

# 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

In the last few weeks we have been discussing what you can do with your super when you retire. Today let's think about annuities.

There is no exit tax for those aged between 55 and 60's when funds are rolled from the superannuation area into an annuity and the return of the annuity will somewhat in line with long term bond rates, currently around 6%. The advantage of an annuity is that it can give you a capital guaranteed income for life, but it is an extremely inflexible investment. It is almost impossible to vary your income from the annuity; you can't make lump sum withdrawals, and unless the annuity has a guaranteed period, the money is lost to your estate on death.

Obviously, the allocated pension is much more flexible, and if based on growth investments, should give a much higher effective return over time than an annuity. Given that today's retirees may live for more than 30 years, it is clear that an allocated pension could provide hundreds of thousands of dollars more than an annuity over a long term.

What about the fear of your money running out if you have an allocated pension?

This shows a basic misunderstanding of the way allocated pension funds work.

Certainly you are required to draw a minimum pension each year to prevent your accumulating funds in a tax-free haven forever, but once you transfer the money from the allocated pension fund to your ordinary account, you can spend it or invest it wherever you wish. Unfortunately, you can't put it back into your tax-free allocated pension fund.

Be aware that annuities bought before 20th September have unique benefits for retirees as Centrelink will count only 50% of the purchase price for the assets test. As usual, advice is critical because the best course of action will depend on your individual circumstances.

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

## How Salary Sacrificing a Car Saves You Money

The technicalities of the following are explained in our Fringe Benefits Tax booklet. The following example is just to help employees understand why there is a saving in packaging a car and how to maximise it, without getting into too much detail.

Assume:

- The car you are purchasing costs \$30,000 and travels 25,000 kilometres a year. It's fuel consumption averages 9.1 cents a kilometre.
- The lease period is 7 years. It is necessary to purchase a new or near new car to obtain a novated lease which most employers require before you can salary package. The advantage of salary packaging a car also comes from being able to pay its expenses out of before tax dollars so the longer you can lease that vehicle the better otherwise you will have to start all over again with a new car to be able to salary package.
- After the 7 years the residual is 10% ie \$3,000.
- The implied interest rate in the lease is 9%.
- You will make an employee contribution to reduce the FBT to zero. FBT is paid at the maximum tax rate which is 46.5%. Unless your taxable income is over \$150,000 (\$180,000) you will be in the 41.5% or lower bracket. Rather than your employer paying FBT you should pay your employer an amount equivalent to the taxable value of the benefit, out of your after tax dollars. This means the value of the benefit will be reduced to zero.
- Your income is between \$75,000 and \$150,000 so your tax bracket is 46.5%.
- GST Inclusive cost of the car:

|                                |              |
|--------------------------------|--------------|
| Repairs, Maintenance and Tyres | \$1,050      |
| Registration and Insurance     | 1,200        |
| Fuel 25,000 x 9.1 cents        | 2,275        |
| Lease Payments                 | <u>8,174</u> |
|                                | \$12,699     |

Taxable value - of the benefit  $\$30,000 \times .11 = \$3,300$  so this should be the amount you contribute from after tax dollars.

Cost to Employer – The employer would be entitled to GST input credits on most of the costs of providing the car, registration does not have full GST. For the sake of simplicity divided \$12,699 by 11 and multiply it by 10 to get the out of pocket cost to the employer of \$11,545. Now the employer has to pay GST on the \$3,300 employee contribution it receives so only \$3,000 is available to reduce the employer's out of pockets which in total will now be \$8,545. This is the amount the employer will reduce your gross salary package by.

Cost to You of the Package – \$8,545 is only \$4,999 in after tax dollars but you also have to pay the \$3,300 employee contribution out of your after tax dollars, a total of \$8,299

Cost if You Paid for the Car Yourself - You would have to pay the \$12,699 out of after tax dollars. To do so you would need to earn \$21,708 though there maybe some savings on cheaper finance and no admin fee.

In short to salary sacrifice the car it will cost you \$8,299 in after tax dollars whereas providing the car to yourself will cost you \$12,699 in after tax dollars.

The above cost maybe a shock but that is because most of us are in denial, about how much owning a car really costs. Nevertheless, if you don't want or need a new car salary packaging may not benefit you.

## How Do You Count Bees?

According to the ATO, in TD 2007/D7, bees are livestock just like cattle and sheep. And just like cattle and sheep, bee farmers need to keep live stock counts. This means each year counting the stock you hold and valuing it. This ruling is intended to apply retrospectively so not only do you need to start counting your bees now, you should have been doing it every year. Stay tune the ATO will soon be releasing a practice statement specifying how this is to be done.

## **Time To Start Thinking About the 2008 Co Contribution**

Each year the government makes a co contribution to the Superannuation Funds of low income earners of up to \$1,500. In the 2007/08 financial year self employed people will also qualify. The thresholds have changed this year, the co contribution starts shading out once your assessable income exceeds \$28,980 disappearing completely once your assessable income reaches \$58,980.

