

NEWSFLASH

BAN TACS Accountants Pty Ltd



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Issue Number: 164

Pages: 4

Date: 1st April, 2008

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Welcome to the BAN TACS News Flash

Our aim is to provide short but succinct updates on tax issues that maybe of interest to our clients

Column By Noel Whittaker

Time seems to pass more quickly as you grow older but it is never too late to adopt strategies that can make a major difference to your retirement. Here are some examples.

He is 48, she is 45 and they are now in the blissful situation where the house is paid off and the kids, even though still living at home, are past the expensive years. They were too focussed on paying the bills and the mortgage to worry about financial planning, but after visiting a financial adviser, decide they are never going to have enough for retirement unless she gets a part time job. Finding a job is a cinch in this tight labour market and she has no trouble getting three days a week work which returns \$25,000 a year. If she relies on the boss's nine percent compulsory superannuation contribution, she will have \$148,000 in super at age 65. However, the simple strategy of making an additional contribution of \$1000 a year into super as a non-concessional contribution, to become eligible for the \$1500 government co-contribution, means that her final super nest egg will be \$287,000. Just putting away an extra \$20 a week means an additional \$139,000 in retirement.

Think about a woman who is single, aged 55, earning \$48,000 a year and has \$200,000 in superannuation as well as her own home. She salary sacrifices \$20,000 a year into super. To ensure the same level of net income is received she starts a transition to retirement pension of \$17,000 a year from her superannuation. This saves her \$3,750 a year in tax, and increases her co-contribution by \$150 a year, - this gives her total extra benefits of \$39,000 over the next 10 years.

Salary sacrifice is the best strategy of all for boosting your wealth. Suppose you are in the 41.5 percent tax bracket and were paying \$3000 a year in non deductible life insurance premiums - the pre tax equivalent for a person in this tax bracket is \$5127. If they rearranged their affairs so an additional \$3000 a year was salary sacrificed to super, and the \$3000 premium was paid out of the super, they would give themselves an additional \$2127 a year. That would be enough to pay the interest on a margin loan of \$25,000.

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

CGT on the Sale of a Business

Concessions are permitted regarding capital gains made on assets that are not plant and equipment, where the business qualifies as a small business entity under the Simplified Tax System (STS) or the Net business assets of the business and associates are less than \$6 million.

The only requirement a business needs to meet to enter the STS is to have a turnover (total sales) of less than \$2million.

The \$6 million net business asset test does not include your spouse's business assets if your businesses are not related. If an individual partner in the business owns less than 40% of the partnership then only his or her share of the net partnership assets is taken into account when calculating the \$6 million.

How the Small Business CGT Concessions work:

- a) The 50% capital gains discount - only half of the gain is included in your taxable income. This concession is not available if the asset is owned by a company. You must have held the asset for more than 12 months for this to qualify
- b) The 15 year ownership exemption. This requires you to have held the asset for more than 15 years. The asset must be an active asset. You need to satisfy the controlling individual test if the asset is owned by a company or trust. The taxpayer or the controlling individual, if a company or trust, must also be over 55 and retire or permanently incapacitated.
- c) Retirement exemption – can only apply to an active asset and the taxpayer or controlling individual must be over 55 and retire or put the funds into a super fund where they will not be taxed on entry or exit. A taxpayer can only process \$500,000 worth of capital gains this way in their life time. This does not require the asset to have been held for more than 12 months
- d) 50% discount for active business assets – can only apply to an active asset. This does not require the asset to have been held for more than 12 months.
- e) Rollover relief where an active asset can be sold and another active asset purchased or improved within two years or in the previous year. This does not require the asset to have been held for more than 12 months. From 1-7-07 if you don't spend the rollover you declare it as income or use the retirement exemption in the year the 2 years expires. Pre 1-7-07 you had to go back 2 years and amend

Note b) to e) from 1-7-07 require your net assets and those of your associates to be less than \$6mil for the business to be a small business entity. More than one of the above can be used if you qualify. It is not that difficult to meet the retirement condition but if that is the case you would not be looking to use the rollover relief. You can use the 50% capital gain discount together with the 50% active asset discount to only pay tax on only 25% of the gain. For example:

Gain of	\$100,000
Less 50% CGT Disc	<u>50,000</u>
	50,000
Less 50% Active Asset Disc	<u>25,000</u>
	25,000
Purchase A New Active Asset	<u>25,000</u>
Amount subject to CGT	0

An asset is not an active asset if it is held merely for the purpose of earning rental income. From 1-7-07 to qualify as an active asset it must be used in a business, the business can be one owned by an affiliate, and it must be active for at least half the time it was owned or 7 ½ years whichever is the least.

There are problems if the asset is held in a company. Firstly the 50% capital gain discount is not available. The controlling individual test cannot be met in many circumstances so the 15 year ownership or the retirement exemption may not be available. The active asset discount stays within the company. If you try and get the money out of the company (without putting it into a superannuation fund note possible age base limit problems) every dollar you receive, including the dollars that the company did not have to pay tax on because of the discount will be fully taxable as a dividend in your hands. Using the rollover relief provisions is only useful if you are buying another business and it will force you to continue to use the company so continuing the problem next time you sell.

Changes in the 2007 budget now mean that there can be up to 8 controlling individuals in any business.

FBT – Formula Method for Cars

Just a reminder as you start preparing your FBT returns for 2008 that the 2007/2008 FBT year had 366 days in it so if you are using the formula method and the car is sometimes not available for the private use of the employee you will need to apportion these days over 366 instead of 365 this year.

All the other year end information and rates you need were in Newsflash 163.

