NEWSFLASH

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BAN TACS Accountants Pty Ltd

BAN TACS Accountants Pty Ltd is a CPA Practice

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Queensland

Gold Coast ***PNA***
Phone : (02) 6736 5383
E-mail: goldcoast@bantacs.com.au

Mackay ***CA***
Phone: (07) 4957 8340
E-mail: mackay@bantacs.com.au

Ningi (Bribie Island Road) ***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

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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 – Aged Care

In Victoria recently a facility housing aged people went into administration causing financial loss to the residents.

Unfortunately, this has led to a lot of unnecessary worry from people in the normal kind of aged care facility.

There are many alternatives to residential aged care, and it is not uncommon for people seeking care, companionship, and domestic support to enter into living accommodation. For example, the inability to maintain the family home and the social isolation that can come from the death of a spouse or reduced mobility often leads to a decision to move to an over 55's community or retirement village. In Victoria and South Australia there are also State Governed facilities, known as Supported Residential Services (SRS's) that people can access on either a temporary or permanent basis.

It was one of these SRS's that went into Administration in Victoria with debts of $4 million. A number of families are reported to have paid large deposits to the operator, up to $400,000 in one case, of which they are unlikely to get any of it back.

Money paid to a retirement village, over 55's community, or Supported Residential Service may look a lot like an Accommodation Bond paid to an aged care facility, but only Accommodation Bonds paid to Residential Aged Care Facilities (governed by the Aged Care Act) are guaranteed by the government.

Aged care is an increasingly complex area; this is why it is critical that you take advice before making any decisions about the type of accommodation that is most appropriate for you.

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.

Tax Consequences of a Change of Government

As part of its election campaign the Abbott government has undertaken to make the following changes to our tax system. Of particular concern is the removal of the depreciation concessions. It would be reasonable to assume they will remain the same until the end of this financial year so it may be worth considering buying equipment before 1st July, 2014.

Depreciation – Currently if a small business purchases plant and equipment costing less than $6,500 it can claim the full amount as a tax deduction in the year of purchase. If the purchase is a car costing more than $6,500 (under that immediate write off) $5,000 can be claimed immediately plus depreciation. These concessions will be removed by the new government.

Company Tax Rate - The company tax rate will be reduced to 28.5% from 1st July, 2015. Companies with a taxable income above $5 million a year will be subject to a 1.5% levy to partially fund the paid parental leave scheme so they will effectively remain at 30% but will only be able to provide franking credits at the rate of 28.5%.

Company Loss Carry Back – The ability for companies to be able to claw back tax paid in previous years to offset a loss in the current year, will be abolished almost before it has begun. It is not clear yet which year it will be cut off.

Salary Packaged Cars – Lease companies will be much relieved to know that the statutory method will not be removed as a method of calculating FBT on salary packaged cars. Accordingly, cars used solely for private purposes will receive concessional FBT treatment i.e. be considered to have some business use.

Increases to Rate of Superannuation Guarantee – The increases in the rate of compulsory employer superannuation contributions will be delayed 2 years. This means that the rate will stay at 9.25% until the 2016-17 year and not reach 12% until the 2021-22 year

Travel, Meal and Living Away From Home Allowance

With the Living Away From Home Allowance (LAFHA) losing its exemption from Fringe Benefits Tax (FBT) in most circumstances, employers are looking for ways of providing their employees with the same remuneration package but not having to pay fringe benefits tax on it.

The simplest way of an employer avoiding the FBT is to call the allowance anything else than a living away from home allowance. You see, on any other allowance the employee is responsible to pay the tax on what they receive. Worse still, in an attempt to keep employees happy during the year we are finding some employers are not taking any tax instalments out of the allowance. This gave the employee the impression that nothing had changed in their package because their take home pay remained the same. That was until they lodged their tax return. Now it is hitting the fan. The worst case of a short fall in tax instalments I have seen this year resulted in a $20,000 tax bill for a wage earner. Though admittedly, this case was not as a result of changes to the LAFHA. The point is if the employer does not take enough tax out of your pay they are not responsible for the shortfall. The ATO simply considers you to have got the money in your hand instead and when you do your tax return it is time to hand it over. For the employee it is too late to renegotiate their package, though if you have evidence of your agreement I would be asking your union or other representative whether they have breached it.

Another little trick we have noticed this year is one of the big mining employers, when negotiating a new EBA, the mining employers agreed to back pay a wage increase of $3,000. When the employees wanted that to be the after tax amount the employer happily agreed. They simply didn’t take the tax out, paying the full amount to the employees who now each have a tax bill of around $1,000.

This sleight of hand by employers in promising an after tax amount and then simply not deducting the appropriate amount of tax needs to be tackled by the unions or appropriate arbitrator as this year in particular it seems to be the latest form of exploitation. The employer may at worst be told to improve their administration but there is no way the ATO is going to make them responsible for the tax shortfall.

