

11<sup>th</sup> July 2012

Mr Will Davies  
Chief Executive Officer  
Car Next Door  
**Delivery by Electronic Mail**

Atlas Norwest  
Suite 602, Level 6  
2-8 Brookhollow Avenue  
Norwest Business Park  
Baulkham Hills NSW 2153  
Telephone 61 2 8860 6539  
Facsimile 61 2 8860 6593  
www.bellpartners.com  
Bell Partners Accountants  
Advisors Auditors (Norwest)  
ABN 28 980 747 622

Dear Mr Davies,

**RE: INCOME TAX TREATMENT AND GST TREATMENT OF NEIGHBOUR TO  
NEIGHBOUR CAR SHARING ON CAR NEXT DOOR**

Thank you for requesting that we provide some general clarification and advice of a general nature for the providers of vehicles for Car Next Door ("CND"). For the sake of clarity we stress that this advice is of a general nature, and those who derive income by providing vehicles to be hired out should seek specific advice on their situation. We will provide below some general guidance in regards to the Income Tax and the Goods and Services Tax treatment and requirements.

**SUMMARY:**

*Are income and expenses related to sharing my car on Car Next Door subject to income tax?*

We believe that the activity is likely to be viewed as a recreational pursuit of convenience rather than a taxable business activity. This would mean that what we consider an "average" provider under CND's facilities would not be required to return the income they derive from hiring out their motor vehicle in their income tax return. This also means that any expenses that would be attributed to deriving the hiring income are also not tax deductible. This is of course subject to the details below and how they relate to your situation.

*Do I need to have an ABN number and be registered for GST?*

We consider that the "average" provider of a vehicle through CND will not be conducting a business or undertaking an adventure or concern in the nature of trade. As such, no ABN number or GST registration would be required. Again, this may not be applicable to your specific situation and is subject to the details below.

**DETAIL:**

**Income Tax**

The Australian Tax Office issued a tax ruling in 1997 (TR97/11) that outlines a number of factors that are indicators of whether or not a business is being conducted. Whilst the ruling was done for those undertaking primary production activities (i.e. farming), it is widely accepted as applicable to non-primary production activities. The general principles detailed in the ruling for and against an activity being a business are reproduced in the below table:

<b>Indicators which suggest a business is being carried on</b>	<b>Indicators which suggest a business is not being carried on</b>
a significant commercial activity	not a significant commercial activity
purpose and intention of the taxpayer in engaging in the activity	no purpose or intention of the taxpayer to carry on a business activity
an intention to make a profit from the activity	no intention to make a profit from the activity
the activity is or will be profitable	the activity is inherently unprofitable
repetition and regularity of activity	little repetition or regularity of activity
activity is carried on in a similar manner to that of the ordinary trade	activity carried on in an ad hoc manner
activity organised and carried on in a businesslike manner and systematically - records are kept	activity not organised or carried on in the same manner as the normal ordinary business activity - records are not kept
size and scale of the activity	small size and scale
not a hobby, recreation or sporting activity	a hobby, recreation or sporting activity
a business plan exists	there is no business plan
commercial sales of product	sale of products to relatives and friends
taxpayer has knowledge or skill	taxpayer lacks knowledge or skill

Our understanding of how most providers of motor vehicles will use the services of CND is:

- They will generally only have one car available for hiring out, with a maximum of three cars per provider. For the average provider, they will be limited in their earning capacity by this restriction of vehicle numbers.
- The provider will be an individual, private car owner, not a company or other legal entity that is not a private individual.
- It is most likely that car providers will have their vehicle available for hire when they won't need the vehicle themselves, that is, when it is convenient for them to not have their car. Given that it makes more commercial sense to have a car available as much as possible in order to maximise revenue, the average provider will not be conducting their car hiring activities in a way that makes the most of the potential revenue they could generate.
- As owning a car is often quite expensive when all factors such as insurance, registration, repayments and depreciation are considered, the general intention of a car provider would be for the hiring costs to supplement their costs of owning the vehicle, rather than realistically being a profitable endeavour

- Whilst there for some providers they will earn regular hiring income, they will not have significant scale in their activities, and would not view the undertaking as a business.

Where the above factors are applicable to a car provider, we believe that the activity is best viewed as a recreational pursuit of convenience rather than a taxable business activity. This would mean that what we consider an average provider under CND's facilities would not be required to return the income they derive from hiring out their motor vehicle in their income tax return. This also means that any expenses that would be attributed to deriving the hiring income are also not tax deductible.

It is important that your car providers consider their position on a case-by-case basis. Should they undertake the hiring out of their car or cars with the idea that they will make a profit and more than cover their private costs of owning the vehicle/s, then the income tax treatment may be different to reflect their intention.

### **Goods and Services Tax**

Whether or not a provider is required to have an ABN under the GST Act largely comes down to whether or not the provider is seen to be making a taxable supply, which is defined under Section 9-5 of the GST Act of 1999 as:

*"You make a **taxable supply** if:*

- a) You make the supply for consideration*
- b) The supply is made in the course or furtherance of an enterprise that you carry on; and*
- c) The supply is connected with Australia; and*
- d) You are registered, or required to be registered*

*However the supply is not a taxable supply to the extent that it is GST-free or input taxed"*

Of the above, the key part is whether or not the supply being made by a provider constitutes an "enterprise".

Under Section 9-20 of the GST Act, the part of the definition of an enterprise that is relevant to providers is:

*"an enterprise is an activity, or a series of activities, done:*

- a) in the form of a business; or*
- b) in the form of an adventure or concern in the nature of trade.."*

For the same reasons outlined above in regards to the income tax treatment, we would consider that the "average" provider of a vehicle through CND will not be conducting a business or undertaking an adventure or concern in the nature of trade.


We also note that under Miscellaneous Tax Ruling MT 2006/1, paragraph 181 that the Australian Taxation Office has noted:

*"It is important to note that activities are excluded from the definition of enterprise if they are carried on by an individual or a partnership (all or most of the members of which are individuals) without a reasonable expectation of profit or gain. Further, activities are also excluded if they are done as a private recreational pursuit or hobby"*

Again we stress that each provider should have their situation reviewed in case their circumstances are different.

Should you have any questions, please don't hesitate to contact us.

Yours faithfully,  
**BELL PARTNERS**

A handwritten signature in black ink, appearing to read 'H Edwards', enclosed in a light grey rectangular box.

**HARRY EDWARDS**  
**Managing Director**  
**Bell Partners Norwest**  
**Email: [norwest@bellpartners.com](mailto:norwest@bellpartners.com)**  
**Phone: 02 8860 6539**  
**Fax: 02 8860 6593**