2008 Kilometre Rates

The ATO has set the cents per kilometre rate, for the 2007/2008 financial year that you are entitled to use for a motor vehicle for which you are claiming 5,000kms or less per car. The rates are based on the car's engine capacity as follows:

1.6 litre and smaller 58 cents per km

Bigger than 1.6 litre but not bigger than 2.6 litre 69 cents per km

Bigger than 2.6 litre 70 cents per km

Note this amount has not changed since the 2007 financial year, which is quite strange as it has changed every other year as I can remember. According to the ATO the fuel price rise we are hearing about on the TV and seeing at the bowser are simply a figment of your imagination.

Property Expo Update

The highlight of the expo for Julia was saving one visitor to the Australian Property Investor Magazine stand at least \$250,000 in tax in 10 minutes!

The taxpayer was 79 years old owned a holiday house he purchased in 1987 that had increased in value by over a million dollars. He realised that he had missed the opportunity to put the capital gain into superannuation now that he was over 75 but was concerned about leaving his children a large CGT bill. As he had the opportunity to offset some of the gain he thought maybe he should sell it now.

Even if he was under 75 putting the money into superannuation would have meant 15% tax going in and 16.5% tax coming out to his children. The 16.5% could be avoided by taking it out of superannuation before his death but then he would have had to invest it outside of super and pay tax on its earnings.

If he continued to own the property he could have his cake and eat it too. He still got to use the holiday home and he estimated it could go up another million in value before he died. With a bit of planning he could also avoid his children having to pay any tax at all. Unfortunately, the holiday house was purchased before 20th August, 1991 so he could not increase the cost base by the costs of owning the property. The taxpayer also had a main residence that he wanted to protect from CGT for his children as well. Fortunately the main residence was purchased after 20th August, 1991.

The solution was to move into the holiday house and establish his main residence there. This meant that his children could elect which property was his main residence at date of death. Heirs inherit a deceased's main residence at the market value at date of death regardless of any CGT liability the deceased may have. This means they will receive the holiday house totally tax free if they sell it within 2 years of his dying. His original home will have a small amount of CGT but this property qualifies to increase the cost base by all the costs of living there and best of all for most of the period of ownership it will be exempt from CGT as the main residence of the deceased. The way the formula works is, the holding costs reduce the CGT and then only the percentage of the whole time of ownership that it was not actually the deceased's residence is applied to the gain to calculate the taxable amount.

The API stand had a panel of experts and three times a day they held an API interactive which is a bit like speed dating. There were 5 experts and visitors to the stand got to spend 5 minutes asking questions of each one. At the end of each five minute section a whistle blew and they had to immediately move onto the next expert. Rather hectic for the experts but it did help the event to remain light hearted and informal. There were plenty of other times during the day that the experts could be spoken to for much longer. API will be hosting a stand at the Brisbane Property Expo in September and Melbourne in October.

Selling A Business Booklet Updated

Our Selling A Business Booklet has just been updated to include all relevant articles in recent Newsflashes and to remove outdated ones. All the tips on how to prepare your business for sale by Graham Long are still there at the start of the booklet with the tax considerations at the end.

Useful Web Sites

FBT Calculations

The ATO has a couple of useful calculators on its site. As www.ato.gov.au/distributor/asp?doc=content/content/37354.htm there is a calculator that will work out the FBT payable on a car using either the statutory (formula) method or the operating cost (log book) method. There is also a calculator to exempt and rebatable employees at www.ato.gov.au/distributor/asp?doc=content/content/38383.htm

Rental Property Investors

If you are considering buying a rental property we hope you will crunch the numbers, before you buy, using our evaluating a rental property worksheet which is available, free, under tools on our web site. It will soon be much easier for you to estimate the depreciation claim necessary to use the calculator.

To help prospective buyers estimate the depreciation deductions they are entitled to, Washington Brown (quantity surveyors) have created a data base of all the depreciation reports they have prepared. You simply enter the location, type of property and year built and the calculator will give you an estimate based on properties in that area. The only problem with the data base information is that the building depreciation and plant and equipment depreciation are added together. In our calculator you need to have these amounts separate. The data base will give you an estimate for each year over a 10 year period, towards the end of the 10 years the plant and equipment depreciation will be minimal and as building depreciation is exactly the same amount each year it would be safe to assume that the building depreciation is a little bit less than the full amount of depreciation listed in the 10th year. Note if the property was built before 16th September, 1987 this little trick will not work because properties built between 17th July, 1985 and 16th September 1987 are only depreciated over 25 years so the last years of the 10 year estimate won't actually include any building depreciation. For domestic properties built before 17th July, 1985 building depreciation does not apply anyway.

The data base will not be up on the Washington Brown site for a couple of weeks yet. Their web address is www.washingtonbrown.com.au

Where is Julia?

Hiding out in the Nowra area trying to meet ATO tax return lodgement deadlines.

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.

<i>Alienation of Personal Services Income</i>	<i>Buying a Business</i>	<i>Capital Gains Tax</i>
<i>Claiming Your Trip Around Australia</i>	<i>Claimable Loans</i>	<i>Claiming Motor Vehicles</i>
<i>Death and Taxes</i>	<i>Defence Forces [Military]</i>	<i>Division 35</i>
<i>Divorce</i>	<i>FBT for PBI's including Hospitals</i>	<i>Fringe Benefits Tax</i>
<i>Year End Tax Strategies</i>	<i>How Not to be a Developer</i>	<i>GST</i>
<i>Investors</i>	<i>Key Performance Indicators</i>	<i>Overseas</i>
<i>Overseas Backpacker Fruit Pickers</i>	<i>Wage Earners</i>	<i>Real Estate Agents</i>
<i>Rental Properties</i>	<i>Subcontractors</i>	<i>Miners</i>
<i>Secret Plans and Clever Tricks</i>	<i>Selling a Business</i>	<i>Small Business</i>
<i>Teachers</i>		

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.