NEWSFLASH

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BAN TACS Accountants Pty Ltd is a CPA Practice

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BAN TACS Accountants Pty Ltd

BAN TACS Accountants are a co-operative of accountants who pool their resources and knowledge to provide exceptional client service. All the advantages of a large national firm with the personal service of individual practitioners.

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

Police Credit Union and Deceased Estates

It is no longer necessary to obtain the granting of probate to execute a deceased estate. This was a concession introduced years ago so that simple estates did not have to incur the legal costs. Most banks have a limit of $50,000 to $80,000 before they will ask for probate to be granted to release the deceased's funds. Probate by the way is going to the courts to verify the will.

The police credit union is not so considerate. If you have as little as $15,000 invested with them they will require you to incur the legal costs of having probate granted. This is even the case if the funds are going to the widow. In a recent case the police credit union refused to release funds to the widow of the deceased even though she had been his wife for over 50 years, all the deceased's children signed to say they wanted the money to be paid to their mother, the will specified she was the beneficiary and the executors where the children. Imagine being a pensioner, losing your husband and not being able to access his meagre savings of $15,000 to pay for funeral costs simply because you could not afford the legal fees to have probate granted. I wonder what happens when they can't afford probate? Who gets to keep the money?

Column by Noel Whittaker

These are confusing times for investors. Interest rates are on the rise, house prices in many places have plateaued, and the share market has gone quiet after starting the year strongly.

In a climate like this, the best way to approach investing is to go back to basics and understand that investing is an art and not a science. This is why smart investors take the time to learn what advice is factual, and what is at best an educated guess. For example, I can tell you without doubt that you can't claim a tax deduction for interest on money borrowed to buy your own home but you can claim interest on money borrowed for investment. However, if you ask me where the stock market will be in a years time, or whether shares in XYZ limited are a good buy, the best I could do would be to offer an opinion that may be right or wrong.

For most people, the simple way to wealth is to buy a house in a good location and pay it off over a 10 year term. Surplus income could then be used for a borrowing plan to invest in quality share trusts. The house gives you a good lifestyle and an asset that is free of capital gains tax. Because the share trusts diversify over a wide range of companies, they protect you from the disaster that may happen if you invest heavily in just one share and the company goes belly up.

We all know that cash in the bank might appear to be safe, but it offers no tax benefits and will lose its purchasing power to inflation over the long haul. This is why we recommend a diversified portfolio with money spread over cash, property and shares. Just keep in mind that growth assets like property and shares should be looked at over a ten year period. This will give you time to ride out the inevitable flat spots.

Noel Whittaker is a director of Whittaker Macnaught, a division of St Andrew's Australia. This advice is general in nature and readers should seek their own expert advice before making financial decisions. Noel's e-mail address is noelwhit@gmail.com

David Thompson, Julie Lockeridge and Kim Evetts from Whittaker Macnaught are available in our eastern offices

Latest ATO SMSF Rulings

The following are Interpretive Decisions (ID) from the ATO that were released at the end of September. It is important to bear in mind that IDs are only binding on the ATO to the extent that they will not fine you or charge you interest if the ID is similar to your circumstances and you follow it in good faith, but the ATO decide the ID was wrong. Nevertheless they will still charge you missed tax.

These ruling relate to the SMSF borrowings, which are now permitted providing the loan is of limited recourse.

ID 2010/169

States that a limited recourse loan can be refinanced with another bank, even if it means changing the holding trust, providing it is simply a replacement loan ie no extra borrowings. Though if the new bank does want a new holding trust deed make sure the stamp duties office in your state recognises that the beneficial ownership of the property has not changed so stamp duty will not apply. The refinancing must serve no other purpose so it cannot in anyway assist with the purchase of another asset.

ID 2010/170

Covers the giving of personal guarantees by the members of the fund. There was concern that as the members would have a right to recover from the SMSF any money they were forced to pay to the lender in the event of default, then the loan was not really limited recourse because the SMSFs other assets were effectively at risk. The law in this regard changed on 7th July, 2010. This ID states that the limited recourse is intended only to protect the SMSF's assets so, providing the terms of the guarantee strictly prohibit the members from recovering their losses from the SMSF, it is acceptable for them to give guarantees. This is a great relief considering many of the major banks require these guarantees. What is important now is to make sure that as part of their arrangement members who have given guarantees on or after 7th July, 2010 have entered into an agreement that they are not entitled to recover their loss from the SMSF.

ID 2010/172

Refers to two SMSFs borrowing together to purchase a property. This was not allowed because the property in the holding trust must be held solely for the benefit of the SMSF. Though the ruling doesn't address the issue it also does not rule out the possibility of the SMSFs borrowing separately to purchase the property as tenants in common and each holding trust just covering its SMSF share under the tenants in common title.

The SMSF booklet has been removed from the web site so it can be updated with these changes.

Property Versus Shares

The following is an interview with Julia Hartman.

Personally I have made more money out of property than shares but as I have got older and lazier I have concentrated on shares. Property provides a much better opportunity to make money out of your own initiative, whether it be research, renovation or management. Shares really only provide you with the opportunity to research and even then you are competing with people that have more inside knowledge.

