

NEWSFLASH

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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

From Wednesday February 1st, the Federal Government Bank Deposit Guarantee will be substantially reduced. From that date, only deposits of up to \$250,000 will be subject to a Guarantee without charge. Previously, deposits of up to \$1 million were covered.

The concept of the government guaranteeing bank deposits is a recent one - the current guarantee was only introduced in 2008, at the height of the Global Financial Crisis, to stop people panicking and withdrawing all their money and placing it under the bed.

The guarantee covers all banks with a local banking licence as well as credit unions and building societies.

From emails I have been receiving it is clear that many people are concerned at the reduction in the amount of the Guarantee and are considering dividing up their funds and putting some with various banks.

Just mind that bank depositors rank ahead of bank shareholders. Therefore, for any Australian banker depositor to lose their money, it would first be necessary for all the shares in that bank to become worthless. Can you imagine what would happen to our stock market and the economy generally, if that happened?

I have total faith in the security of our Australian banks and will continue to be a bank shareholder. A far more realistic issue for most Australians is getting the best rate on their savings.

The fact that billions of dollars have lain idle in low interest bank accounts is a sad indictment of the inertia that affects far too many Australians.

Noel Whittaker is a co-founder of Whittaker MacNaught Pty Ltd. His advice is general in nature and readers should seek their own professional advice before making any financial decisions.

His email is noelwhit@gmail.com

Capitalising Interest Update

The ATO is taking full advantage of its draft ruling on capitalising interest – TD 2011/D8, to reject the ruling applications it has held for years. This is unfortunate on the one hand, because we believe that the final ruling will not be as wide as the draft. On the other hand it gives taxpayers the opportunity to make a fresh application based on the information available in the final ruling. So let's just wait and see.

Disaster Relief Payments

The following is a list, by state of the various disaster relief payments and their tax consequences. Most are not taxable but take care if you have revenue losses as many of these payments can reduce the amount of loss you can claim, even though the payment is not taxable.

NSW

Personal Hardship and Distress Assistance	Not taxable, does not reduce losses & not included in ATI*
Business Transport Freight Subsidies	Taxable with a corresponding deduction for the expense
Business Concessional interest rate loans	The interest paid is deductible

VIC

Personal Hardship and Distress Assistance	Not taxable, does not reduce losses & not included in ATI*
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WA

Personal Hardship and Distress Assistance	Not taxable, does not reduce losses & not included in ATI*
Up to \$10,000 for the replacement of white goods and floor covering	Not taxable, does not reduce losses & not included in ATI*
Interest rate Subsidies for Businesses	The subsidy is taxable and the interest tax deductible
Professional advice grants	Taxable with a corresponding deduction for the expense
Freight Subsidies for Primary Producers	Taxable with a corresponding deduction for the expense

QLD

Business Concessional interest rate loans	The interest paid is deductible
Freight Subsidies for Primary Producers	Taxable with a corresponding deduction for the expense

*ATI is adjusted taxable income which is used for Centrelink benefits/medicare levy surcharge etc.

The question of whether GST is payable on the relief or subsidy only arises if the grant is made to your business and it is registered for GST. Providing you are not making a supply or taking any action as a requirement of receiving the grant then you are not making a supply so you do not have to pay 1/11th of the amount you receive to the ATO in GST.

CGT Cost Base Of Inherited Property

Asset acquired by the deceased before 19th September, 1985 and the deceased's home at date of death are inherited with a cost base of their market value at date of death. All other assets are inherited with the same cost base that the deceased would have used if he or she sold the assets on the date of their death, reference section 128-15(4).

Section 128-15(5) allows you to increase this cost base by any expenditure the estate has incurred on the property between the date of death and you receiving the asset, for example rates on land.

ID 2004/425 further includes in the cost base of an asset the legal fees for sorting out the rights to that asset. Further section 110-25(6) would include the beneficiaries legal costs in dealing with the estate as it includes in the cost base of an asset expenditure incurred to "establish, preserve or defend your title to the asset".

ID 2001/729 specifically includes probate in the asset's cost base, though it would need to be apportioned between all the assets of the estate.

IT 2622 looks at who will pay the CGT if the estate sells the asset. Generally it would be the estate and this is not a bad outcome because in the first 3 financial years after death the estate will be taxed as a normal adult taxpayer, for example, qualify for the tax free threshold. After the 3 years are up it will probably be taxed at 19% but at worse it may be taxed at the maximum rate, currently 46.5%. If it is the final year of the estate when the CGT event takes place then IT 2622 provides an opportunity to have the beneficiaries taxed on the capital gain rather than the estate, if that provides a better tax outcome.

Is a Derelict House Still Residential Property for GST?

The sale of residential property, other than a brand new house, is generally not subject to GST. So the definition of residential property is an important detail for all property developers.

If the person you buy the property from is registered for GST then the sale price must include GST and you would be entitled to claim that GST back. Make sure you ask for a tax invoice.

On the other side of the coin, if you are registered for GST and you decide to sell a property rather than develop it, it may be worth your while making it more liveable so you don't have to pay GST on the sale proceeds.

Note that if the seller has always used the property as a rental and does nothing to it other than sell it to you in the same state that it was rented out, then section 9-30 (4) of the GST Act will make the sale input taxed, (not a supply subject to GST) and no matter what the condition of the property there is no way the purchaser will be entitled to claim the GST back.

