

# 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

Today we'll talk about a strategy that can help you build wealth – borrowing.

Most Australians borrow - either for logical or emotional reasons. A logical reason is to buy a home now because you believe there will be long term growth – an emotional one is to get that latest big screen TV today because you must have it now and can't wait to save up for it.

Debt, of itself, is not a bad thing – but you need to understand that there is bad debt and good debt. To know one from the other you need to compare the habits of the financial winners with those who are battling. The battlers borrow at high rates of interest to buy depreciating items that will be worthless in a few years – the winners borrow at low rates to buy growth assets such as property and shares which should increase in value.

The cream on the cake is that these assets produce extra income for you, while the interest on the loan used to buy them is tax deductible.

One couple decides lifestyle is a priority - they take out a personal loan of \$30,000 over five years at 11% to buy furniture and appliances. Repayments are \$652 a month which costs about \$13,000 a year in pre tax dollars.. After five years they have spent \$65,000 in pre tax dollars and have nothing much to show for it.

Another couple borrow \$150,000 to buy quality shares – the interest is \$13,000 a year tax deductible, which means it is coming from pretax dollars. If the shares earn 9%, income and growth combined, the portfolio will be worth \$235,000 in five years and will be generating enough income to pay the interest.

Both couples spent \$65,000 in five years – the ones who bought the furniture are probably still battling, the others have an equity of \$85,000 in a portfolio that could now be left alone to grow while funding itself for the rest of their lives.

*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).*

## Living Away From Home Allowance (LAFHA) 2013/2014

The ATO has released TD 2013/4 which sets out the ATO's latest reasonable amounts for food and drink for LAFHA. If the employer pays more than this amount then either the employee will have to produce receipts to justify that they have spent all of the food component of the allowance on food and drink or the employer will have to pay FBT on the amount of the LAFHA paid that exceeds the reasonable amounts listed in the ruling. Accommodation is just done on an actual cost basis which should be pretty straight forward for record keeping anyway.

The full transcript of the ruling can be found at

<http://law.ato.gov.au/atolaw/print.htm?DocID=TXD%2FTD20134%2FNAT%2FATO%2F00001&PiT=99991231235958&Life=20130227000001-99991231235959>

Note the above does not apply to people receiving a LAFHA under the transitional provisions, that is people who already had their LAFH package in place before 8<sup>th</sup> May, 2012.

There have been changes along the way to this becoming law, so don't be alarmed if this sounds different to what you have heard. The final situation is that LAFHA will remain completely in the FBT regime. This means that any employer who pays a LAFHA that does not meet the new requirements, for example the employee does not maintain another residence, will be liable to pay FBT on the amount. For more details on the new requirements refer Newsflashes 261 and 264.

FBT is payable at the maximum tax rate so there is much to be gained by not calling the payment a LAFHA if it does not qualify for the exemption. In many cases the employee will be earning less than \$180,000 per year so not be in the maximum tax bracket. Any other allowance will be taxed in the employee's hand. Nevertheless, an employee is not going to be allowed a deduction for food, drink and accommodation unless they are travelling for work. Travelling is generally where the employee is without his or her family and away from home for less than 3 weeks.

There is room for negotiations between employer and employee to bring down the tax liability when the arrangement doesn't qualify for the exemption. If for example the employee had already been in the location for 12 months (after 12 months in the one location the LAFHA exemption no longer applies) but an employer may need to continue to pay an allowance to prevent the employee moving on to another location and possibly another employer. If the employer offers \$1,000 after FBT of 46.5% is paid that leaves only \$535 to pay the employee. If instead the employee was paid an extra \$1,000 in wages, say a site allowance, and the employee's income is over \$80,000 but under \$180,000 then their marginal rate of tax will only be 38.5% which leaves \$615 in the employee's hand after tax.

At first this might not seem worth haggling over but when you consider rent and food for your whole family your LAFHA could easily be \$900 a week so this adds up. Be careful when you do the numbers to negotiate that you gross up the amount. Here is a worked example:

For the employer to pay you \$900 clear they would have to pay \$782.26 in FBT ( $\$900 \times 1.8692 \times .465$ ) so your gross pay could increase by \$1,682.26 ( $\$900 + \$782.26$ ) and the employer would be in the same position. If you are still under \$180,000 for the year and are not subject to the Medicare Levy surcharge then you will pay tax of \$647.67 ( $\$1,682.26 \times 38.5\%$ ) netting you \$1,034.59. An extra \$134.59 a week after tax. If you live away from home for 3 years that is \$20,996.

Make sure you also take full advantage of the FBT exemption for relocation where the employer can pay the costs associated with the move including temporary accommodation and meals, even reimbursing the employee's buying and selling costs.

## Price Quoted Must Include GST

Sections 52 and 53 of the *Trade Practices Act* 1974 prohibit businesses from engaging in misleading and deceptive conduct and from making false and misleading representations about, amongst other things, the price of goods or services. The ACCC has made it clear that they consider advertising a price that is before GST is added, even stating that price and then plus GST, is misleading. All prices you advertise, place on invoices etc must be the GST inclusive price. You can display the GST portion of the price but you must clearly quote the GST inclusive price.

## Dwindling Incentives for Private Health

The Private Health Insurance Rebate was an initiative set up to provide assistance to individuals and families struggling with the cost of maintaining Private Health Insurance, however, continuing changes are gradually eroding the incentive.

A new tiered rebate system has already been introduced which means those in higher income brackets receive a lesser percentage. The next step is the removal of the rebate from any lifetime health cover loading. Then as a final measure the government is proposing a cap on the rebate based on annual index of commercial premiums or CPI. While the percentage of rebate will remain the same there is no guarantee that premiums will not increase far in excess of the calculated average.

