HIGH COURT OF AUSTRALIA

4 November 2026

UBER AUSTRALIA PTY LTD v CHIEF COMMISSIONER OF STATE REVENUE
[2026] HCA 40

Today, the High Court dismissed an appeal from the Court of Appeal of the Supreme Court of New South Wales. The appeal concerned the liability of the appellant ("Uber") to pay payroll tax under the *Payroll Tax Act 2007* (NSW) ("the 2007 Act") in respect of fares it remitted to drivers for the financial years ending 30 June 2015 to 30 June 2020. The 2007 Act imposed payroll tax on all taxable wages paid or payable by an employer. Under Div 7 of Pt 3 of that Act, liability for payroll tax was expanded beyond employment relationships to capture certain amounts paid or payable for or in relation to the performance of work relating to a "relevant contract". Those amounts were deemed to be wages for the purposes of that Act. A "relevant contract" was defined to include a contract under which a person (the "designated person"), in the course of their business, has supplied to them "the services of persons for or in relation to the performance of work". A "relevant contract" does not include a contract under which the designated person in the course of their business is supplied with services for or in relation to the performance of work that are "ancillary ... to the use of goods which are the property of" the person supplying the services.

Uber operates a "rideshare system" business which puts a rider who wishes to be transported by motor vehicle in contact with a driver. That contact relevantly requires, and is governed by, a contract between Uber and the driver ("the Driver Contract"). If a driver accepts a rider's request to be transported, the driver drives to a rider's pickup point and, unless either party cancels the request in the meantime, takes the rider on board and drives them to their destination ("driving services"). At the end of a journey, the rider pays their fare electronically to Uber. Uber deducts a service fee and other fees charged by Uber from the rider's payment and pays (or remits) the balance to the driver ("the remitted fares").

The respondent ("the Chief Commissioner") assessed Uber as liable for payroll tax on the remitted fares in the sum of approximately $81 million on the basis that the majority of remitted fares was taken to be wages, as amounts paid or payable for or in relation to the performance of work relating to relevant contracts – the Driver Contracts. Uber's objections to the Chief Commissioner's assessment were disallowed by the Chief Commissioner. Uber then sought review in the Supreme Court. The primary judge revoked the Chief Commissioner's assessments, finding that while the Driver Contracts were relevant contracts under s 32(1)(b) of the 2007 Act, the remitted fares were not deemed to be "wages" under s 35(1) of that Act. The Court of Appeal allowed the Chief Commissioner's appeal.

The High Court, by majority, held that the Driver Contracts are contracts under which Uber, in the course of its rideshare system business, has supplied to it driving services of drivers, who agree to perform particular driving services to particular standards. The High Court further held that the remitted fares were paid or payable for or in relation to the performance of that work (driving services) relating to the Driver Contract within the meaning of s 35(1) of the 2007 Act and are therefore deemed to be wages for the purposes of that Act. The High Court therefore held that Uber is liable to pay payroll tax.

This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.

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