

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

Toowoomba Office

After a self-imposed year of not taking on new offices while we consolidated and planned for our future we are now back into growing the group from a position of strength. Every office gained benefits all clients from economies for scale to specialist knowledge. Each practitioner in the group brings their years of experience and speciality as well as a broad general knowledge. Each individual BAN TACS office through our co operative has access to the knowledge base of a large firm but is still in a position to give individual attention from the owner of each office, to every individual client when needed. This is why we can so confidently guarantee we will get the answer to even the most complex question.

Our first new office for this Financial Year is Higgins and Wood in Toowoomba. James Wood is the practitioner ability assisted by David Irwin. Their particular areas of expertise are:

James Wood

SMSF admin and strategies
Small and Medium Business Issues
Work Related Expenses
NRAS, rental property issues

David Irwin

Business Structures, Start-ups
Primary Production - cotton, grain, livestock
Childcare
General Tax Issues for SMEs incl CGT
Property Investment - general

Our Toowoomba office is also trialling the Xero cloud accounting process which is set to revolutionise recording keeping for micro business by preparing most of the information required direct from the bank statements and allowing the client and the accountant to view the data simultaneously.

For more information on our new Toowoomba office go to www.bantacs.com.au/1_toowoomba.php

2012 Tax Return Checklist

The checklists on our web site to help you collate the necessary information to prepare your tax return have all been updated for 2012 issues.

For tax returns - www.bantacs.com.au/docs/c3.pdf

For Rental Properties - www.bantacs.com.au/docs/c7.pdf

For businesses - www.bantacs.com.au/docs/c1.pdf

Mailing In Tax Returns - www.bantacs.com.au/mail-in_tax_returns.php

Urgent Message Re BASs and IASs

The ATO has made a mistake in the barcodes on some of its latest BASs and IASs. If you use the incorrect bar code to pay your tax the payment will not be credited against your tax liability. It could actually pay someone else's or possibly end up in cyberspace at the ATO. No doubt that will lead to all sorts of problems getting your money back. Bar codes are used when you pay through a post office.

While not all BASs and IASs are affected it is best to just not pay your tax through the post office. Electronic transfer is a far safer way. If you are not able to electronically transfer your tax and must use the post office ask them to manually enter the EFT code rather than use the bar code.

The ATO claim they have advised post offices of this problem but none of the ones we spoke to were aware of it.

Column by Noel Whittaker

Thanks to the recent tax cuts, anybody earning under \$80,000 a year should have an extra \$6 a week in their pay packet. This is just one of many tax cuts we have received in the last 15 years, and every time we get one I have urged readers to immediately increase their home loan repayments by the amount of the tax cuts otherwise the money would be frittered away.

Those who took the advice are practicing what I call "the guaranteed secret of wealth." Everybody, irrespective of income, tends to pay their commitments, spend the balance, and end up broke on pay day. Remember, if you try to save what's left over at the end of the week, you inevitably find there is nothing. However, your wealth will grow faster and faster if you arrange your affairs so that investment happens automatically. This is why increasing your home loan repayments works so well.

Back in 1980 I was on national television telling viewers to pay their home loans fortnightly and not monthly. The banks scoffed at the idea but they had missed a major point - if you are paying \$1,000 a month on your loan, and you change to \$500 a fortnight, you are repaying an extra \$1,000 a year because there are 12 calendar months, but 26 fortnights.

This is why the easiest way to get ahead is to take on some sort of a commitment. It may be buying your own home and paying it off, committing to a regular savings plan or borrowing for investment. No matter which way you go, there's still a commitment involved.

The way to wealth is to focus on accumulating assets, not accumulating more income. When your income increases, tax takes a larger and larger proportion of it, and human nature being what it is, you'll tend to spend at least as much as the extra you earn. However, when a major part of "the income" coming into your home is by way of capital growth, or reinvested income on your investment portfolio, you are not tempted to spend it, as it involves cashing in precious assets. Best of all, the sum gets larger and larger as time goes by. This reinforces your decision to leave it alone.

Noel Whittaker is the author of Making Money Made Simple and numerous other books on personal finance. His advice is general in nature and readers should seek their own professional advice before making any financial decisions. Email: noelwhit@gmail.com

Keeping Diaries

Due to the ATO's extraordinary interest in diaries this year and their tendency to completely deny deductions without a diary showing the apportionment between business and private use of computers, phones, cars, internet, etc. we have developed a little spread sheet to help clients get started. As always, no bells and whistles, a clear presentation with minimal instructions and optional additional information if required. This is available on the shopping section, bantacs.com.au/shopping_calculators.php, of our web site for \$5.95.

If you would like to receive this free, all you have to do is take the time to sign up for our forum. Something that you will find well worth your while anyway but we want to provide a little incentive. To initiate the process go to www.bantacs.com.au/forum_introduction.php. To become a member of our forum you need to prove your identity and any qualifications. This enhances the quality of the information on the forum. If you are already a BAN TACS client simply tell us which office and we will take it from there. Please don't let this discourage non clients from joining, they are just as welcome, it is just the identification process that may take a little longer.

Julie Lockeridge Has Moved

Whittaker Mcnaught is no longer owned by Noel Whittaker and Cheryl Macnaught. It has changed hands a few times over the years and is now owned by the Commonwealth bank. Considering the independence that Whittaker Macnaught once enjoyed, for some planners it is a case of trying to fit a square peg in a round hole.

