

NEWSFLASH

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BAN TACS Accountants Pty Ltd

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 services of individual practitioners.

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

ATO Cash Economy Audits

Despite stating they wouldn't, the ATO is now using its industry benchmarks to decide what income a business should have and assessing it on that amount when reported income is lower than the benchmarks. The only defence is good record keeping but that hasn't even been enough in the case of one taxpayer, that reported less income than the ATO thinks they should have. The ATO is arguing that there were less sales than the number of times the till was opened so their records must be false. This is a very difficult situation for the taxpayer, the ATO are being very aggressive in this matter yet the only reason the till was opened so frequently was because the keys to display cabinets and the toilets were kept in the till draw.

If you would like to check how your figures match up go to

<http://www.ato.gov.au/businesses/content.asp?doc=/content/00214689.htm>

If the ATO walk into your premises unannounced you can tell them that it is not an appropriate time and make an appointment for them to come back later. When they do we recommend that you record the interview, you will have to tell them that you are doing this.

Christmas Break

Our offices will closed on the following days for the Christmas New Year break:

Bribie Island Road Closed 24th December, 2010 to 7th January, 2011

Burwood Closed 17th December, 2010 to 9th January, 2011

Geelong Closed 21st December, 2010 to 9th January, 2011

Gold Coast Closed 25th December, 2010 to 9th February, 2011

Kiama Closed 22nd December, 2010 to 11th January, 2011

Nowra Closed 22nd December, 2010 to 11th January, 2011

Perth Closed 24th December, 2010 to 16th January, 2011

Stanthorpe Closed 25th December, 2010 to 16th January, 2011

Tenterfield Closed 25th December, 2010 to 9th January, 2011

It has been a huge year for BAN TACS with most of the offices and Julia taking advantage of the Christmas closure just to catch up. We thank you all for the overwhelming support we have received in 2010 and look forward to continuing to keep you at the pointy end of tax law in 2011.

For us 2011 is already scheduled for the opening of at least one new office and further development of the web site. We wish you a rejuvenating break to equip you for all the success your heart desires in 2011.

The next newsflash will be available mid January.

Column by Noel Whittaker

The major assets most Australians have when they retire are their house and their superannuation. Everybody likes to receive a big lump sum but one benefit that is almost unknown is the ability of some superannuation funds to refund a lump sum to the member's estate on death, in compensation for the 15% contributions tax that was deducted from their contributions during their working life.

This is known as an anti-detriment payment and can be made only to a spouse or former spouse of the deceased, a child of any age, or to the estate provided the ultimate beneficiaries are the spouse, former spouse or a child. It can only be made when an accumulation death benefit is paid as a lump sum, or when a pension is commuted to a lump sum on the death of a pensioner (or reversionary pensioner) within the prescribed period.

The calculation of the payment is a complex one, but in many cases the fund may use a simple formula. This is between 13.68% and 17.65% of the taxable component (excluding insurance) if the eligible service period commenced before 1 July 1988, and 17.65% for service that commenced after that date.

Case Study: Jack's eligible service period started in 1989 - when he died in 2010 his superannuation was paid to his widow as a lump sum. The taxable component was \$600,000 so the estate was able to claim an anti-detriment payment of \$105,900.

Unfortunately, space restrictions allow me to only touch the surface today, and the topic is such a complicated one that expert advice is essential if it is relevant for you. The main thing is to be aware of it, and also to take note that many funds do not offer it. Accordingly, being in the wrong fund could cost your estate tens of thousands of dollars.

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 from Whittaker Macnaught are regularly available to see clients in our office

Lending To Your SMSF

Just be careful of practical difficulties here. Certainly members are allowed to lend to their SMSF providing it is a limited recourse loan where the asset is held in trust, passing to the SMSF when the required payments have been made and the interest charged is market rate or lower.

If you also intend borrowing from the bank to buy the same asset then on a strict reading of the law you may not be able to meet the above requirements. Section 67A(1)(c) of the SIS Act requires the asset to pass out of the holding trust when the final payment is made, this may not be possible if the SMSF pays you back before the bank. Further the bank might not like you taking a second mortgage on the asset.

More on Spot the Spruiker

In our forum under the topic Information Resources is an interesting article on the points to watch for.

How Capitalising Interest Sees The Year Out

The ATO has requested another 3 months to consider how they will treat arrangements where borrowings are made from a line of credit to make the interest payments on investment property loans while the rent is used to pay off private debt. The ATO's last objection was not with the rent being used to pay off private debt but the fact that the line of credit and the private debt were secured by the same property, ie the family home. They argued that the loans were linked because they share the same security. There seems very little point in trying to speed up the process at this time of year so we will wait the 3 months hoping to get a conclusion early in the new year. Though, if they ask for a further extension, after that, it maybe quicker to just push the matter into the courts. An option the ATO may want to avoid because it will draw more publicity to the issue, so stay tuned!