I have heard that shares out perform property and this doesn't surprise me because all share purchases are based on a profit making motive whereas most house purchases do not have profit on resale as a priority so it is not correct to compare these two options simply on statistical data.

The main differences I see between these two markets are:

Liquidity - you can't just sell off the bathroom of a house because you need $10,000 quickly, shares can be sold in $500 lots. Also with shares you can have your money within 24 hours, you would wait months for the funds if you needed to rely on the sale of a house. You might say that is ok I have a LOC that I can draw on in an emergency but this means you do not have money working for you so it is still a drain on liquidity.

Effort - It appears to me that if you have the energy and time to be a pro active property investor then you even as Ms or Mr Average have a better chance of profiting from your efforts than through the share market. This is also a personal consideration about what you like doing.

Leverage - Using real estate as collateral for a loan means you can borrow more and at a lower interest rate and one of the important rules of growing wealth is to have as much money working for you as possible. I wonder, if borrowing costs were factored into the performance comparisons whether shares would still come up as a better return on investment?

Diversity - Is a key risk reducing strategy in building wealth so you should have both but unfortunately with real estate this still means having a lot of your eggs in the one basket. Say you have $600,000 to invest. You could diversify by putting $300,000 into shares and $300,000 into property but this would mean just one type property in one particular area whereas the shares could be diversified across a large variety of industries. A share portfolio can even have exposure to the property market by investing in property trusts but unfortunately property trust, while giving you access to the highs and lows of the property market cannot deliver one of the main advantages of property investment, namely the opportunity to profit from your own effort.

I try to avoid directing clients specifically to shares or property but concentrate on the numbers for each particular investment decision. Though when a client is keen to have as much money working for them as possible in the property market I do recommend at least a small share portfolio as a must have for instant liquidity.

From the tax point of view it depends totally on your profile, investments available and your time frame. I am sure most readers are aware of how a tax refund generated by claiming depreciation can help a property's affordability but many don't factor in franking credits when comparing property to shares. For example let's say you borrow $100,000 at 7% to buy Commonwealth bank shares which you expect to pay a 5% cash dividend that is fully franked. If held in a low income earners name:

Tax Calculation		**Cash Flow Calculation**	
Dividend Income	$5,000	Cash Dividend	$5,000
Franking Credit	2,143	Tax Refund $2,143-$21	2,122
	7,143		7,122
Interest Expense	7,000	Less Interest	7,000
Taxable Income	143	Cash inflow on bank's Money	$122
Tax Payable $143 x 15% = $21.45		plus capital growth	

In the same situation for a high income earner the only difference would be the size of the tax bill $143 x 38.5% (assuming between $80,000 and $180,000) = $55 so the cash flow calculation would be:

Cash Dividend		$5,000
Tax Refund $2,143-55	2,088	
	7,088	
Less Interest	7,000	
Cash inflow on bank's Money	$88 plus capital growth	

South Australia

Adelaide is shaping up to be our biggest not locally supported client base. This is a mayday to accountants in Adelaide, in particular those that attended Julia's CPDS seminar to make contact and consider undertaking the professional development required to support BAN TACS clients.

Please ring Julia on 0428381864 if you would like to know more.

Employment Opportunities in SEQ

A position has become available in our Bribie Island Road office for a Tax Accountant with at least 3 years post graduate experience. It is a full time position with flexibility for children.

For more information please contact Cathy Jones on 07 5497 6777.

Increase in Charges

From the 1st October Julia's charge out rate will increase to $250 per hour. In line with this the askbantacs fee will increase to $59.95.

Where is Julia?

Still in Northern Queensland, not quite warm enough to venture south just yet, but she will be in Brisbane for most of October and the start of November then heading further south to Sydney.

Handy Little Spreadsheets for Property Investors

We have created some very simple excel spreadsheets that will show you, right before your eyes, what we have been trying to explain to clients for years. We have realised that you don't need an elaborate program that makes coffee as well. What you need is simple spreadsheets that not only help you calculate the basics but gives you confidence that you have covered all the relevant issues without needing to produce a complex result you do not understand. No need to read manuals just a few instructions on the page and pop up boxes. Take a look at the right hand column of our shopping page. The Number Cruncher helps you compare different rental properties that you are considering purchasing. The record keeping spreadsheet helps you keep your rental property transactions in order ready to do your tax return and the cash flow calculator shows you how much it will cost you per week, after receiving your tax refund, to hold a particular rental property.

Note these are not intended to eliminate the need to discuss with your accountant, they are designed to prepare you for that interview to such an extent that they will save you more than their purchase price in accounting fees.

Back Issues & Booklets

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

Alienation of Personal Services Income	*Buying a Business*	*Capital Gains Tax*
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Defence Forces [Military]	*Death and Taxes*	*Division 35*
How Not To Be A Developer	*Divorce*	*FBT for PBIs*
Fringe Benefits Tax	*Investors*	*Miners*
Goods and Services Tax	*Overseas*	*Professional Practices*
Key Performance Indicators	*Real Estate Agent*	*Rental Properties*
Overseas Backpacker Fruit Pickers	*Selling a Business*	*Small Business*
Secret Plans and Clever Tricks	*Subcontractors*	*Teachers*
Self Managed Superannuation Funds	*Wage Earners*	*Year End Tax Strategies*