

# NEWSFLASH

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Issue Number: 254

Pages: 4

Date: 1<sup>st</sup> September, 2012

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

## Overtime Meal Allowances

If your employer pays you an overtime meal allowance as part of the award or industrial agreement you work under, you can claim a deduction for your meal. Unlike the other allowances we have discussed, even if you have the receipts for your meals and worked overtime, you will not be entitled to claim a tax deduction for them unless you have received an allowance. It is not enough that as part of your wage negotiation you are paid more to take into account the fact you have to buy meals when you work overtime. This will not count to make those meals deductible. You must actually receive the individual allowance each time.

Once you qualify by receiving the allowance you can then claim much more than you received, provided you do spend more and you have a receipt for the expenditure. Note you can stop at a restaurant on your way home after working overtime and claim that meal.

If you haven't kept a receipt for the meals then you are only allowed to claim up to \$27.10 (reference TD 2012.17) and then only if you actually did spend that amount or more. This is the rate for the 2012/2013 financial year, a new amount is issued by the ATO each year.

Note employers do not have to put the overtime meal allowance on your PAYG summary if they believe it has been fully expended, so you will need to record for yourself the amounts you receive. If you want to claim a tax deduction in excess of the allowance you will need to include the allowance in your tax return as income to make a corresponding deduction.

If you operate your own company or trust you will be an employee of the company or trust but you will only be entitled to pay yourself a meal allowance if your trust or company pays you in accordance with the relevant award or industrial agreement. This is sometimes difficult for business owners as they only tend to get paid when the business has money available.

For a discussion on meal allowances for employee truck drivers please refer to Newsflash 252.

## Column by Noel Whittaker

Recently I was asked how it is possible for retired people to pay no tax. There are several ways this can occur.

For starters, the Senior Australian Tax Offset (SATO) allows a single person to earn \$32,279 a year without paying tax - for a couple it is \$28,974 each.

This raises the question of whether retired people need to stay in superannuation where there is a death tax of 16.5% on the taxable component that is left to a non-dependent. Suppose a couple's only financial asset is \$250,000 in super. If they leave it in the accumulation phase it will incur 15% tax on its earnings, and if they start an account based pension the fund will be tax free, as will the pension. However, they will still have the costs of running the fund.

If the money was withdrawn and invested outside the superannuation system, it would be unlikely that the earnings would exceed \$20,000 a year, which is far short of what they could earn tax free.

Of course advice should be taken before a retiree removes money from super because it could be receiving concessional treatment for the Centrelink income test.

Think about a couple aged 66 and 65 with superannuation of \$300,000 which is now in the account based pension phase. His life expectancy is 17.76. The exempt amount for Centrelink income test purposes is found by dividing the superannuation account balance by his life expectancy. In this example it is \$16,892.

These examples illustrate two things: the generosity of the Australian tax system to senior citizens, and also the importance of getting the right advice.

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](mailto:noelwhit@gmail.com)

Editor's Note: The age pension is also considered taxable income so it needs to be taken into account when working out how much interest you can earn before you will pay tax as a Senior Australian.

## A Bit of Housekeeping If You Lodge BASs Or Pay Your Tax By Instalments

The ATO will be sending out notices to people who did not have some of their 2011/12 income taxed at source. The ATO takes the 2011/12 income that was not taxed at source then increases it by 6%, works out the tax you will pay on that at 2012/13 rates, assuming everything else will remain the same. This tax amount is then divided by 4. Each quarter you will receive an Income Activity Statement (IAS) from the ATO for one quarter of this amount. It is important to note that if you want to vary this amount for the full year you must do so on your first IAS for this financial year.

Generally, during the year if you find you have made an error in the previous BAS you will simply adjust for it in the next BAS. It is best not to do this over two financial years. If you find an error that dates before 30<sup>th</sup> June, 2012 do not amend it in this next BAS. Instead ring the ATO and ask for a Revised Activity Statement for the June BAS.

If you start to employ for the first time during the year, don't forget to notify the ATO of this. From that point your BAS will be different, it will have W boxes on it where you can show the wages you have paid and the amounts of tax you have withheld. You also need to make sure you have a workers compensation policy in place. If they earn more than \$450 a month you may also need to make superannuation contributions for them. Before you pay any new employee, make sure they fill out an employment declaration form and that you send it to the ATO.

## More Obligations on SMSF Trustees

On 7<sup>th</sup> August, 2012 the new regulations were introduced that will require the trustees of SMSFs to at least, every year, review the SMSF's investment strategy and this must include at least a comment on the insurance needs of the members. This requirement can be met by creating a minute of a meeting of the trustees (or directors of the trustee if a company), close to the end of the financial year, discussing the way the fund's assets will be invested in the future, what the insurance needs of the members are and while you are at it record what the trustees consider to be the market value of all the fund's assets (individually) at that date.

## CGT – Resetting The Cost Base On Your Home

Here is a trap for readers who may think they can rely on a market value reset in their CGT calculation. This may not be the case if you later demolish the dwelling.

Section 118-192 of 1997 ITAA allows you to reset the cost base of your home to its market value at the date it first produces income, providing, up to that date the property has been covered by your main residence exemption for the whole time. The trap is in the fine print. You see the section requires there to be a dwelling on the property when the CGT event happens.

The worst case scenario is living in a property for 20 years, then demolishing it and selling the land. Without the dwelling there is no main residence exemption at all for the whole 20 years. Your capital gain will be calculated from the original purchase price, with no allowance for inflation. The tax would probably mean you would not have enough money left to buy another home.

