

NEWSFLASH

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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

Falling interest rates may be great news for anybody paying off a mortgage, but they present challenges for investors who are now receiving lower returns on their precious savings. This is why it is time to think about the role of cash as an investment and consider strategies to boost returns.

A great resource is www.ratecity.com.au where all financial products are compared. According to them, BankWest are still offering the top rate of 8.1% for one year deposits, with the next best rate 7.6% from Macquarie Bank. If you are prepared to lose access to your money until July next year investing in an interest bearing deposit with all interest and principal repayable in July 2009 is a great strategy as you are fixing today's rates and also deferring tax until next year when the government has hinted that personal tax rates will be lower. If you don't want to tie your money up St George's DragonDirect and BankWest are offering 8.1% but these will drop as rates continue to go down.

It is critical that you understand the risk/reward trade off of shares and interest bearing securities. If you invest in a quality diversified portfolio of shares there is huge upside potential with little chance of loss if you can hold for the long haul. However, if you opt for fixed interest, your earnings are limited to the rate paid by the security, but if the investment goes bad you can lose the entire capital sum. This is why interest bearing deposits can be a much riskier investment than shares if you don't stick to the big names.

For those who want enhanced returns it's hard to go past some of the diversified income funds that are now being offered by leading fund managers. They invest in a range of assets that include interest bearing securities, high yielding shares and listed property trusts, and can produce highly effective returns because of the franked dividends that come from the shares and the tax concessions that arise from the building allowance and depreciation on the properties. They do not offer the stability of cash because of the presence of listed investments in the mix, but they do have the potential to give you much better returns after tax than leaving your money in the bank. Admittedly, the returns for the last 12 months have been negative because shares are down and the listed property trust sector has copped a belting, but there is now a consensus that we are near the bottom and it's reasonable to expect returns of better than 10% over the next two years.

Yes, there are opportunities out there, but please seek professional advice before you invest. There is a huge gap between the best and the worst products and quality research is essential. Good advisers will have this on tap.

Noel Whittaker is a proper authority holder for Whittaker Macnaught Pty Ltd - licensed dealer in securities

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

Maybe You Had Better Get Health Insurance After All

The Government may not be able to get its increase in the Medicare Levy Surcharge through the Senate. The trap is you cannot buy private health insurance retrospectively so if you don't currently have health insurance because you think you will be under the new threshold and they don't increase the threshold you will have to pay the surcharge, how much you pay depends on how many days you have private health insurance cover. So if your families combined income (including reportable fringe benefits) is \$150,000 a year and the bill does not make it through the senate then you will pay \$1,500 in surcharge. If by the end of December (half way through the financial year) you realise the threshold increase is not going to happen and take out private health insurance you will only have to pay the surcharge for half the year ie \$750.

Thresholds at which the surcharge becomes payable:

	If nothing changes	Proposed by the Rudd Government	Possible Compromise
Singles	\$ 50,000	\$100,000	\$ 67,000
Families with One Child	100,000	150,000	134,000
Each additional Child	1,500		

The compromise is proposed by an independent senator who holds the balance of power. His proposal is based on an adjustment for inflation if the surcharge was initially introduced in 1997.

Draft ATO Ruling on Capitalising Interest

The ATO has issued a draft ruling TD 2008/D12 on the compounding of interest on a deductible loan. A full discussion of the issues here is available in our Claimable Loans Booklet under free publications on www.bantacs.com.au

In short the draft ruling tries to argue that relying on Hill J's and Hely J's exact words in their summing up statements in the 2002 Harts case (which by the way were identical) – "The compound interest like the ordinary interest will take its character from the use to which the original funds borrowed are put" – is incorrect and that more attention should be given to discussions earlier in the case about the purpose and use of the expenditure. Despite the fact that in this discussion Hill J states that "it is unnecessary in the normal case to distinguish between the two tests".

It seems to us that the ATO is unnecessarily complicating the issue to create uncertainty so that more conservative taxpayers will be too scared to claim capitalised interest. The summing up statement by the judges seems to be intended to simplify the application of the purpose and use test when applying it to capitalised interest and should be treated as such. For the ATO to claim that a literal reading of this judgement is incorrect is in my opinion an attempt by the ATO to change the words clearly spoken by three judges of the Full Federal Court and they have no right to do this.

We have expressed this opinion together with a plea to not over complicate the issue when the government claims to be concerned with tax simplification. Readers interested in this topic might also like to voice their objection. The deadline is the 3rd October, 2008. Comments on this ruling can be sent to briony.andrew@ato.gov.au

Please note you cannot claim capitalised (compounded) interest as a tax deduction if the dominant purpose in doing so was a tax benefit.

Worried About Your Insurance Cover?

