

NEWSFLASH

Visit us at www.bantacs.com.au

For website technical support email technicalservices@bantacs.com.au

For all accounting & tax support contact one of our offices or go to www.bantacs.com.au/QandA/index.php

BAN TACS Accountants Pty Ltd

BAN TACS
Accountants
Pty Ltd is a
CPA Practice

CPA



Issue Number: 257

Pages: 4

Date: 15th October, 2012

Queensland

Gold Coast **PNA**

Phone : (07) 6736 5383

E-mail: goldcoast@bantacs.com.au

Mackay **CA**

Phone: (07) 4957 8340

E-mail: mackay@bantacs.com.au

Ningi **CPA**

Phone: (07) 5497 6777

E-mail: ningi@bantacs.com.au

Stanthorpe **PNA**

Phone: (07) 4681 4288

E-mail: stanthorpe@bantacs.com.au

Toowoomba **CPA**

Phone: (07) 4638 2022

E-mail: toowoomba@bantacs.com.au

New South Wales

Burwood **CPA**

Phone: 1300 367 688

E-mail: burwood@bantacs.com.au

Central Coast **MNIA**

Phone: (02) 4390 8512

E-mail: centralcoast@bantacs.com.au

Tenterfield **PNA**

Phone: (02) 6736 5383

E-mail: tenterfield@bantacs.com.au

Victoria

Geelong **CPA**

Phone: (03) 5222 6962

E-mail: geelong@bantacs.com.au

Melbourne **CPA**

Phone: (03) 5222 6962

E-mail: melbourne@bantacs.com.au

South Australia

Adelaide **CPA**

Phone: (08) 8352 7588

E-mail: adelaide@bantacs.com.au

Visit Bantacs.com.au [About Us](#) section to view office location details and information about BAN TACS practitioners.

Liability limited by a scheme approved under Professional Standards Legislation

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

Renovating for Profit

If you buy a property with the intention of doing it up and selling it then you are in business. The property is not an investment so it is not subject to CGT or your main residence exemption. Instead you purchased it with the intention of resale at a profit so the profit is taxed as normal income. Further, if your renovation is substantial you will also have to charge GST when you sell but you can claim input credits and possibly utilise the margin scheme.

If you rent the property out before you renovate you may qualify for large tax deductions when you scrap part of the house or plant and equipment. So you need to consider whether you should get a quantity surveyor in before you start. A deduction for scrapping is only available if the property is rented out during the renovation or it is rented out immediately before the renovation begins and you do not live in the property during the renovation.

If you are in the business of renovating to sell you will have to charge GST if the renovation is substantial. Fortunately, 'substantially renovated' is really that; it takes quite a considerable amount of changes before you will trigger GST. *Section 195-1* of the *GST Act* states "substantial renovations of a building are renovations in which all, or substantially all, of a building is removed or is replaced. However, the renovations need not involve removal or replacement of foundations, external walls, interior supporting walls, floors, roof or staircases".

GSTR 2003/3 is the ATO's ruling on the matter. It is not just based on how significant the renovation is but whether it affects a substantial part of the original property. For example, you could put an extension on the back of a property that is twice the size of the original house but if you don't renovate the original house then there is no substantial renovation. Superficial changes to all the rooms in the house do not make the renovation substantial either, even though all rooms are affected. An example of this would be painting all the walls.

GSTR 2003/3 specifically states at paragraph 76 that replacing a kitchen, bathroom, repainting the whole property and doing minor repair work, in most circumstances would not be a substantial renovation. Cosmetic work, such as painting, sanding floors, replacing light fittings, curtains or carpets are not substantial renovations even if they affect every room in the house. Replacing the floorboards or electrical wiring in a property gets you into dangerous territory, however, because they usually affect every room in the house and are not merely cosmetic

Avoiding the Superannuation Contribution Restrictions

A related party loan is where the members of a SMSF lend it money. This can be done at zero interest rate, currently with the ATO's blessing, According to the minutes of the Superannuation NTLG minutes for June 2012. In ID 2010/162 the ATO only specifies that the related party cannot charge more than market rates and states the member can charge less than market rates. The loan must still be limited recourse. Which means the lender can only recover the asset purchased with the borrowed funds with no recourse to the other assets of the SMSF.

