NEWSFLASH

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BAN TACS Accountants Pty Ltd

BAN TACS Accountants Pty Ltd is a CPA Practice

CPA

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Welcome to the BAN TACS News Flash. Our aim is to provide short but succinct updates on all tax issues

Must Do Before You Sign Up To Buy A Rental Property

For years I have been complaining about clients only coming to see us after they buy a rental property. By then there is not much we can do to help them.

To help investors understand the service they need to obtain from their Accountant before investing and to give price certainty we have put together a “product” kit. We consider it to cover all the numbers and tax advice that should be considered before purchase as well as everything necessary to understand their record keeping and tax obligations right from the start.

The kit costs $495 and is fully tax deductible because the services provided relate to the cost of managing your tax affairs and are provided by a registered tax agent.

For full details of our Pre Purchase Due Diligence process go to: http://bantacs.com.au/Bantacs_pipkit.php.

In summary, you will spend an hour or two with one of our Accountants who will make sure you know how the loan should be structured, who’s name to buy the property in, whether the contract has GST problems and a full analysis of your investment strategy. We will crunch all the numbers. This includes giving you examples of recent sales in the area, rent returns and estimate the depreciation so you can have a very good idea of just how much this property is going to cost you after tax and how much growth is required to make the investment worthwhile.

By the time we are finished with you, you should have confidence that you are making the right decision and know exactly why or have all the information you need to get it right the next time. Further, we will protect you from pitfalls going forward by providing you with a kit of reading material and spread sheets that will make sure you get your tax responsibilities off on the right foot.

It’s one of the cheapest and most important services required when buying an investment property.

Column By Noel Whittaker

It's been another volatile month in the share market with prices all over the place.

As can be expected, many inexperienced investors are asking whether they should bail out in case the market falls further. Others are asking whether now is the right time to get in.

I strongly believe shares and share-based investments should be a central plank of any long term portfolio. There are two important questions you must ask yourself: what percentage of your assets should be in shares, and are you a trader or an investor?

If you choose to be a share trader you will be joining a tough little group. These are the people who are close to the market and are happy to spend their time researching stocks and poring over charts.

There are many things I would much rather be doing than gambling on share trading, so my own strategy is to join the long term investors. These are the people who buy quality assets for the long term and build on them.

Serious investors understand that the price for the unique liquidity that shares offer is volatility – this means that, by their nature, share prices bounce around. Sometimes the broad market index falls because of a sell-off in a particularly large stock – as happened when Apple fell 4% after its profit report. Apple is the largest listed stock in the world, so the Apple sell-off dragged down the market index. But this is fairly unusual – most market sell-offs are caused by factors affecting general market confidence, such as the recent Greek crisis.

Long term investors love market-wide slumps because, when they happen, all companies, including strong ones, are sold down. This gives investors the chance to buy shares they have been watching, but which looked too expensive until the latest slump.

Summing up: forget the scary headlines. Decide what proportion of your assets should be in shares, start investing, and stay on course. It may be a bumpy journey occasionally, but in 30 years you will be streets ahead of the person who never got around to starting because they are still waiting for the right time.

Noel Whittaker is the author of Making Money Made Simple and numerous other books on personal finance. His advice is general in nature and readers should seek their own professional advice before making any financial decisions. Email: noelwhit@gmail.com.

Frequently Asked Questions - $20,000 P&E Write Off

This is a new short segment in Newsflash where it is assumed that you are aware of the tax law but just need to be sure of the nitty gritty. In other words: the sort of information clients seek in quick phone calls. Eventually we will be able to create a booklet just on these frequently asked questions. If readers have such a question, please send an email to julia@bantacs.com.au and we will include it in the future.

If you buy a piece of plant and equipment (includes cars) that will have some private use then you can only claim the write off for the portion of business use. Nevertheless, the $20,000 applies to the total price of the item. So for example if you buy a $20,000 car and use it 50% for private purposes then you can claim a $10,000 write off but if the car costs $21,000 and you use it 50% for private purposes you cannot write anything off because the total value exceeded the threshold.