I used to be of the opinion that renting it out, before you demolished the property, would allow you to reset the cost base under section 118-192 to the market value at that time, locking in place protection for the main residence period. It seems this area of law is not quite that clear cut and there are conflicting opinions as to how this section operates.

Here is the applicable part of section 118-192:

There is a special rule if:

**(a)** you would get only a partial exemption under this Subdivision for a \*CGT event happening in relation to a \*dwelling or your \*ownership interest in it because the dwelling was used for the \*purpose of producing assessable income during your \*ownership period; and

**(aa)** that use occurred for the first time after 7.30 pm, by legal time in the Australian Capital Territory, on 20 August 1996; and

**(b)** you would have got a full exemption under this Subdivision if the CGT event had happened just before the first time (the *income time*) it was used for that purpose during your ownership period.

\*You are taken to have acquired the dwelling or your ownership interest at the income time for its market value at that time

In (a) the dwelling needs to be on the land when a CGT event happens. Generally the CGT event would be the sale of the property. But CGT event C1 includes demolishing a house, refer section 104-20:

CGT event C1 happens if a \*CGT asset you own is lost or destroyed.

The time of the event is:

(a) when you first receive compensation for the loss or destruction; or

(b) if you receive no compensation - when the loss is discovered or the destruction occurred.

But we are not out of the woods yet, in ID 2002/633 the ATO claim that there is no CGT event C1 if there are no proceeds. Though, ID 2002/633 does not specifically relate to section 118-192. So whether demolishing a property can meet the requirement of section 118-192 that a CGT event take place while there is a dwelling on the land is uncertain and opinions are divided. I think it may but don't take my word for it. Before you go relying on this section to reset your cost base, apply to the ATO for a ruling on the matter. All the references you need are quoted above.

## Getting Your Loan Right

As discussed in detail in our claimable loans booklet there are many ways a loan can lose its deductibility. Quite often it is the bank's administration practices that will slip you up. For example the bank may require you to draw down immediately the loan you have arranged in readiness to pay a deposit when you find the right house. They may even just step in and put the money into your everyday banking account. This simple transfer by the bank will ensure that the interest will never be deductible on that loan. Another trap is the bank instructing you to use your savings to pay the deposit quickly while they organise the loan for the deposit, then reimburse yourself. That loan will also not be deductible. Or at the eleventh hour the bank does not provide you with the terms original you agreed to.

This is why I prefer clients to use brokers. They are acting for you not the bank. They know what each bank has available and the games they play. In the case of the brokers we recommend, they also know how to make sure the deductibility of your loan is not compromised. On top of all that they do the shopping around for the best loan for you.

Please read our claimable loans booklet so you know the traps, but do yourself a favour and make sure your broker is aware of these too. On the booklets page of the web site

<http://www.bantacs.com.au/booklets.php> and on the cover of the claimable loans booklet we have listed brokers, covering the east coast, who understand the traps and what the banks have to offer.

## Reverse Mortgage Calculator

In Newsflash 252 I analysed how given reasonable capital growth a reverse mortgage could leave the estate in a better position than downsizing due to buying, selling and moving costs. Considering the amount borrowed is relatively small compared with the total value of the property that will continue to appreciate.

There is now a calculator available on the web site that you can use to do some what if analysis of your particular circumstances. [http://www.bantacs.com.au/shopping\\_reverse\\_mortgage\\_calculator.php](http://www.bantacs.com.au/shopping_reverse_mortgage_calculator.php)

## Seminar

Julie Lockeridge is presenting an Aged Care Seminar on the Gold Coast. Speakers will include Noel Whittaker, Rachel Lane, Ross Higgins and Julie herself. The seminar begins at 9.30am till 12.30pm on Thursday the 13<sup>th</sup> September at the Robina Community Centre, 196 Robina Town Centre Drive. The cost is \$10 per single or \$15 per couple. To RSVP (07) 5591 1725 or email [admin@kfm.net.au](mailto:admin@kfm.net.au) This is not just about retirement villages it covers in home care, Centrelink and estate planning. More information is available on our web site. <http://www.bantacs.com.au/seminars.php>

## Where is Julia?

Still in Mackay but she will be heading to Townsville for a quick visit, shortly.

## 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. We will include ATO references to support our conclusion.

## What Is New on [www.bantacs.com.au](http://www.bantacs.com.au)

Want more? Please go to [bantacs.com.au/publications.php](http://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.

It is a shame that all questions on askbantacs have been marked private so nothing new this edition. If you are interested in looking at the answer to many questions go to [Ask BAN TACS Notice Board](#)

Just recently quite a few people have applied to go through the identification process to join the [forum](#) so hopefully the will be enough members to really get the discussion going soon.

The affiliates page has been updated with more of our trusted advisers <http://www.affiliates.bantacs.com.au/index.php> These are people we have worked with for years and worked closely enough to know they have the right knowledge and ethics.

Welcome to Julie Lockeridge who is advertising on our home page and is included in our affiliates. Julie is a financial planner with a particular interest in Aged Care. Follow this link to view her profile:

<http://www.affiliates.bantacs.com.au/julie-lockeridge.php>

Please watch our seminar page if you are in Mackay as there will be a SMSF seminar being held there very soon <http://www.bantacs.com.au/seminars.php>

The reverse mortgage calculator has been added to the shopping page [http://www.bantacs.com.au/shopping\\_reverse\\_mortgage\\_calculator.php](http://www.bantacs.com.au/shopping_reverse_mortgage_calculator.php)

**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.