So why would you make an undeducted contribution to your SMSF that is locked away until you retire when you can lend the money instead and access it at any time yet its earns and gets the benefit of the SMSF tax rate.

If you would like to know more about SMSFs here is a link to our free booklet
http://www.bantacs.com.au/booklets/SMSFs_Booklet.pdf

Column by Noel Whittaker

Home loan rates have been dropping but there's not much joy for credit card holders – their rates are still close to 20% in many cases.

It can be frustrating, but the secret of financial success is to stay in control of your finances. Even though it's difficult to convince the banks to lower their rates and charges, it still possible to avoid them, or at least reduce them by taking control.

Keep in mind that the fundamental problem with credit cards is not the fees or the interest – it's the fact that they encourage us to overspend.

When you pull a \$50 note out of your pocket it feels like real money when you hand it over, but there is no emotional attachment at all when you hand over your credit card to be swiped.

The emotions come when the monthly statement arrives and you find yourself in a state of shock as you wonder how all those tiny transactions could add up to such a frightening amount.

For people who can pay their credit card in full each month, the interest rate is irrelevant. They should be looking for the card with the most reward points, or the one with the lowest annual charge.

If you can't pay your credit card each month there is no point in paying extra annual fees for an interest free period - you should be looking for card with the lowest interest rate.

At date of writing Ratecity had identified the BankWest MasterCard as the standout performer. The interest rate was just 10.99% and the annual fee was just \$49.

Keep in mind that the interest rate doesn't matter if you pay the loan back quickly. Suppose you had a credit card debt of \$3000 and could afford to pay back \$150 a month. If the interest rate was 19% it would take two years and you would incur just \$636 in interest. If the rate was reduced to 15% the term would only be a couple of weeks shorter and the interest bill would be \$513.

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.

Pre CGT Property

A pre 19th September, 1985 property should be the last property you ever sell because the longer you keep it in your name the longer the capital growth will be CGT free. Subdividing it or renting it out won't change its pre CGT status.

If you subdivide and change the name on the title ie give a block to your child, that block will lose its pre CGT status. Better that the child inherits it as the longer you live the longer the capital growth will be exempt from CGT and there is no stamp duty. On the other hand if the child has no other property they are covering with their main residence exemption, they are going to live there and the block is less than 2 hectares the only downside of transferring before you die is the stamp duty costs and the risk they may not always be able to cover it with their main residence exemption. Also consider that the best form of asset protection for your children is for their assets to be held in your name if you are less likely to be sued.

When you die your heirs will inherit any pre CGT assets you own at the market value at the date of your death. If the asset is a dwelling they have up to 2 years in which to sell it and no CGT will be payable. This 2 years can be extended if there have been undue delays at probate or the dwelling is occupied by a person who was given the right to occupy under the deceased's will.

Claiming Interest After Your Company Has Closed Down

In *Economedes V FCT 2004 ATC 2353* the shareholders were allowed a tax deduction for interest they paid on a loan that the company used. Companies are separate entities from their owners so, ideally if the owners are going to borrow money from a bank for the company's use it is important that they formally on lend it to their company and the company pay them interest at the same or higher rate than they are paying the bank.

In *Economedes* case there was no formal on lending agreement but the AAT didn't consider that an obstacle. The company made the loan repayments initially but once the business ceased trading the owners took over the payments and wanted to claim a tax deduction for the interest.

The ATO among other things of course argued that the interest was not a cost of the owners earning income either now or in the past, so it was not personally tax deductible to them.

There are a few cases where the ATO has been successful in this argument but the difference here was that Mr and Mrs *Economedes* were the only shareholders in the company. So if the company had made a profit they were the only people that would be entitled to the dividend.

In *Economedes'* case the Administrative Appeals Tribunal ruled that the interest was tax deductible because it was incurred with the intention of earning income, namely receiving the profits of the company as dividends.

Note this case won't help you at all if your business is run through a discretionary trust.