And a quick tip to go with this one: if your depreciated assets have been written down to below $20,000 in total then you can write off all the assets in your depreciation schedule.

Note the $20,000 write off only applies to business that qualify as a small business and does not apply to property investors. Further, if you are registered for GST then the $20,000 test applies to the GST exclusive price. If you are not registered for GST then the $20,000 test applies to the GST inclusive price.

ATO Record Keeping APP

The best tax tip is keeping receipts. The ATO have released an APP that allows you to enter the information you need to complete your tax return, as you go, during the year. It also allows you to photograph the receipt which is so important with so many receipts fading before you get to the Accountant. When preparing your 2016 tax return you will be able to send these records to your Accountant. The APP works on your phone or laptop. For a short demo and to down load it for free go to:
https://www.ato.gov.au/General/Online-services/In-detail/Transact-Online/myDeductions/myDeductions/

Bechtel Curtis Island Employees

The ATO are sending out a fact sheet to all Bechtel employees encouraging them to amend their tax returns to not claim travel to and from work. The fact sheet states all tools are provided by Bechtel so most employees cannot claim a deduction for tools. It then addresses the issue of claiming home to work travel stating that it is a private expense. At no time does the fact sheet address the perfectly legitimate claim of travel expenses from home to work when carrying bulky equipment and there is no safe storage at work.

If Bechtel have provided you with transport to and from work then of course you can't claim the cost of travel; you have not incurred anything. If on the other hand you drive yourself to the ferry terminal then you need to think about what you carry in your car with you. Is it bulky? Bulky would be stuff you need to do your job that weighs 20kgs or more. If it weighs less it can still be considered bulky if it can't be carried all at once, so ask yourself: does it take more than one trip from the house to load up the car? It does not have to be tools that you are carrying. Consider that in order to do your job, which involves staying on the island for several days; you have to take extra clothing, maybe even a fridge to transport some food, safety gear, extra bedding etc. All these count. Refer the ATO example of Amy the truck driver on this page: https://www.ato.gov.au/printfriendly.aspx?url=/Individuals/Income-and-deductions/In-detail/Deductions-for-specific-industries-and-occupations/Truck-drivers---claiming-work-related-expenses/

In fact it would be unusual for a Bechtel employee who drives themselves not to meet the bulky requirements so the fact sheet is completely misleading.

Further, if you do use your own tools on Curtis Island then you are allowed a tax deduction for purchasing them. The ATO cannot change the facts of a situation. Their fact sheet does not present all the facts at all.

Do not be intimidated by the ATO view of the employment situation on Curtis Island. The fact sheet is a generalised document that does not address all the deductions that are available to Bechtel employees. We encourage readers to complain to the Inspector-General of Taxation: https://complaints.igt.gov.au/Produce/wizard/null

If you have any concerns please contact us, but do **not** be bullied into amending your tax returns.

We have experienced similar selective statements from the ATO lately; ones that completely ignore established ATO rulings and case law. Now more than ever it is important that taxpayers have a strong, well researched and resourced firm of Accountants behind them that will not be intimidated by the ATO.

CGT when Your Home is On Acreage

I hear people living on acreage saying that they only sell a little of their produce at markets just to cover costs and of course not declare it in their tax return because it is really just a hobby. They are concerned if they use the property to produce income in any way they will lose their main residence exemption.

If your property is more than 2 hectares then you would be much better off for CGT purposes to use the property to produce income in a business (not just to produce rent). It doesn't have to be a business that produces its product from the land. The land can simply be used in the business as a place of business. Consider where equipment is stored or trucks parked. The idea is to make part of the property an active asset of the business.

The main residence exemption only covers the land under the home and curtilage to the total of 2 hectares. The rest of the property is exposed to CGT and if all it is being used for is personal then all you will be entitled to is the 50% CGT discount. Alternatively, if you qualify for the small business concessions you would get a further 50% active asset discount with the remaining 25% of the gain qualifying for the retirement exemption or rollover relief. If you also retire at the time of the sale and you have held the property for over 15 years and used it in a business for at least 7 ½ years then no tax applies to the capital gain at all!

