NEWSFLASH

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BAN TACS Accountants Pty Ltd

BAN TACS Accountants Pty Ltd is a CPA Practice

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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

The continual movement of the goal posts may put you off contributing to super, but the fact remains that superannuation remains a major tool for anybody trying to build wealth. One of the best strategies is salary sacrifice whereby a pre-tax sum is contributed to super instead of being taken in hand.

Suppose a person is 50, earns $90,000 a year and has a $300,000 home loan which they would like to have paid off in fifteen years - this would require repayments of $2696 a month. If they received a pay rise of $12,000 a year, and took it in cash, they would have $7380 after losing $4620 in tax.

If they opted to salary sacrifice it to super instead, the only tax deducted would be the 15 per cent contributions tax, so they would have $10,200 working for them - an extra $2820 a year.

The strategy of making extra contributions to super would give them $179,000 after 11 years if their fund earned 8%. Remember, there is now no limit to how much you can accumulate in super, and withdrawals are tax free once you reach age 60.

Let's compare the two strategies. Taking the pay rise in cash and paying it off their mortgage would have the loan paid off in 11 years. If they left the payments unchanged and salary sacrificed the pay rise to super, the loan balance would be $113,000 at the end of year 11 but it would be more than matched by the extra $179,000 they had accumulated in super. Using the salary sacrifice strategy, and leaving the loan repayments unchanged, is worth an extra $66,000 to them.

Noel Whittaker is a co-founder of Whittaker Macnaught Pty Ltd. His advice is general in nature and readers should seek their own professional advicebefore making any financial decisions.
His email is noelwhit@gmail.com

Statistics

In June the statistics should be available from last year's census. This information can be very useful in business planning. It should be available on
http://www.abs.gov.au/websitedbs/censushome.nsf/home/data?opendocument#from-banner=LN

Here is a link to some very interesting trend data. Move your mouse from left to right.
http://www.abc.net.au/iview/?WT.srch=1&WT.svl=TV_iview_au#/recent

Year End Tax Strategies Booklet

The 2012 version of this booklet is now up on the web site at:
http://bantacs.com.au/booklets/Year_End_Tax_Strategies_Booklet_2012.pdf

Get Those Superannuation Contributions in on Time

Employers have until the 28th July to make the superannuation contributions they are obligated to pay for the June period, under the superannuation guarantee. But if the contribution is made after the 30th June, 2012 the employer will not be entitled to a tax deduction for it until the 2012/2013 financial year even though the liability fell in the 2011/2012 financial year.

If you are contributing salary sacrificed contributions or have employees who are close to the $25,000 or $50,000 cap you should also take a careful look at their particular circumstances. The amount contributed for the purposes of the cap is also based on the date it is received by the fund. Delaying these contributions until after 30th June could result in your employees missing out on maximising their cap this year and possibly exceeding their cap next year.

On the other hand if last year you made the June contribution in July but this year you are making it in June your employees will have 5 quarters' worth of contributions in the 2011/2012 financial year. Before you do this make sure you will not be pushing anyone over their cap.

In Peaker 2012 AATA 140, the employer posted the contribution on 28th June but it was not recorded as income of the fund until 5th July. This meant that the employee exceeded his cap for the following year. The AAT upheld the ATO's assessment of excess contributions tax as there were no special circumstances which would allow the amount to be allocated to another year.

Due to data matching the ATO will always be informed should your cap be exceeded.

Employees when negotiating their salary package should consider including a clause requiring their employer to physically make the superannuation contribution in the month that it is sacrificed.

New Reporting Obligation for the Construction Industry

From the 1st July, 2012 businesses in the building and construction industry will be required to provide the ATO with a report on all the payments they make to contractors. So make sure you get your record keeping in place straight away.

You will need a separate report for each entity or person you pay, it needs to record their ABN, name; address, gross amount (including GST) you paid them for the financial year, and the GST portion. Note even if the amount includes materials it must still be included in the report but invoices that are solely for materials do not need to be included. The report must be submitted to the ATO by the 21st July of the following year.

A standard accounting system will probably not be able to produce this report because it requires the amount to include GST and to only list payments made in that period. While your accounting system may be able to give you a report of the payments you have made to individual contracts it will probably be net of GST and on an incurred not paid basis so you may need to start a separate system to meet this requirement.

Anyone whose business is primarily in the building and construction industry and makes payments to contractors who are also in that industry is required to report. The obvious examples come to mind but it also includes payments for designs such as architects, decorating, earth moving, project management, installations, repairs and maintenance.

A business is considered to be primarily in the building and construction industry, if in the current financial year or previous financial year 50% or more of its income or activity is from the building and construction industry. So there is a carve out for businesses that may sell materials but also provide an installation service as a minor part of their business. The catch is many businesses are not going to know whether they cross the 50% threshold until the end of the financial year so you will need to keep the appropriate records if you are anywhere near the 50%.

Please note this obligation affects even the smallest contractors who may just pay someone to help them.