Julie Lockeridge has broken free and now works for Kimmorley Financial Management. She is still based in Southport, now at 56 Scarborough Street. Of course she is prohibited from contacting her clients but should you need her help you have every right to contact her. Her new contact details are 07 5591 1725 and julie@kfm.net.au. It has taken Julie a long time to make this move and she is very pleased to be part of a smaller independent practice again. Kate Kimmorley won the financial Planning Association's 2011 Best Practice Award for the Gold Coast.

Substantiating Travel Expenses for an Allowance

TR 2004/6 explains how when an employee receives a travel allowance and sleeps away from home for work purposes they can claim up to a reasonable amount as a tax deduction against that, though they must be able to convince an auditor that such expenses have been incurred.

It has come to our attention that some ATO auditors are demanding a diary itemising every expense incurred. This of course is more trouble than getting receipts but easy enough to make up if you were trying to rout the system. So I fail to see how this stance assists revenue collection other than from taxpayers who are extremely honest yet not good record keepers. If anything it just encourages taxpayers to produce lie sheets. Further, this approach by the ATO seems to be in direct contradiction with paragraph 38 of TR 2004/6:

38. If the travel allowance expense or overtime meal allowance expense claimed qualifies for exception from substantiation, it is not necessary to keep written evidence as would otherwise be required under Subdivision 900-E of the ITAA 1997. **The objective of the exception is to relieve taxpayers, who are covered by the exception from substantiation, from the requirement to determine claims relying on detailed calculations based on records or receipts.**

39. However, a taxpayer may still be required to show the basis for determining the amount of their claim and that the expense was actually incurred for work-related purposes. What counts as evidence for a claim subject to the substantiation exception will vary according to individual circumstances and the nature of the expense. If necessary, it is acceptable for a reasonable estimate to be the basis for claims having regard to the taxpayer's occupation and the types of expenses that would be expected to be incurred. This is a significantly lesser requirement than the need to keep written evidence.

Now it would seem to me that a diary entry of every expense incurred is a detailed calculation based on records. This statement is much more likely to describe keeping receipts for a day or two and using them to estimate the rest of the trip. Maybe it is just a case of individual auditors bullying and bulling rather than referring to the ATO guidelines.

The simple solution is not to get your employer to put the travel allowance on your PAYG summary. Employers are not required to report travel allowances on the PAYG summary when it is within the reasonable amounts set by the ATO and the employer is of the opinion it has been fully expended. Of course if your employer does this it will be difficult for you to claim as a deduction the difference between what your employer pays you and the reasonable amount set by the ATO.

Building a Granny Flat in Your Own Back Yard

If you build a granny flat in your back yard and rent it out right from the start then according to TD 1999/69 it is a separate dwelling from your home so treated independently for CGT purposes. This means that it, and the land associated with it cannot be covered by your main residence exemption. For the land this can go right back to the date of purchase. You will need to apportion the original purchase price and any other additions to your cost base to date, between your home and land and the land under the Granny flat. Your house and associated land will still be covered by your main residence exemption but the land associated with the Granny flat will lose its main residence exemption right back to the time that you purchased it. The cost base for the Granny flat will be its building costs and the original price of that piece of the land so, assuming you have held the property for a while, you have just created a taxable capital gain that did not exist before the Granny flat was constructed.

If instead the Granny Flat is initially used as part of your home then it is not considered by TD 1999/69 to be a separate dwelling so then your main residence exemption continues to protect the whole property,

though some of the gain will be taxable but only for the period it is and portion that is actually used to produce income.

It appears that if the granny flat is initially used as part of the main residence it will always be treated as part of the main residence, unless sold separately. So you could build a Granny flat and use it as part of your home for at least 3 months. Then when you do decide to rent it out section 118-192 will reset the value of the whole property to its market value, this solves the problem of the gain on the land underneath.

Once the Granny flat has been established as part of your home then when it does become a rental property the whole property is treated the same way as if you were renting out a couple of rooms in your house, refer IT 2167. This means that all expenses associated with the whole property are apportioned but expenses relating solely to the Granny flat would be fully deductible against the rent.

Once the granny flat starts out life as part of your dwelling then TD 1999/69 can never treat it as a separate dwelling unless of course you subdivide and it is sold separately. While the property will still not be fully covered by your main residence exemption while it is used as a rental at least it will be covered in the times it is not and you can effectively use the costs associated with your home to reduce the CGT on the granny flat so it will probably give you a better CGT outcome when you sell the property, if the costs of maintaining your own home, such as cleaning materials, interest, repairs etc exceed its capital growth.

The CGT calculation is covered in section 118-190 ITAA 1997. You add to the valuation any costs, after the reset date, that are associated with the whole property that you have not otherwise claimed as a tax deduction since the reset (section 110-25(4)). There won't be much for the granny flat because you will be claiming these expenses while it is earning income but for your house there will be plenty, the calculation works to reduce the capital gain on the granny flat with your household expenses. The expenses can even include lawn mower fuel and light globes. Keeping good records will save you heaps in CGT.

Where is Julia?

Made it to Mackay and will be up there until October, stay tuned for seminars.

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:

Updated Tax Return Checklists - www.bantacs.com.au/tools.php

Updated Mail In Checklists - www.bantacs.com.au/mail-in_tax_returns.php

The Forum – For a question on accessing superannuation go to www.bantacs.com.au/forum/viewtopic.php?f=18&t=84&p=146&sid=c058363ac7fb2fcdad0229eacd168288#p146

Askbantacs Notice Board – Askbantacsers have kindly agreed to have their question made public:

Home overseas before becoming Australian resident www.bantacs.com.au/QandA/index.php?xq=391

Claiming more than Employer's Meal Allowance www.bantacs.com.au/QandA/index.php?xq=393

Buying a home to subdivide www.bantacs.com.au/QandA/index.php?xq=394

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.