All of these changes and proposed changes have been publicly announced but not particularly well explained. To be as succinct as possible, right now if your individual income exceeds \$84,001 or family (with no dependents) income exceeds \$168,001 and you have your rebate deducted from your premium you should check that you are not still receiving the full 30% rebate. If you are then you may find yourself with a tax bill at the end of the year.

The changes are also prompting a lot of clients to ask whether it is worth continuing with Private Health Cover. Unfortunately that is not an accounting question. Certainly the financial incentives are not as strong as they used to be but finances are not the only considerations when it comes to your family's health.

The best advice we can give is make sure you stay up to date with your concessions and entitlements and as always shop around to find the best fit for your budget and your lifestyle.

**This article was provided by Lyn Gower owner of our Tenterfield, Stanthorpe and Gold Coast offices.**

## Subdividing and Building your Home

This article is about the effect of subdividing your home block and building a new house to live in, has on your CGT main residence exemption.

Consider the situation where you buy a property with a house on it and then subdividing the property to build a new house for yourself on the land you have subdivided away from the old home. Then you sell off the old home but you want your new home to be fully covered by your main residence exemption. The question is whether the 4 year rule applies. This rule allows you to cover vacant land with your main residence exemption for up to 4 years before you move into your new home providing you move in there as soon as practical after construction is completed. Remember that subdivision does not change the acquisition date or trigger a CGT event. So if the new home is built within 4 years of the original purchase of the whole block then it could well be fully covered by your main residence exemption if section 118-150 can apply. The trouble is the second last paragraph of the legislation

### *118-150(5)*

*If there was already a \*dwelling on the land when you \*acquired your \*ownership interest and you or someone else occupied it after that time, the period in subsection (2) and paragraph (4)(b) starts when the dwelling ceased to be occupied.*

This could create a problem if you live in the old house while the new house is being built and on page 168 of Winning Property Tax, after consulting with the NTAs on the matter, we concluded that it prevented you being able to use section 118-150 further back than the time you moved out of the old house. Well page 168 of the book is wrong! Since then I have discovered TD 2000/14

<http://law.ato.gov.au/atolaw/print.htm?DocID=TXD%2FTD200014%2FNAT%2FATO%2F00001&PIT=99991231235958&Life=20000412000001-99991231235959>

It gives a very good example with the following note

### **Note 2**

*11. If there is an existing dwelling on land (dwelling A), you subdivide the land into 2 blocks and you construct a new dwelling (dwelling B) on the vacant block and this dwelling becomes your main residence, section 118-150 operates in relation to the subdivided land as if there was no existing dwelling on the subdivided land when you acquired it. This means that subsection 118-150(5) does not operate to alter the start of the period for which you may choose dwelling B to be your main residence in subsection 118-150(2) and paragraph 118-150(4)(b). The period for which you may choose to apply the main residence exemption under subsection 118-150(2) and paragraph 118-150(4)(b) commences from when you acquired your ownership interest in the land, namely, the date you acquired the original land.*

What this all means is that you can buy a house on a large block and live in that house while you subdivide and build a new house. Then as long as you move into the new house as soon as practical after it is finished and that date is less than 4 years since you purchased the property, the new house can be completely covered by your main residence exemption. That is providing you choose not to cover the old house with your main residence exemption while you were living there. Though in limited circumstance you can use the 6 months overlap rule to cover both properties for the 6 months before the old house is sold.

## **Free Seminar: [www.bantacs.com.au/seminars.php](http://www.bantacs.com.au/seminars.php)**

**Monday 25<sup>th</sup> March** 7 to 8.30pm – SMSFs, Granny Flats and Question & Answer session on any property tax topic.

Speakers – Julia Hartman and Jane Zhang

Venue – Club Burwood, 97 Burwood Road, Burwood NSW 2134

RSVP – <http://events.constantcontact.com/register/event?llr=mbblfzdab&oeidk=a07e75884pod4a1937a>

Julia will discuss the taxation consequences of building a granny flat in yours or your rental property's back yard and give a short run down on SMSFs. Then she will take questions from the audience on any property tax related topic. The primary purpose of this seminar is to answer questions so start making a list.

## **Where is Julia?**

In Sydney and I have got to admit the weather is better than Queensland! I will be speaking at Club Burwood Monday night the 25<sup>th</sup> March.

## **Ask BAN TACS**

For \$59.95 at [www.bantacs.com.au/QandA/index.php](http://www.bantacs.com.au/QandA/index.php), have your questions on CGT, Rental Properties and Work Related Expenses answered. We will include ATO references to support our conclusion.

## **Winning Property Tax Strategies – The Book**

Once again a brilliant combination of Noel Whittaker's easy reading style with Julia Hartman's mind numbing attention to detail. Lots and lots of new stuff plus updated basics for the first time reader so it is much bigger, 300 pages but still the same price. New chapters including young investors, SMSFs, renovators, granny flats, investment and budgeting strategies, fires and floods, mass marketing spruikers, commercial properties, subdividing and development. You can also purchase it online by going to [www.bantacs.com.au/book\\_winning-property-tax-strategies.php](http://www.bantacs.com.au/book_winning-property-tax-strategies.php) The cost is still a low low \$29.95 plus \$5.95 postage – tax deductible of course!

## **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.

With the Forum, [www.bantacs.com.au/forum](http://www.bantacs.com.au/forum), and the Ask BAN TACS Notice Board, [www.bantacs.com.au/QandA/index.php?section=browse](http://www.bantacs.com.au/QandA/index.php?section=browse), the information on the site changes daily but here is a significant change in the past couple of weeks:

<http://www.bantacs.com.au/forum/viewtopic.php?f=14&t=87&sid=8dbd1b0a0c27dd21652bfea49cb06117>

A forumite has posted the above asking for assistance with bookkeeping and accounting services.

**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.