

Level 3, 47 Murray Street
PYRMONT NSW 2010

Wednesday, 21 October 2015

Senator Sam Dastyari
Chair
Economics Legislation Committee

By email

Re: Statements in Estimate Committee

Dear Senator Dastyari,

I write following the Economics Legislation Committee's Estimate's hearing today where the Commissioner of Taxation Mr Chris Jordan was questioned.

During the hearing, in response to a question from you, and one from Senator Leyonhjelm, Mr Jordan stated that the Australian Taxation Office consulted with the Australian Hotels Association (AHA) and other industry bodies about its sharing economy guidance note.

We believe this to be incorrect, based on the evidence at hand, and believe the Commissioner may have misled the Committee.

Uber made a Freedom Of Information application on 12 August 2015, (attached) requesting the following;

“documents relating to the ATO's guidance not about the sharing economy that relate to any consultation the ATO undertook with industry bodies or industry representatives including, but not limited to, the Australian Hotels Association, Tourism Accommodation Australia, The Accommodation Association of Australia, Tourism and Transport Forum. All documents including but not limited to emails briefing notes, written correspondence.”

The timeframe for this request was 1/1/2014 to 12/08/2015.

The Freedom of Information request did not result in any documents being provided to Uber that indicated that the ATO consulted with any industry bodies other than the Australian Taxi Industry Association.

Given that the Commissioner of Taxation specifically advised the Senate Committee today that consultation did occur with the Australian Hotels Association, and they were afforded the same consultation as the ATIA, we are concerned that either the Committee was misled by Mr Jordan, or documents were concealed and not provided that should have been.

The Commissioner also tried to portray that the ATIA were consulted just as a normal course of events, as was the hotel industry. However, Freedom of Information requests released on 9 October show that the ATO considered the ATIA to be a 'Primary Stakeholder' along with EY and States & Territories, while other sharing economy participants were 'minor stakeholders'. No mention was made of any other industry group including Uber.

I have attached the supporting evidence of our concerns. If the Commissioner has misled the Committee I trust that you will take appropriate steps to have the record corrected immediately and ask the Committee and the Senate to consider appropriate action.

Yours sincerely,

Brad Kitschke
Director Public Policy

Ph:

Email:

Cc: Senator, The Hon Stephen Parry, President of the Senate



Freedom of Information (FOI) request – individuals and businesses

If you make an FOI request and the documents can be released to you without the formality of an FOI request we need your permission to do so. If you agree to receiving documents (if available) outside of the FOI request, place an X in the box below.

Agree

Applicant details

Name

Individual's full name

Title: Mr Mrs Miss Ms Other

Family name

kitschke

First given name

bradley

Other given name

james

OR

Entity name if the applicant is not an individual

Australian Business Number (ABN) or Australian Registered Body Number (ARBN)?

ABN

ARBN

Applicant's current address

Suburb/town

State/territory

Postcode

Phone number

Fax number

Email address

If you provide an email address, we will respond via email where possible.

Description of documents you want

Type of access requested (place X in one box only)

Digital

Photocopies

Inspection

If you want to access taxpayer records, provide:

Tax file number

Australian business number (ABN) or Australian registered body number (ARBN)

and or

! We are authorised by the *Taxation Administration Act 1953* to request your tax file number (TFN). We will use your TFN to identify you in our records. It is not an offence not to provide your TFN, however, if you do not provide your TFN, it may take longer to process your request.

Over what time period do you require documents

From

Day	0	1
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 /

Month	0	1
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 /

Year	2	0	1	4
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 to

Day	1	2
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Month	0	8
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 /

Year	2	0	1	5
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Do you require draft documents?

No

Yes

ATO contact name (if applicable)

If we have provided you with a contact officer's name, either by letter or by phone, you should insert that name below.

Do you require documents you have already provided to us, or that we have already sent to you?

No

Yes

! Removing these documents from the scope of your request will reduce how long it takes to process the request and any charges that may apply.

Provide a detailed description of the documents you require.

Attach further information if necessary.

! How long we take to process your request depends on how big and complex it is. The more specific and detailed your request, the more quickly we can process it. We may not be able to process your request if it is too large, or if you don't provide enough information for us to identify the documents you want.