With fears in the US of insurance giant AIG collapsing you maybe concerned that this could affect your cover in Australia. True, AIG in the US has an Australian subsidiary and underwrites many Australian insurance policies. Unlike the US, Australia has a much more regulated insurance industry. When HIH collapsed further regulations were introduced to make sure policy holders would never again be left in the lurch.

APRA now regulates the insurance industry in Australia. Insurance companies are required to hold a portion of premiums in trust to make sure they have the funds available to meet future claims. These reserves are regularly audited by APRA. There are also laws in Australia that will prevent the AIG parent company in the US from stripping assets from its Australian subsidiary.

Many thanks to our Insurance Broker Tony Townsend for this information if you have any concerns about your insurance please contact him on (07) 5491 8977

Superannuation of Temporary Residents

By the end of this year the changes to this law will be finalised by receiving Royal Assent. Superannuation funds holding superannuation for temporary residents will still be required to transfer the funds across to the Government but not until 6 months after the temporary resident's visa has expired. In the meantime the temporary resident can withdraw their superannuation after leaving the country. Further they will continue to be covered by any life insurance in the policy until it is transferred to the Government.

Temporary residents who do not claim back their superannuation before it is transferred to the Government can later claim it back from the government.

Superannuation funds will no longer be required to transfer the funds across every 12 months while the temporary resident is still in Australia so this will also help maintain any life insurance premiums.

Family Trust Changes Abandoned

To appease the Senate the Rudd government has abandoned proposed changes that would prevent nieces and nephews being beneficiaries of a trust that has made a family trust election.

Henderson Group Share Cancellation - ATO Backflip

The law regarding how the market value substitution rule applies to cancelled shares has recently been changed but it is back dated to apply from 1st July, 2006. This means that taxpayers who prepared their tax returns regarding the cancellation of shares in the Henderson Group, in accordance with ATO advice have actually prepared their tax returns incorrectly.

The ATO advice was to calculate the market value of the shares at \$2.38 even though they only received \$1.93 per share. In accordance with the new law the market value only has to be \$1.93 so anyone owning these shares can go back and amend their 2006/07 tax return to reduce the capital gain.

Best Question of the Property Expo

No it is not the easiest question but the one that made me think outside the square, a bit of a challenge. This one goes to the person who owned a property they intend to subdivide, keeping the current house intact on a smaller block.

The property is owned in the name of a trust to maximise the tax benefits when distributing the profits from the subdivision. The trouble is they have moved into the original house. As the property is in the name of the trust it cannot qualify for their main residence exemption and once the development is finished it will realise a considerable capital gain on the cost base left after apportioning the original cost base amongst all the subdivided blocks.

So the problem is how to transfer their main residence exemption to the original house now while it is still owned by the trust. A CGT event B1 is the answer. B1 states that if there is a contract between two parties that the property will eventually transfer to the occupant at some future date then the CGT event is deemed to have happened at the date of entering into that agreement so the purchaser's main residence exemption can be covering the property from the date of the agreement rather than the date of settlement, which will be much later when the blocks are subdivided.

Did You Get This One?

We will run this new segment for a few months to assist new readers of Newsflash with some of the basic stuff we don't write about anymore. The emphasis is on wage earners who may have missed some little tricks in their tax returns. Next year the Newsflash will have its tenth anniversary so it's about time for a revision

If you carry bulky equipment such as a ladder or tools weighing more than 18 kilograms to and from work, you can claim your car expenses as a tax deduction. You are not entitled to claim this if your employer provides you with your own locker. A container on a building site where more than one person has a key is not considered a locker so most people in the building trade would qualify for a deduction.

Seminars.

Tuesday 23rd September, 2008 – Julie Lockeridge presents a High Tea Seminar at Southport. Learn about effective financial strategies women can use to build wealth, awareness and financial independence. 2.30pm to 4.30 pm Palazzo Versace Ballroom, 94 Seaworld Drive, Main Beach. Cost \$25 per person. RSVP by Friday 19 September on (07) 5591 4300

Saving Tax on Your Investment Property – The Book

“Every investment property tax-related question you’ve ever wondered about is answered here and – perhaps more importantly – the ones you didn’t think to ask but should have! For property investors who want to refine their strategy for maximum gain, this resourceful handbook will make a great constant companion.” Eynas Brodie, Editor, Australian Property Investor magazine.

Combining Noel Whittaker’s easy reading style with Julia Hartman’s mind numbing attention to detail was a major challenge but a win for property investors. You can purchase it online by going to: www.bantacs.com.au/property.php. The cost is \$29.95 plus \$5.95 postage – tax deductible of course!

Ask BAN TACS

For \$39.95 you can have your questions regarding Capital Gains Tax, Rental Properties and Work Related Expenses answered. If the answer may be questioned by your Accountant we will include references to support our conclusion. Just go to www.bantacs.com.au and look for the AskBantacs link located on the right hand side of the home page.

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>Insurance and Superannuation</i>	<i>How Not to be a Developer</i>	<i>GST</i>
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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.