If the property was used as a rental by the seller but only incidentally, while trying to buy adjoining land or apply for development approval, then it wouldn't qualify to be input taxed under section 9-30(4)

So when is a house not a house?

ATO GST Minutes March 2011 – A house is not residential premises if it is not fit for human habitation, based on its physical characteristics even though there maybe squatters living there.

Section 195-1 of GST Act – Describes residential premises as a building that is occupied as a residence, or for residential accommodation, or is intended and capable of being occupied as a residence, or for residential accommodation.

GSTR 2000/20 – Discusses the physical characteristics common to residential premises, the following is a summary of the points on whether a property is habitable

- (i) The premises provide the occupants with sleeping accommodation and at least some basic facilities for day to day living. The premises should have areas for sleeping, eating and bathing but it is not necessary that these things be arranged in a similar manner to a conventional house.
- (ii) The premises will be in an area zoned by Council or Shire regulations as suitable for human habitation.

PBR 38674 – Premises were still considered to be residential even though the balcony was in poor condition, the bathroom did not have a shower or tub and only an outside toilet.

Extension of QLD Building Grant

The Queensland building grant has been extended to contracts signed before 1st May, 2012. It is a government grant of \$10,000 towards the cost of building a new home.

The Power Of Price

By RUN Property CEO Rob Farmer

Everything you see and hear says your property is worth \$600,000. But wouldn't it be great if someone paid \$650,000? Imagine what we could do with an extra \$50,000.

So here's the dilemma: Do you list the property for sale at its market price or your dream price? Dreams inspire excitement and lead to plans for a brighter future, but what happens if they come crashing down? Isn't it better to be realistic from the beginning?

Unless your property is exceptional or has a "wow" factor that will provoke an outstanding offer from an emotional buyer, experience shows it is best to price your property near where you expect it to sell. That way you attract the buyers you are looking for - those with enough money to pay for it. If you price it too low you risk encouraging people whose budget does not extend to your selling price and if you price it too high you restrict people who can realistically buy the property from ever stepping inside.

A basic rule of real estate is that buyers want to see value in what they are purchasing. Today's buyers are savvy. They have more information at their fingertips than ever before so they are more educated about the market and they know what's been selling and for how much.

When you are thinking of selling, pretend to be a buyer of your property. Look for comparable properties, inspect them and talk with the agents to gain first-hand knowledge of how the market is performing. Test your market research with what the agents are telling you.

In assessing the market value of your property you must compare apples with apples. Look at recent sales of similar properties in your neighbourhood. Not their advertised prices, but the sold prices. And not properties that sold last year or in the next suburb. Even if a property of similar age and size sold across the road, are there factors that make it worth more or less than yours?

The bottom line is that you need to advertise your property to give it the best chance of selling for its maximum price. Ideally, you want to sell the property quickly. The last thing you want to do is have the property sitting on the market for months, having buyers ask why no-one wants it.

Research shows that 80 per cent of buyers become aware of a new listing within two weeks of it being advertised. With a realistic price, most properties will sell within the first weeks of a sales campaign at an optimum price. Except at the peak of a boom or for remarkable properties, overpriced properties become stale and generally sell for less than the optimum price, and after months of wasted time, heartache and expense.

Many ambitious vendors have confronted the hard lesson that properties rarely sell for their highest price two months after being listed for sale if they attracted offers within the first fortnight of advertising.

Your estate agent will guide you in every aspect of your sale. They will have an unbiased opinion of your property's value. Ask them to provide evidence to prove the price they suggest. Base your price on market results and remember the market moves. What was reality last year can be vastly different now.

Your agent is a professional working in the market every day. Trust their experience and knowledge and be prepared to go with it. If you don't, you should not have selected them as your agent.

Beware that some agents promise high prices then fail to deliver. They try to buy your business by suggesting a sales price well beyond what other agents believe. They prey on your attachment to the property and appeal to your dream of winning a trophy price. But one price quote way above others should ring alarm bells because all the agents have the same sales data on which to base their price estimate.

Price is only one part of a sales campaign which includes presentation, marketing that highlights the best features of the property and the choice of agent and selling method. But when an accurate price is included in a well planned sales strategy, you have every chance of gaining the very best price with the minimum of stress.

RUN Property is Australia's largest metropolitan real estate agency which manages property valued at more than \$10 billion and has a dedicated team of sales specialists in Victoria, NSW and QLD.

RUN Property – sales, leasing and management. For more information visit www.run.com.au

Where is Julia?

Still home in South East Queensland but will be heading to Sydney for a month in mid March.

Ask BAN TACS

For \$59.95 at [Ask BAN TACS](http://www.bantacs.com.au) you can have your questions regarding Capital Gains Tax, Rental Properties and Work Related Expenses answered. We will include ATO references to support our conclusion.

What Is New on www.bantacs.com.au

Want more? Please go to bantacs.com.au/publications.php for back issues of newsflash or download our free booklets where past newsflash articles are collated according to their topic.

With the forum and askbantacs notice board the information on the site changes daily but here is a list of significant changes in the past couple of weeks:

Destiny – Have a VIP offer on our property investors page bantacs.com.au/property.php receive their newsletter, by Margaret Lomas, free.

Age Care Who Cares? – This is Noel Whittaker's new book co authored by Rachel Lane. I haven't quite finished it but found it very relevant, not for me yet, but we all have parents and inheritances to protect. It also looks into the support available to remain in your home.

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.