Documents relating to the ATOs guidance note about the sharing economy that relate to any consultation the ATO undertook with industry bodies or industry representatives including but not limited to, the Australian Hotels Association, Tourism Accommodation Australia, The Accommodation Association of Australia, Tourism and Transport Forum.
All documents including but not limited to emails briefing notes, written correspondence.
Exclude information already on the public record.

Your details

! No signature is required if the form is submitted electronically. However, if you are seeking information about your own or someone else's tax affairs, you may need to provide evidence of your identity and/or authorisation before we can process your request.

APPLICANT

Name of applicant

Brad Kitschke

Signature of applicant

Date

Day: 1 2 / Month: 0 8 / Year: 2 0 1 5

OR AUTHORISED PERSON

Name of authorised person if applicant is not an individual

Empty text box for authorised person name.

I am the:

public officer

trustee

partner

other Provide details

Empty text box for details of other category.

Signature of authorised person

Date

Day: [] [] / Month: [] [] / Year: [] [] [] []

Requests made by a representative

I [] of []

am authorised to make this request on behalf of []

I am the:

legal practitioner

tax agent

other See below

Other authorised representatives

You can have someone other than a tax agent or legal practitioner represent you in relation to your tax affairs, including receiving information in response to this FOI request. If you have not already notified us of your representative's details, you need to complete an appointment of representative form or phone us on **13 28 61**.

For further information, go to our website at ato.gov.au and:

- individuals – search for 'QC22608'
- other entities – search for 'QC31782'.

PRIVACY

We are authorised by the *Freedom of Information Act 1982* to ask for the information on this form. We will use this information to process your FOI request. If we do not collect this information we may not be able to process your request. Where authorised by law to do so, we may give this information to other government agencies – for example, if it is necessary for us to transfer or consult in relation to your FOI request. Where your request involves information obtained from international organisations, we may disclose information to these treaty partners as part of this consultation.

For more information about your privacy go to ato.gov.au/privacy

Sensitive (when completed)

From: s47F [redacted]@intercomserv.com.au>
Sent: Wednesday, 29 April 2015 5:37 PM
To: Strong, Michael
Cc:
Subject: RE: ATO discussion with Air BnB [SEC=UNCLASSIFIED]

Michael,

We have send your email to US and waiting for their response. I guess we will get you person from US to speak to you on the matters you have raised. From our experience they are cooperative with the tax authority around the world.

Thanks

s47F [redacted]
[redacted]

Registered SMSF Auditors
Registered Tax Agents
Business Advisors

International Commercial Services

Level 13, 139 Macquarie Street. Sydney NSW 2000 GPO Box 3902, Sydney NSW 2001

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-----Original Message-----

From: Strong, Michael
Sent: 29 April 2015 5:26 PM
To: s47F [redacted]
Cc:
Subject: RE: ATO discussion with Air BnB [SEC=UNCLASSIFIED]

Good evening s47F [redacted]

Just to let you know that the ATO is delaying its release of information on the sharing economy until Tuesday 5th May

Regards

Michael

Michael Strong
Senior Director - Cash and Hidden Economy, Analytics and Intelligence Tax Practitioner, Lodgment Strategy and Compliance Support Australian Taxation Office
Ph:
Mob:

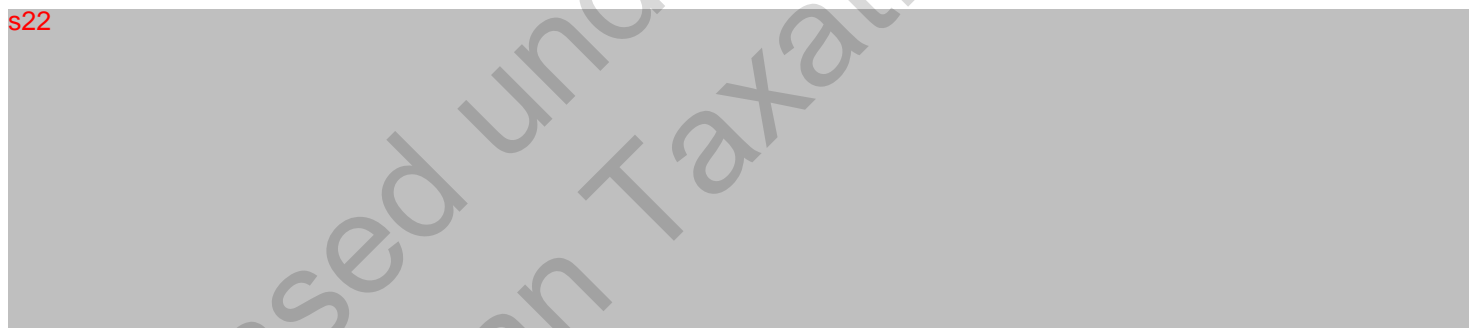
From: Strong, Michael
Sent: Wednesday, 29 April 2015 12:58 PM
To: s47@intercomserv.com.au'
Cc:
Subject: ATO discussion with Air BnB [SEC=UNCLASSIFIED]

