

Newsflash

BAN TACS Accountants Pty Ltd



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

Column By Noel Whittaker

The share market is going through one of its inevitable corrections and everywhere I go people are asking “how far are the markets going to fall?” or “is this a good time to invest?” It is never a bad time to make a good investment but let’s face it, no one knows when a market is going to peak or hit the bottom. In any event experienced investors know that it’s time in the market that counts, not timing and that corrections provide opportunities to buy, not triggers to sell.

That’s fine for seasoned players, but unfortunately the average Aussie has a strange approach to investment. When a stock market boom has become well established they love to jump in and buy up big because they believe the boom is never going to end. When the market has one of its normal downturns (as it is doing now) they stay away in droves, or worse still, sell out at the worst possible time. All this does is turn a paper loss into a real one.

We have always suggested that retirees keep at least three years planned expenditure in cash type assets to give themselves time to ride out the inevitable market downturns. However, they should keep in mind that rising life expectancies mean that they probably have 20 or 30 years investing ahead of them. No one should stay in cash for that long.

Despite the current slump investors have done abnormally well over the last few years. An investment of \$100,000 in January 2000, in a fund which matched the All Ordinaries Accumulation Index, is now worth \$265,000 – a gain of 13% per annum. The same investment made in January 2005 is now worth \$158,000 or 20% per annum. It doesn’t get much better than that.

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David Thompson from Whittaker Macnaught is regularly available to see clients in our office.

Claiming Over 5,000kms for Your Car

If your car does less than 5,000 kms for tax deductible purposes you can use the kilometre method set by the ATO. For the financial year ending 30th June, 2007 the rates are 58 cents per kilometre for cars with an engine capacity of 1.6 litre or less, between 1.61 litres and 2.6 litres it is 69 cents a kilometre and over 2.6 litres you are allowed 70 cents a kilometre.

If your car does more than 5,000 kilometres you maybe better off using one of the other methods which a listed in our Claiming Your Motor Vehicle Booklet. Many people choose to just reduce their claim to 5,000 kilometres and use the kilometre method described above. The 12% of cost method may give them a better result with the only record keeping required being evidence of the original cost of the car and that it has travelled more than 5,000kms for tax deductible purposes.

If your car did do over 5,000kms, it is 1.6 litres or less and cost you more than \$24,166 you would be better off using the 12% of cost method. For cars between 1.61 litres and 2.6 litres the threshold is \$28,750 and over 2.6 litres the threshold is a cost of \$29,167

Navy Personnel Overseas

It has come to our attention that the Navy is very secretive about where they send their ships. So secretive in fact that they do not always tell their own pay office where they are.

Normally the members of our armed forces can rely on their PAYG summary and associate documentation giving enough information to work out what income they have earned overseas and the associated tax concessions. But from a very candid comment we received from their pay office we now understand that if they are on a ship, details are not always given to the pay office so it is up to the individual personnel to keep a diary for every day they are on board. This diary should cover their position for each day and if possible whether it is classified as a war zone.

More details as to how this effects your taxable income are available in our Defence Force booklet.

Taxi Drivers

Most taxi drivers receive 50% of the fares they take as payment for doing their shift. They are considered to be in business and must register for GST regardless of their turnover. But they do not need to register for GST if they are simply paid wages on an hourly rate.

What we have noticed is that some drivers only include 50% of the fares they receive in their BAS at G1. In fact they should include 100% of the fares as they are the ones dealing with the public and taking the money, reference NAT 11368. The arrangement with the owner of the taxi is one of bailment ie the driver is hiring the taxi from the owner. This means that the owner must give the driver a tax invoice for 50% of the fares which the driver then includes in G11 on his or her BAS. The net result is GST is still only paid on 50% of the fares but it must be by claiming back an input credit for the amount paid to the owner. This means at the time of preparing the Taxi Driver's BAS he or she must have a tax invoice from the owner. If the driver does not he or she will end up paying GST on 100% of the fare.

Another warning to drivers in a bailment situation, you are the one required to give a tax invoice to the passenger with your ABN on it, if the fare is for more than \$82.50. If you do not do this and the passenger is in business they are required to withhold 46.5% of the fare and remit it to the ATO.

Latest On Forfeited Deposits – Act Now

In the last edition of Newsflash we discussed Reliance Carpet Company Pty. Ltd v FCT where the full bench of the Federal Court found that GST did not apply to forfeited deposits because there was no supply made by the seller who got to keep the deposit.

On the 3rd August the ATO announced that it would appeal this case in the High Court. In the meantime the ATO advises taxpayers wishing to claim back GST they have paid on deposits in the past, that they should apply in writing immediately. The ATO will not pay the GST back until the issue has been resolved by the High Court but any delay in applying could mean that the time limit, within which refunds can be claimed, may expire.

Reasonable Allowances

If you receive an over time meal allowance in accordance with your award you are entitled to claim costs you have incurred up to \$21.90 per meal in your 2007 tax return, without receipts. This increases \$22.60 from 1st July, 2007. Your employer may only pay you \$10 under the award but if you have spent more you can claim it up to these amounts

Employee truck drivers who sleep away from home and receive an allowance are entitled to claim, without receipts, daily meal costs, for the financial year ended 30th June, 2007 up to \$72.10 if they earn under \$84,251. If they earn over \$84,251 their limit is \$78.65 per day, without receipts.

