

NEWSFLASH

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BAN TACS **Accountants Pty Ltd**

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Queensland

Gold Coast **PNA**

Level 5, Seabank Building Marine Parade
Southport Qld 4215

Mail to: 98 High St, Tenterfield NSW 2372
Phone: (02) 6736 5383
Fax: (02) 6736 5655
E-mail: goldcoast@bantacs.com.au

Ningi **CPA**

Shop 17A 1224 Bribie Island Rd,
Ningi Qld 4511

Mail to: Location
Phone: (07) 5497 6777
Fax: (07) 5497 6699
E-mail: ningi@bantacs.com.au

Stanthorpe **PNA**

63A Maryland Street, Stanthorpe Qld 4380

Mail to: 98 High St, Tenterfield NSW 2372
Phone: (02) 4681 4288
Fax: (02) 4681 4028
E-mail: stanthorpe@bantacs.com.au

Western Australia

Perth **CPA**

312 Oxford Street, Leederville WA 6007

Mail to: PO Box 1, Mt. Hawthorn WA 6915
Phone: (08) 9443 5199
Fax: (08) 9443 5299
E-mail: perth@bantacs.com.au

New South Wales

Kiama **NIA**

2/114 Terralong Street,
Kiama NSW 2533

Mail to: PO Box 5062 Nowra DC NSW 2541
Phone: (02) 4233 2825
Fax: (02) 4447 8169
Email: kiama@bantacs.com.au

Nowra **NIA**

93 BTU Road,
Nowra Hill NSW 2540

Mail to: PO Box 5062 Nowra DC NSW 2541
Phone: (02) 4447 8686
Fax: (02) 4447 8169
Email: nowra@bantacs.com.au

Central Coast **CPA**

127 Diamond Head Drive, Budgewoi NSW 2262

Mail to: PO Box 322 Budgewoi NSW 2262
Phone: (02) 4390 8512
Fax: (02) 4390 0075
E-mail: centralcoast@bantacs.com.au

Tenterfield **PNA**

98 High Street, Tenterfield NSW 2372

Mail to: Location
Phone: (02) 6736 5383
Fax: (02) 6736 5655
E-mail: tenterfield@bantacs.com.au

Burwood **CPA**

Suite D, 37A Burwood Rd,
Burwood NSW 2134

Mail to: Location
Phone: (02) 9744 7880
Fax: (02) 9744 7882
E-mail: burwood@bantacs.com.au

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Victoria

Melbourne **CPA**

St Kilda Road Towers, Suite 615, 1 Queens Rd
Melbourne VIC 3004

Mail to: PO Box 8152 Newtown Vic 3220
Phone: (03) 5222 6962
Fax: (03) 5222 1477
Email: melbourne@bantacs.com.au

Geelong **CPA**

Level 1, 80 Pakington Street
Geelong West VIC 3218

Mail to: PO Box 8152 Newtown Vic 3220
Phone: (03) 5222 6962
Fax: (03) 5222 1477
E-mail: geelong@bantacs.com.au

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

Apologies

Many apologies for the lack of Newsflashes in May. Our computer guru went overseas, we thought we could get them up on the web site ourselves but we were wrong! All is back to normal now.

Year End Tax Strategies

Our year end tax strategies booklet has been updated for the May 2011 budget and is available free of charge in the freebies section of our web site.

A summary of the important points are, to make sure any trusts with profits & franking credits, to distribute and do your distribution minutes before 30th June. Make sure any superannuation contributions are well and truly in the superannuation fund's bank account before the 30th June 2011 and that you have notified your superannuation fund of any personal contributions for which you claimed a tax deduction in your 2010 tax return. The flood levy means that high income earners may prefer to save their tax deductions for next year rather than paying them in advance.

Column by Noel Whittaker

June 30 is rapidly approaching, which means it is time to look at your affairs to optimise your personal finances. The best tax saver is superannuation and in the next few weeks we will discuss the various strategies available.

A simple and useful one is to make a spouse contribution of \$3,000 so you can become eligible for the tax offset – it is the best way I know to get a capital guaranteed 18% on your money.

The amount of the offset is 18% of the lesser of \$3,000 or the amount of the spouse contribution actually made, so a contribution of \$3,000 would give you an immediate tax offset of \$540 which would reduce your own tax.

Once a spouse's income exceeds \$10,800 the offset tapers - no offset is payable once spouse income exceeds \$13,800.