Hello s47F

Thanks for your time this afternoon.

As we discussed the ATO would like to discuss two issues with AirBnB:

- * Information in relation to the sharing economy
 - o The ATO is going to be putting out information in relation to the sharing economy. The information is general in nature and will highlight to the community the need to consider their tax obligations when they avail themselves of these types of opportunities. Examples include parking, accommodation, services and ride-sourcing.
 - o The ATO would like to have the material promoted to Air BnB listers to make them aware of their tax obligations. We intend to publish the content on Thursday and will provide it to you.



Regards

Michael

Michael Strong
Senior Director - Cash and Hidden Economy, Analytics and Intelligence Tax Practitioner, Lodgment Strategy and Compliance Support Australian Taxation Office
Ph:
Mob:

IMPORTANT

From: Strong, Michael
Sent: Monday, 25 May 2015 3:53 PM
To: s47F
Subject: Accepted: Invitation: Airbnb | ATO @ Thu May 28, 2015 9am - 10am
s47F @airbedandbreakfast.com) [SEC=UNCLASSIFIED]

Released under FOI Act 1982
lian Taxation Office

From: Strong, Michael
Sent: Thursday, 4 June 2015 3:38 PM
To: s47F
Cc: s47F
Subject: RE: ATO Discussion with Airbnb [SEC=UNCLASSIFIED] [SEC=UNOFFICIAL]

Hi s47F

Thanks for that.

Regards

Michael

Michael Strong
Senior Director – Risk and Strategy
Tax Practitioner, Lodgment Strategy and Compliance Support
Australian Taxation Office
Ph:
Mob:

From: s47F [mailto:s47F@airbnb.com]
Sent: Thursday, 4 June 2015 3:35 PM
To: Strong, Michael
Cc: s47F; Isaacs, Jade
Subject: Re: ATO Discussion with Airbnb [SEC=UNCLASSIFIED]

Hi Michael,

As discussed, we have updated our responsible hosting page [here](#) with a link to ATO's guidance on tax and the sharing economy.

Best,
s47F

On Mon, May 25, 2015 at 1:51 PM, s47F [mailto:s47F@airbnb.com] wrote:
Hi Michael,

That works on our end. I'll send through a calendar invite with call details. Thanks and look forward to speaking with you then.

s47F

On Fri, May 22, 2015 at 1:14 PM, Strong, Michael wrote:

Hi s47F

Thanks for this. That would be excellent. If possible for your part could you make it from 11.00 – 12.00 on Thursday 28th?

Attendees from the ATO will be myself and Jade Isaacs, Jade is cc'ed in to this email.

Regards

Michael

Michael Strong
A/g Assistant Commissioner – Risk and Strategy
Tax Practitioner, Lodgment Strategy and Compliance Support
Australian Taxation Office

From: s47F [redacted]@airbnb.com]
Sent: Thursday, 21 May 2015 6:50 PM
To: Strong, Michael
Cc: s47F [redacted]
Subject: ATO Discussion with Airbnb

Hi Michael,

Nice speaking with you yesterday. As I mentioned, I am connecting you with s47F [redacted] who is Airbnb's Director of Global Tax based in San Francisco. We would like to have a phone call with you sometime next week to discuss some of the points from your email.

Do you have any time on Wednesday, Thursday or Friday between 9am and noon (AEST) next week for a call with our team?

Best,

s47F [redacted]

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s47F

Director, Public Policy, Asia Pacific

Singapore

s47F

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s47F

Director, Public Policy, Asia Pacific
Singapore

s47F

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