Capitalising Interest Page Updated

The capitalising interest page has been updated to include a discussion on TD 2012/1
http://www.bantacs.com.au/capitalising-interest.php

ATO Makes Life Difficult for Renovators Using A SMSF

The ATO has finalised its draft ruling on what a SMSF can borrow for and what it can do with assets that are held as security for SMSF borrowings on 23rd May 2012. The final ruling is SMSFR 2012/1.

The two main points are that you cannot fundamentally change the character of a property that is security for a SMSF limited recourse loan and you can only borrow for repairs when the property being repaired is security for a SMSF limited recourse loan:

1) An asset that is held as security for SMSF borrowings cannot be fundamentally changed,
2) Borrowings cannot be undertaken to improve an asset
3) Borrowings cannot be undertaken to repair an asset that is not the security for the borrowing and of course you can't mortgage an asset already owned by the SMSF
4) Each borrowing arrangement must be for an individual asset.

Between the draft and final ruling there appears to be a change in the definition of repair. The draft stated that a "repair" can restore the property to its original condition even though it needed the repair when acquired. The final ruling in paragraph 22 only states that work that "restores the function of the asset to what it was at the time it was acquired, and uses similar or equivalent materials, is a repair". Paragraph 26 appears to tone this down a little to say it is ok to borrow to undertake repairs that needed doing when you purchased the property. Then at paragraph 27 it says the greater the state of deterioration at the time of acquisition the more likely it will not be considered a repair but an improvement.

This puts renovators in an uncertain position, due to the severe penalties for non complying funds we recommend that they apply for an ATO ruling for each renovation project if it involves borrowing money to undertake the "repairs".

Renovators also need to take care not to improve the property too much. You cannot fundamentally change a property that is security for a loan. The final ruling gives a more detailed list of what would be going so far as to change a property. While you can't borrow for the following you can do these to an asset that is security for a SMSF loan:

(a) extend to add two bedrooms
(b) put in a swimming pool
(c) add a shed, garage or outdoor entertaining area
(d) put in a self contained granny flat providing it is not a separate title

Of course a property development is a fundamental change to a property so you cannot borrow to undertake a development or to buy a property you are going to develop.

Preparing PAYG Summaries

During this year we noticed a lot of errors on PAYG summaries in the reportable payment boxes. Here is a quick check of common misconceptions.

Reportable FBT – This is the fringe benefit amount grossed up (multiplied) by 1.8692. If the fringe benefit amount before grossing up is less than $2,000 it does not need to be reported. This means that if you receive a PAYG summary with an amount less than $3,738 in the reportable fringe benefits box a mistake has been made.

Reportable superannuation contributions – this amount does not include payments your employer is required to make under the superannuation guarantee or award. It generally only catches salary sacrificed contributions.

Employers are only allowed to claim a tax deduction for superannuation contributions they have actually paid into a superannuation fund during the 2011/2012 year. This usually means they can't claim a tax deduction for the last quarter's super but can claim the last quarter's super from the previous year. This is not the case for reportable superannuation contributions. The amount that appears in the box is the amount of superannuation attributed to the 2011/2012 financial year ie. earned by the employee and sacrificed even if not yet received by the superannuation fund. For the purposes of superannuation cap it is added back to the amount actually received by the superannuation fund and allocated to the employee's account during the year that contributes to the employee's cap, whether it be a salary sacrificed contribution or a compulsory amount paid by the employer.

SMSF Less Protected Than Public Funds

If you are using your SMSF to buy direct property then you have no other choice than to do so through a SMSF. On the other hand if you are investing in public listed securities through your SMSF you are missing out on the protection of compensation for losses from fraud and theft that APRA provides to public funds. This compensation extends to losses through fraud or theft within the fund managers that the public fund invests in.

Washington Brown Quantity Surveyor Reports

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http://calc.washingtonbrown.com.au/wbdcalculator/calculator.aspx?RID=W1QFXSU1VS

Gold Coast, Southport Office

If you would like to talk to Lyn at our Gold Coast, Southport office about preparing your interim accounts for year end tax planning or about changing to Bantacs accountants before 30th June, please ring and book soon. The next available appointment this financial year is the 19th June and that is filling up. If you need to see Lyn before 30th June please don't leave it till the last minute. Appointments can be made by ringing **(02) 6736 5383**

Where is Julia?

Still at home, but heading north to our Mackay office, for the rest of the winter, at the end of the month.

Ask BAN TACS

For $59.95 at Ask BAN TACS you can have your questions regarding Capital Gains Tax, Rental Properties and Work Related Expenses answered by Julia. We will include ATO references to support our conclusion.

What Is New on www.bantacs.com.au

Want more? Please go to www.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:

Capitalised Interest Update - http://www.bantacs.com.au/capitalising-interest.php

Year End Tax Strategies 2012 -
bantacs.com.au/booklets/Year_End_Tax_Strategies_Booklet_2012.pdf

Notice Board – Two askbantacsers have kindly agreed to have their question made public on the notice board. They cover the following:

Refinancing and substituting securities - http://www.bantacs.com.au/QandA/index.php?xq=378

Prepaying Rates and Body Corp Fees - http://www.bantacs.com.au/QandA/index.php?xq=380

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.