For the financial year that started 1st July, 2007 the over time meal allowance increases to \$22.60. The daily allowance for employ truck drivers who sleep away from home increases to \$74.30 per day if their income is \$87,200 or less. If their income is over \$87,200 the amount is \$81.05. Reference TD 2007/21

Cancellation of Henderson Shares

If you have ever owned AMP shares this may apply to you. On the 13th October 2006 22% of Henderson Group plc shares were cancelled. This triggered a CGT event that will apply to your 2007 income tax return. The ATO deems you to have received \$2.38 per share because this was their market value at the time of cancellation. The ATO does not consider the \$1.93 per cancelled share paid by Henderson to be the market value of each cancelled share. So the market value is substituted.

This may at first seem that you are paying tax on income you didn't receive but the truth is you still own just as much of Henderson Group plc as you always did. Let's assume Henderson Group's assets are worth \$1million after the return of capital and there were 1million issued shares in the company. If you owned 100,000 share then you owned 10% of the company. Assume the \$1.93 per share paid by Henderson's to shareholders upon cancellation of the shares totalled \$100,000 so now the assets of the company are \$900,000. Because 22% of shares were cancelled you only own 78,000 shares and there are now only 780,000 issued shares so you still own 10% of the company which in a perfect market is 10% of \$900,000 worth of assets so your 78,000 shares should now be worth \$90,000 on the share market anyway and you would have received \$10,000 cash for the shares that were cancelled.

So what are you up for in CGT? Well that depends on your cost base of the Henderson Group plc shares. First reduce your cost base by the return of capital you received in 2006 and make sure you have already reduced that cost base by the return of capital you received in 2005. Multiply this new amount by 22% to get the cost base of the shares that were cancelled. If this is less than \$2.38 multiplied by the number of shares that were cancelled you have made a capital gain which you will either have to offset against other capital losses or pay tax on. If 22% of your cost base is more than \$2.38 multiplied by the number of shares that were cancelled you have made a capital loss which can be offset against any capital gains you made in 2006/07 or carried forward to be offset against future capital gains. Note if your cost base before the return of capital is less than the return of capital, your capital gain will be greater than the \$2.38 per share market value set by the ATO. Don't worry about the \$1.93 per cancelled share that you received, it is part of the \$2.38 so is not needed to be taken into account in the calculation. It was probably paid to make sure you had more than enough cash to pay any CGT and as explained above you still own the same percentage of the company's assets. Reference CR 2006/123.

Donations to Politicians and Political Parties

On 22nd June, 2006 the maximum threshold for tax deductible political donations, contributions or membership fees was increased from \$100 to \$1,500. There are two thresholds, one for donations to Political Parties and one for donations to independent Politicians, both thresholds are \$1,500. An independent Politician is a candidate or a member of Parliament that does not belong to or is endorsed by a Political Party. So in theory you could claim up to \$3,000 in a year this way by contributing \$1,500 to a Political Party and \$1,500 to an independent candidate. Only donations in relation to candidates or members of the State and Federal Parliament are tax deductible, it does not apply to Council elections.

If you made a contribution between 22nd June and 30th June 2006 you can amend your 2006 return to claim it.

Main Residence Trap

Now, I know the following is very much old news to our long term readers but I have seen too many people, lately, caught in this trap, not to mention it again. To fully exempt a home as your main residence you must move into it as soon as “practicable” after settlement section 118-135.

It is a bit like musical chairs, really, you must grab the house as soon as the music stops or in this case when settlement happens. If you don't do this the house will be subject to capital gains tax on a pro rata basis for the rest of the time you own it. This means you need to keep records of all expenses associated with it, for the whole time you own it, to firstly avoid an ATO fine and secondly to minimise the effect of CGT. You can increase the cost base of the property by any costs associated with holding it (section 110-25(4)) if you purchased it after 20th August, 1991. These costs include light globes, cleaning products, travel to the hardware store, interest, rates, insurance, everything, just keep the record. Keep the receipts for the whole period you owned the property as the way the formula works the expenses associated with you living there can decrease the CGT for the period you did not.

If these expenses have already been claimed as a tax deduction against rent received on the home they are not permitted to increase the cost base.

Examples of the sort of circumstances that will be caught are when you purchase a property with existing tenants and let them finish their lease or when you are away for work or a holiday and can't get back to the area the house is in immediately. In these circumstances you would be better off to delay settlement. The 6 years absent rule will not protect you until after you have first lived in the house.

Where Is Julia

Julia is in Townsville and about to head inland. She should reach Darwin by the beginning of September where she will stay for several months unless the heat gets to her. Anyone in these areas interested in learning more about how to claim your trip around Australia as a tax deduction should contact her on 0428381864

Back Issues & Booklets

To obtain free back issues of the fortnightly BAN TACS Newsflash or any of the following booklets visit our web site on www.bantacs.com.au. You can also subscribe to our Newsflash reminder.

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Division 35

Fringe Benefits Tax

GST

Overseas

Real Estate Agents

Miners

Small Business

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.