Note it is assessable income not taxable income so generally tax deductions won't help reduce your income. If you are not a low income earner but are trying to save for retirement you should consider salary sacrificing some of your wage into superannuation so that your assessable income is below the threshold. To qualify for the co contribution you have to make a \$1,000 contribution into a superannuation fund out of your after tax income and not claim a tax deduction for it.

## **Holding an Investment in Trust for a Minor**

Children under 18 cannot hold property or a share portfolio in their own name. Accordingly, parents or grandparents wanting to set up a nest egg for a child have to put the investment in their own name rather than the child's. The ATO accepts that providing the investment is always treated as the child's and never "borrowed" from by the parent, that the child can be taxed on the investment's earnings. This is not always a good thing as children with taxable income greater than \$1,667 will pay 66% tax on their passive income.

Recently a Grandparent advised a fund manager that his grandchild had now turned 18 so the investment could now be held in the child's name. The fund manager was quite adamant that this triggered a capital gains tax event and the Grandfather would have to pay CGT on the change of ownership. This is not correct because the ownership has not changed at all. The Grandfather merely held the investment as trustee for his Grandson because his Grandson was under a legal disability. The investment always belonged to the Grandson, it was a bare trust, his Grandson was absolutely entitled to the investment at any time. So no CGT event happens when the name on the investment changes because there is no change of ownership.

The relevant section number is 106-50 of the 1997 ITAA. Unfortunately this section is not very clear but if you look at the way it is interpreted in ID 2003/804 it becomes clear that when an asset is held solely for the benefit of another and later the name is change to that other's name no CGT event takes place.

## **Changes To Foreign Income Rules**

The Tax Laws Amendment (2007 Measures No. 4) Bill has been introduced to Parliament. This bill will abolish the quarantining of foreign income. It will apply from the first financial year following the bill receiving Royal Assent. So if the bill is passed the quarantining provisions will probably not operate in the 2008 and following financial years. This means all foreign losses will be able to be offset against Australian income and foreign tax credits can be used to pay tax on Australian income.

## **Improvements to Family Trust Rules**

The long awaited improvements announced in the May 2006 budget are finally before Parliament. The changes of most interest to readers would be the widening of the definition of a family.

There are certain rules that a trust must meet before it can carry forward tax losses. If the trust does not meet these requirements then it may opt to make a Family Trust election to utilise those losses. A family trust election limits the possible beneficiaries of the trust to members of a particular test individual's family and their associated entities. The definition of family has now been widened to include lineal descendants and distributions to former spouses, widows/widowers and former step-children. The lineal descendants of the test individual's (or the test individual's spouse's) nephews and nieces are also included.

The test individual can also be changed on one occasion only, providing the new individual is a member of the original test individual's family group. This will be very useful in the case of divorce where the spouse that keeps the business was not originally set as the test individual.

It is expected to apply from the 1st July, 2007.

## Christmas In September

The ATO, in draft ruling TR 2007/D6 has given us a little Christmas present in advance. We have always consider the provision of a Christmas gift to employees, at a Christmas party to be considered one single benefit. So both the cost of the employee and his or her family attended the Christmas party plus the cost of any gifts would have to be under \$300 to be an exempt fringe benefit. In the draft ruling the ATO considers the gift to be a separate benefit from the Christmas party so as long as the total of all gifts to the employee's family is less than \$300 it will be an exempt benefit.

The draft ruling also allows occasional use of a company car for a special purpose to be an exempt benefit. Other exempt benefits listed are three months membership to a gym provided to all employees and baby sitting expenses when an employee is required to work overtime unexpectedly. On the down side it states that an exempt minor benefit can never be part of a salary package arrangement.

Much more detail about the FBT consequences of Christmas parties is available in our FBT booklet under free publications on [www.bantacs.com.au](http://www.bantacs.com.au)

## Where Is Julia

She has made it to Darwin. Part of this Newsflash was written hiding out in her motor home, she set up camp by a river, intending to spend an evening around the fire, but retreated after hearing rustling down the bank and then a splash.

## 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](http://www.bantacs.com.au). You can also subscribe to our Newsflash reminder.

*Alienation of Personal Services Income*

*Claiming Your Trip Around Australia*

*Claiming Motor Vehicles*

*Death and Taxes*

*Divorce*

*Year End Tax Strategies*

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*Overseas Backpacker Fruit Pickers*

*Rental Properties*

*Secret Plans and Clever Tricks*

*Buying a Business*

*Claimable Loans*

*Selling a Business*

*Defence Forces [Military]*

*FBT for PBI's including Hospitals*

*How Not to be a Developer*

*Key Performance Indicators*

*Wage Earners*

*Subcontractors*

*Capital Gains Tax*

*Teachers*

*Small Business*

*Division 35*

*Fringe Benefits Tax*

*GST*

*Overseas*

*Real Estate Agents*

*Miners*

### **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.