride sourcing facilitator.

The ATO matches this data with information they have from income tax returns, activity statements and other ATO records to identify any discrepancies.

### **Tip!**

If you need to correct a mistake you have made in your income tax return, you should talk to us to get it corrected as soon as possible.

### **Ride sourcing data matching (relates to UBER drivers as well)**

The ATO's ride sourcing data matching program has been developed to address the compliance risk of the registration, lodgement and reporting of businesses offering ride sourcing services as a driver. It is estimated up to 74,000 individuals (ride sourcing drivers) offer, or have offered, this service.

The ATO will request details of all payments made to ride sourcing providers from accounts held by a ride sourcing facilitator's financial institution for the 2016-17 and 2017-18 financial years.

They will match the data provided by the facilitator's financial institution against our records. This will identify ride sourcing drivers that may not be meeting their registration, reporting, lodgement and/or payment obligations.

Where the ATO is unable to match a driver's details against ATO records, they will obtain further information from the financial institution where the driver's account is held.

## **Goods taken from stock for private use**

If you take items from your business' trading stock for your own use, make sure you include the value of these items as part of your business' assessable income.

To do this, you should record the actual value of the goods (excluding GST) or use estimates provided by the ATO if you are a sole trader or in a partnership. The ATO estimates are updated yearly and are available for the following industries:

- bakery
- butchery
- restaurant/café
- caterer
- delicatessen
- fruiterer/greengrocer
- takeaway food shop
- mixed business (including milk bar, general store and convenience store).

For more information on amounts the ATO accepts as estimates and small business benchmarks, visit the [ATO's website](#).