If the spouse is under 65 their employment status is not relevant but if they are aged between 65 and 70 the spouse must be eligible to pass the work test which involves working 40 hours in 30 consecutive days. Both the contributor and the spouse must be Australian residents for tax purposes at the time the contribution is made.

The age of the contributing spouse is not relevant nor do they need to be employed. However, they cannot claim the contribution as a tax deduction.

As always, take advice and keep in mind that the contribution must be received by the fund before June 30th to be eligible.

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

Budget Summary 2011/2012

The tax rates for 2011/2012 will remain the same as they were in 2010/2011 but high income earners will have to pay a flood levy in 2011/12 of up to 1%. The tax rates for both the 2011 and 2012 financial year will be:

| | | | |
|---------|---|---------|-----|
| 0 | - | 6,000 | 0% |
| 6,001 | - | 37,000 | 15% |
| 37,001 | - | 80,000 | 30% |
| 80,001 | - | 180,000 | 37% |
| 180,001 | + | | 45% |

The most surprising and significant change that came out of the budget was the removal of the low income tax offset for minors receiving passive income. The 2010/2011 financial year is ok, the changes take effect from 1st July, 2011. The low income tax offset has been a key incentive for investing in or operating a business through a discretionary trust.

For the 2010/2011 financial year you will still be able to redirect up to \$3,333 in profits to each minor, tax free, if they have no other income.

For 2011/12 and following years children under 18 years of age will only be allowed \$416 in passive income before they start to pay tax at the maximum rate. There are exceptions if they actually earn the income. There are also concessions for minors who are orphaned, married etc and it does not apply to passive income from inheritances.

In 2011/2012 the low income tax offset will be \$1,500 which will mean taxpayers with only \$16,000 in taxable income will pay no tax. The low income tax offset starts to shade out at \$30,000 and completely disappears if your income is more than 67,499. This means that taxpayers between \$30,000 and \$67,500 really have an effective tax rate of 19% till \$37,000 then 34% because the low income tax offset shades out by 4% for every extra dollar earned. Up till 30th June, 2011 only 50% of the tax offset was received through a reduction in the tax taken from your wages. The rest was received when you lodged your income tax return. If you are a low income earner expect a bit of a boost from 1st July, 2011 as now 70% of the low income tax offset will be received through your pay packet but of course this only means a lower tax refund at the end of the year.

FBT payable on motor vehicles, provided by employers, also received a significant change. It will be shaded in over several years. And should be of particular interest to employees who salary sacrifice their vehicle. In these sorts of arrangements your overall package is reduced by the FBT payable so, even though

your employer pays the FBT it does affect your hip pocket. For the FBT year beginning 1st April 2014 all motor vehicles, regardless of the amount of kilometres travelled, will be taxed at the same rate. Namely, 20% of the price of the motor vehicle if the formula method is used. The actual cost/log book method can still be used, which will calculate the FBT payable in strict accordance with the ratio of business to private use of the vehicle.

What this means is instead of having to worry about getting the kilometres in your car up to a threshold to reduce the FBT. You are now actually better off (simply because of less fuel consumption) to minimise the use of the vehicle as any advantage for extra use has been removed.

Having been thoroughly beaten through the court system on the issue of whether education expenses can be claimed as a tax deduction against Youth Allowance. The Government now proposes to change the law to disallow the claiming of self education expenses against all government assistance. While nothing is in writing yet, whatever they do will be back dated to the 1st July, 2011. So we can all sleep well at nights knowing that the ATO is protecting the tax base by extracting tax from students with part time jobs. While gaping holes still exist in tax laws that affect high wealth individuals. And while they were busy bring university students to justice they also reduced, from 1st January, 2012, the up front HECS discount from 20% to 10% and discount for voluntary payments of \$500 or more is reduced from 10% to 5%. The latter meaning graduates maybe better off putting the money on term deposit than making a voluntary payment off their HECS. That's the way, Mr Swan, that will help put the budget in surplus!

Hybrids – Amending Your Deed

In what I can only assume is finally an admission that, hybrid trusts do not do what the spruikers have claimed and secondly that taxpayers with hybrids now have a very serious problem, MSG and Chris Batten are offering to amend hybrid trust deeds so they are “compliant”. For a fee of course and once again claiming superior knowledge in the area even to the extent of listing deeds produced by other firms that they will amend. They state that all hybrid trust deeds (including their own) will need amending.

No longer are they using any of their, if used correctly excuses, to try and make the taxpayer feel that it was something they did wrong.