In the meantime if you are buying a rental property and want to leave your options open to borrow the interest payments on the rental property loan you should bear this in mind when you set up the loans at the time of purchase. Of course you can't enter into the arrangement with the dominant purpose of a tax benefit. But if you may one day enter into a budgeting strategy that maximises keeping every cent possible offset against your home loan for as long as possible, to reduce interest, then you need to make sure that the line of credit from which you will borrow the interest on the rental property can be secured elsewhere other than your home. This is where it is important to keep your options open at the time of purchasing a rental property, to maximise the equity available in it to secure the line of credit. For example you would use up all the equity in your own home as security on a loan for the deposit for the rental property. This will be such a large deposit that the rest of the borrowings for that purchase can be secured against the rental property and still leave equity in the rental property available to secure the line of credit if and when necessary.

Paid Parental Leave

The Government's new paid parental leave scheme will apply to babies born or adopted from 1st January, 2011. It is only the minimum wage that is paid for up to 18 weeks so it is important to combine this with other tax planning strategies such as payments in advance aiming to stay as close as possible to the same tax bracket in the years before and after the leave as you are in during the leave.

The payment can be made to either the mother or father, currently the amount is \$569.90 per week. To qualify you must be a resident of Australia for the purposes of the social security Act and your employment must be based in Australia. Further you need to have worked for at least 10 months in the 13 months up to the date of the baby's birth. So bad luck if you have a difficult pregnancy because you are not allowed any more than 8 weeks off in a row before the actual date of birth, though this period can be extended by paid annual, sick or long service leave. Mind you the legislation takes into account part time and casual work so while the restrictions above do apply you only have to have worked 330 hours during that 10 month period. Note even if the parent worked part time before the birth they still get the full \$569.90 per week.

Self employed people also qualify but they will have to claim their payments direct from the family assistance office. Volunteers do not qualify. Paid Parental Leave must be taken in the first year of the baby's life and the parent must not have returned to work between the birth and taking the payment.

The 18 weeks Paid Parental Leave can be joined to other maternity and annual leave entitlements but not taken at the same time. During the 18 weeks the parent can return to work for up to 10 days to attend training and planning days or in the case of self employed to check up on how the business is going.

The parent on leave must have, in the previous full financial year, earned less than \$150,001. This is adjusted taxable income so includes add backs for fringe benefits, reportable superannuation contributions, tax free pensions, targeted foreign income and investment losses, child support payments are deducted from this amount. Spouse income has no effect.

The parental leave payment is taxable in the hands of the parent and (unless multiple birth) will prevent them qualifying for the Baby Bonus or Family Tax Benefit Part B for the 18 week period the Parental Leave is paid.

The payment is made by your current employer but you need to make the application. Paid Parental Leave can be salary sacrificed if "paid" by an employer. From the employer's point of view the money is received from the Family Assistance Office and it is taxable income to the employer, the corresponding payment to the parent is tax deductible so the result has no affect. The employer is responsible for deducting tax from the payment and it must be included in the PAYG summary. The Parenting Payment

does not affect the employers payroll tax or workers compensation totals. While a parent is on paid parental leave they do not accrue long service leave or annual leave. The 9% superannuation guarantee does not apply to the paid parental leave.

If for some reason employment is terminated then the family assistance office will pay the parent direct. Until the 30th June 2011 an employer can choose not to be involved but from 1st July, 2011 it is mandatory.

Simple Solutions

Experience has taught us that more is not better. 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 helps 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.

This is what we aim to achieve in each of our simple spreadsheets. A result where you understand how it was calculated and enough questions to ensure you have included sufficient relevant information.

For the list so far take a look at the right hand column of our shopping page. Note these are not intended to eliminate the need to discuss with your accountant the answers, 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.

Where is Julia?

In South Australia then heading to Perth.



Destiny Property Investors' Summit



Ask BAN TACS

For \$59.95 you can have your questions regarding Capital Gains Tax, Rental Properties and Work Related Expenses answered. For your Accountant, we will include ATO references to support our conclusion. Just go to www.bantacs.com.au and look for the Ask Bantacs link under 'Most Popular' on 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 at www.bantacs.com.au/publications.php. You can also subscribe to our Newsflash reminder.

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Wage Earners

Capital Gains Tax
Claiming a Motor Vehicle
Division 35
FBT for PBIs
Miners
Professional Practices
Rental Properties
Small Business
Teachers
Year End Tax Strategies

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.