The catch is, to qualify as a small business your turnover has to be under $2 million or business assets need to be less than $6 million. The business does not have to be in your name as long as it is in an associate's name.

If the property has been your family home for decades and the area has now been zoned for residential development the capital gain could be in the millions. Reducing the tax to zero could save you hundreds of thousands of dollars. So read up and start planning now.

The property needs to be used in a business associated with you for half the time you own it or 7 ½ years, whichever is the lesser time.

Other than the land immediately under the part of the building that is considered your main residence, the rest of the 2 hectares does not have to be adjoining. As long as it has not been used for income producing purposes, you can pick and choose by the square metre if you wish.

When it comes to calculating the capital gain you will need to get a valuer to apportion the original price you paid for the property and the price you sell the property for. You also increase the price you paid by any costs associated with the property since purchase. Technically, you can even include the cost of slashing if you purchased the property after 20th August, 1991 and have not claimed that cost already.

The parts of the property that you choose to cover with your main residence exemption would be areas that you couldn't say were used in a business but had gone up the most in value. For example, when you bought the place there was 1 hectare that was next to a heavily treed state forest but now that has been harvested the land has spectacular sea views. The valuer will be apportioning a similar cost base to that hectare as the others but a higher portion of the selling price. This means a higher gain so mark that off as main residence area.

On the other side of the coin there may be part of the property that is flood prone, an easement, etc. The valuer may consider this area to be worthless at the time you purchased the property and worthless at the time you sell. If you have to expose some hectares to CGT these are the ones to use as there is no capital gain.

An area of the property may have a higher cost base because you spent a fortune on flash stables that have now, decades later, have fallen to ruin. The stables are still included in the cost base but that area would receive a similar share of the selling price as the other paddocks because there is no longer a benefit in the stables. Accordingly, the capital gain of this area will be less than others so expose it to CGT.

Assuming there is no area on the property where you can justify a capital loss then you want to cover as much of the property as possible with either the main residence exemption or the small business concessions. The more of the traditional house yard area that you can say is used in a small business the more main residence exemption you will have available to use elsewhere. Obviously a lot of areas will be used for both purposes. For example if you are operating a business in the shed out the back, the drive way and parking area will be used for both private and business purposes. A close look at the relevant section certainly does not require that the area that qualifies for the small business concessions be use 100% in the business:

> Section 152-40(1)(a) you own the asset and it is used, or held ready for use, in the course of carrying on a *business

This point is further reinforced by PBR 1011663179716. However,note that Private Binding Rulings (PBR) can only be relied on by the person who applied for the ruling. It is recommended you get your own quoting the following sentence from PBR 1011663179716:

> The definition of active asset does not require exclusive use of the asset for business purposes.

Here is another nifty trick. If you inherit a property, the active asset use test only applies to the period since you inherited the property. Even if it was a post 1985 asset to the deceased, you would have inherited quite a large capital gain.

Now in order to keep this article readable I have not included all the fine print and traps. This is a heads up. Please get advice to make sure you are doing it correctly. There is just too much tax and time at risk to miss out on account of a technicality. It is something you need to start now, not wait until you are ready to sell.

Askbantacs Notice Board

Three very generous askbantacsers have allowed their questions and answers to be posted on the notice board.

http://www.bantacs.com.au/QandA/index.php?xq=688 Juggling the main residence exemption between two houses, a stint working overseas and renovations.

http://www.bantacs.com.au/QandA/index.php?xq=689 When one of the joint owners of a rental property die.

http://www.bantacs.com.au/QandA/index.php?xq=694 Subdividing a rental property into 3 and selling one.

Disclaimer: Please note in many cases the legislation referred to above has only just passed through parliament. The full effect is not clear yet but it is already necessary to make you aware of the ramifications despite the limited commentary available. On the other side of the coin by the time you read this information it may be out of date. The information is presented in summary form and intended only to draw your attention to issues you should further discuss with your accountant. Please do not act on this information without further consultation. We disclaim any responsibility for actions taken on the above without further advice as to your particular circumstances.