I can't believe the hide of Chris and MGS. Initially they sang the praises of hybrids claiming accountants who pointed out the concept had already been squashed in the early 1990s, as “ill informed”. Now they are trying to present themselves as the heroes that can get everyone out of the mess that hybrids have created. They claim that amending the deeds is a complex area and only they should be trusted to do it properly. How gullible do they think people are? What they are really saying is come on people now pay us a premium to get you out of the mess we got you into in the first place, instead of suing us. Got to hand it to them, most people with any conscious would have climbed under a rock a long time ago.

Just in case you were thinking of lining up to let them have another swipe at you, it appears all you will get for your amendment is a unit trust, which means no asset protection! Anything other than a unit trust and the interest on the money borrowed to buy the units will not be fully deductible. So this is not an amendment that will allow your hybrid to be compliant at all. No longer will it attempt to combine asset protection, income splitting and negative gearing. You will no longer have the advantages you thought you had in the Hybrid.

So if you have yet to use your hybrid trust deed you would be better off to forget it as you can buy a fixed unit trust deed for a couple of hundred dollars. But you wouldn't bother because a fixed trust gives you no more asset protection or income splitting potential than holding the property in your own name, just added complications. After all, creditors can simply take control of your units and access the property that way. Any attempt to prevent this through the trust deed lands you right back in hybrid territory.

They claim to have a private binding ruling to support their amendments. This will not protect you, it is a private ruling, only enforceable on the ATO by them. For amendments to your deed to have ATO approval they will either have to apply for a private ruling for you personally or they need to apply for a product ruling.

If you have a hybrid trust, remember it doesn't matter if you use it as a hybrid or not, if there are hybrid provisions in the deed not all of the interest on the money borrowed to buy the units will be tax deductible ie no negative gearing.

The next problem you need to protect yourself against is triggering a resettlement of the trust. This can happen when the rights of the beneficiaries change. This is no doubt, what the amendment to the deed will

do. Accordingly, you need to get an ATO ruling that any amendments you do to change a hybrid trust need will not trigger a resettlement. A resettlement deems the assets in the trust to have been transferred so it will trigger a CGT event. This means you will have to pay CGT on any gain to date. If this is going to happen you should seriously consider biting the bullet and transferring the property out of the hybrid completely. There will be stamp duty costs so whether this is worth doing has a lot to do with which state you are in. There are some advantages even with stamp duty costs of moving the property out of the trust. It will allow you to make a fresh choice about who owns the property and if the transfer to the new owner is not done with a dominant purpose of a tax benefit they/it/you could consider borrowing the full purchase price and possibly freeing up the equity in the property to pay off non deductible debt.

Seminars

Quite a lot of seminars coming up in the next 2 months, full details in the seminar section of the web site.

Victoria:

Preparing for Tax Time Plus Question and Answer Session – Speaker Julia Hartman 7pm to 9pm Seating limited to 40 on each night. Cost \$20 Destiny clients otherwise \$40 RSVP 03 9555 4477 or 03 9488 2288.

Tuesday 14th June, 2011 Metropol Brunswick St, Fitzroy

Wednesday 15th June 2011 Buckingham Hotel Nepean Hwy, Bayside

Tuesday 21st June, 2011 - This is all about wealth, the creation of wealth through property strategies, the protection of wealth through insurance and the maintaining of wealth through tax planning. Speakers – Julia Hartman Ross Hultgren, Renee Jovic and Louise Lucas. 7pm to 9pm Newtown Event Centre, 40 Read Street, Newtown (Geelong). RSVP by 14th June to Jane at (03) 5222 6962.

New South Wales:

Wednesday 27th July, 2011 – Lots of information to protect you from property spruikers. Speakers – Julia Hartman and Paul Wilson from We Find Houses. North Ryde RSL Club Pittwater Room, child minding facilities with pagers, on the same floor.

There will be a charge of \$39 payable when you book but this is just so we can be confident you will turn up if the night turns cold. You will receive property tools including vouchers, a cash flow calculator CD and Julia's book Saving Tax on Your Investment property, worth far more than the entry fee and there will be coffee, tea and sandwiches provided so you don't have to bother with trying to fit a meal in beforehand.

Saturday 30th July, 2011 - Property Seminar in the Newcastle area during the day, just a date claimer at this stage.

Where is Julia?

She will be in Melbourne for the above seminars then back to our Burwood office on the 27th June until the end of July.

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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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.