For sole traders and partnerships there is no question that the interest is incurred in producing your income because there is no separate entity between you and the business. Further, sole traders and partners are entitled to continue to claim the interest on their business loans after the business has ceased. There is no limit to the period of time the claim for interest can continue as long as the loan is not artificially "kept on foot for other reasons" (reference TR 2004/4).

The precedent cases here are:

FC of T v Brown, 1999 ATC 4600 where partners borrowed to buy a delicatessen and the business was eventually sold at a loss. The sale proceeds were paid off the loan but not enough to cover the full amount owing.

FC of T v Jones, 2002 ATC 4135 In this case it was a husband and wife trucking partnership. When the husband died the truck and equipment were sold but the proceeds did not fully cover the loan. Mrs Jones alone continued to pay the interest and was entitled to a full tax deduction for it. She even refinanced at a lower interest rate without losing the nexus between the original earning of income and the current day deduction.

Economedes' case referred to both the *Jones'* and *Brown's* cases when considering whether the loan could continue to be deductible after the business had ceased. So for companies, partnerships and sole traders alike the following principles from the *Jones* and *Brown* cases are important to maintain the deductibility of a loan after the business ceases:

- 1) All the proceeds of the sale should be used to repay as much of the loan as possible.
- 2) Endeavor to appear to be unable to repay the loan from other assets other than the family home. This may mean as a couple if only one member owned the property sold at a loss the other member should hold any further investments.
- 3) Don't refinance the loan to extend its term or increase the interest rate. You must appear to be doing all that is possible to eliminate the loan. So refinancing to reduce the interest rate is ok. On the other hand if you have to change the loan from principle and interest to interest only because that is the only way you can afford the repayments you may be able to justify changing the loan.
- 4) If the loan is already fixed at the time the investment is sold, then you have an argument that you could not pay it out. This is a factor to consider if you are refinancing before the sale.

Support the People Who Support this Free Information Service

We are able to provide this free newsletter and all the free booklets on the web site thanks to the support of our advertisers so please support them. For example if you are organising a loan we have a list of finance brokers that we recommend on this page <http://www.bantacs.com.au/booklets.php> give them a ring. It is much easier to organise a loan through a broker and these people you can trust to do the best for you.

Position Vacant In The BAN TACS Group

Due to strong growth in our Geelong office a new permanent full time position has become available. We are looking for a pro active Accountant who reads our Newsflash, to service the taxation and financial needs of both individuals and businesses.

The role would require you to work directly and independently with a range of our clients including the preparation of entity financial statements, together with individual and entity income tax returns, business support, property development and investments.

You will be working in a small professional office environment with opportunities for advancement based on your performance.

We would expect you to be CA/CPA qualified or nearing completion and have at least two years' experience in a related public practice.

We require the successful applicant to have excellent skills in MYOB, Quickbooks and Microsoft Excel, together with a working knowledge of Reckon Elite Tax and Simple Fund would be an advantage.

Applications for the position close on the 4th November, 2012, with the successful applicant commencing work towards the end of November, or later if necessary.

All applications will be treated as strictly confidential and receive a response. Please apply in writing with your resume to:

Attention Business Manager
Accountant Taxation Vacancy
PO Box 8152
NEWTOWN VIC 3220

Or email bruce@jovicaccounting.com.au

Where is Julia?

On her way to Sydney for a few weeks and her new book is on its way to the printers so should be out before Christmas. From Sydney she will go to Lithgow and Orange then return home to SEQ.

Ask BAN TACS

For \$59.95 at Ask BAN TACS, www.bantacs.com.au/QandA/index.php, 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.

The BANTACS Forum, www.bantacs.com.au/forum_introduction.php, and the Ask BAN TACS Notice Board, www.bantacs.com.au/QandA/index.php?section=browse, the information on the site changing all the time, here is a list of changes in the past couple of weeks:

Askbantacs – One Askbantacser has very generously allowed their question to be placed on the notice board. It is an interest scenario using the 6 years absence rule and resetting the cost base of the home to market value when it was first rented out <http://www.bantacs.com.au/QandA/index.php?xq=412>

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.