The following is a list of some of the most relevant allowances and how they should be treated; please check your next payslip and avoid a big shock in your next tax return. If you need to argue the point with your employer this link gives you a list of when tax is to be deducted from the allowance

www.ato.gov.au/Business/PAYG-withholding/In-detail/Taxing-of-allowances,-bonuses,-commissions-and-leave-payments/Withholding-from-allowances/.
This link to TD 2013/16 will give you the maximum travel and meal allowances you can receive tax free without keeping receipts law.ato.gov.au/atolaw/view.htm?docid=TXD/TD201316/NAT/ATO/00001

Travel Allowance – Tax concessions only apply to travel allowances if the employee is required to sleep away from home overnight, otherwise it is just included in gross wages, with PAYG instalments deducted.

If an employee is paid a bona fide travel allowance this can be included in their tax return and they can claim expenses against it. Receipts are not required if the amount claimed is within the reasonable amounts that appear in TD 2013/16. What is considered a reasonable amount depends on the salary of the employee and where they are travelling to, it is around $120 a day for food and incidentals and around $200 per day for accommodation within Australia.

MT 2030 states that an employee may not be considered to be travelling if they stay in the one place for longer than 3 weeks.

If the allowance is not directly related to actual travel then it will not qualify for the travel allowance substantiation concessions. For example if a flat weekly rate of travel allowance is paid to all truck drivers at a depot regardless of how many nights they sleep away from home, is considered part of their normal wage and not a travel allowance.

Truck drivers who are paid a travel allowance are not entitled to the same concessions referred to above for other employees. It is assumed a truck driver will sleep in their truck so they are not entitled to claim accommodation against their allowance unless they actually have a receipt. TD 2013/16 states that the reasonable amount for truck drivers' meals is $91.60 per day if their income is under $108,811 per annum and $99.96 per day if their income is over $108,810 per annum.

If an employee wants to claim more than the reasonable amount they need to keep receipts for all their travel expenses.

If an employer pays more than the reasonable amount they must withhold tax from the excess. If the travel allowance is under the reasonable amount then it does not have to have any tax withheld from it or appear on the PAYG summary. If your employer pays less than the reasonable amount it is worth keeping track of what you are paid so that you can include it as income and claim the reasonable amount back against it if you generally spend the reasonable amount.

If you employer does not pay a travel allowance or it is so low that it would not be reasonable to consider it to be paid to cover your travel costs i.e. $5 a day, then you must have receipts for every travel expense you want to claim.

Overtime Meal Allowance - Meals are not deductible to employees, who are not sleeping away from home, unless they work overtime and are paid an allowance under an industrial award or EBA. When an overtime meal allowance is paid they can claim up to $27.70 per overtime shift without receipts. Employees need receipts for the whole expense if they want to claim more than the $27.70. The meal can be purchased on the way home from the overtime shift.

Overtime meal allowances of $27.70 or less, that are paid when overtime is actually worked do not have to have tax deducted from them and are not required to appear anywhere on the PAYG summary. Note, if your employer pays less than the $27.70 it is worth keeping track of how many times you receive it so you can include it as income and (if you do spend more) claim up to the $27.70 as a tax deduction.

Living Away From Home Allowance (LAFHA) – This is never taxable in the employee's hands, the tax consequences are totally the concern of the employer through the Fringe Benefits Tax regime. No FBT is payable if the employee is only at the location for less than 12 months and continues to maintain a home in Australia away from the employment location. If the employee does not qualify to be exempt from FBT the employer must pay the FBT and include the grossed up amount in the reportable fringe benefits box on the PAYG summary.

Award Transport Payments – This only applies to award payments that were in force at 29th October, 1986, where there will be deductible transport expenses. So if you receive this and get a company Ute it will not qualify because you are not incurring any deductible transport expenses. In the unusual circumstances that it ticks all the boxes, tax does not need to be withheld from the payment.

Allowances for Working Conditions or Special Qualifications – No extra deductions are allowed when these allowances are received; they are just wages under a different name and must have tax withheld from them. They don't even belong in the allowance box and should just be included in gross wages.

Tool Allowance – Whether you receive this allowance or not you can claim a deduction for tools you purchase but you must have receipts. This appears on the PAYG summary in the allowance box but tax must still be withheld from the payment.

Car Allowance Paid on a per Kilometre Travelled Basis – If the amount is paid in regard to travel that would be tax deductible to the employee, for less than 5,000kms and the amount is within the ATO set kilometre rate (63 cents for car 1.6 litre and under, 74 cents for cars over 1.6 up to 2.6 litres and 75 cents for cars over 2.6 litres) tax does not have to be withheld, it is to be shown on the PAYG summary in the allowance box and the employee must include it in their tax return and then claim a deduction for their travel in accordance with the substantiation provisions for motor vehicle claims which are set out in our Claiming a Motor Vehicle booklet www.bantacs.com.au/booklets/Claiming_A_Motor_Vehicle_Booklet.pdf

Where is Julia?

Still in sunny Mackay, heading to Bowen and Townsville between the 20th and 25th October then back to SEQ on 27th October.

Ask BAN TACS

For $69.95 at Ask BAN TACS, www.bantacs.com.au/ask-bantacs.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.

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 The cost is still a low low $29.95 plus $5.95 postage – tax deductible of course!

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With the **BAN TACS Forum**, www.bantacs.com.au/forum_introduction.php, and the **Ask BAN TACS Notice Board**, www.bantacs.com.au/ask-browse.php, the information regularly changes. One very generous askbantacser has allowed their question and answer to be placed on the notice board. www.bantacs.com.au/QandA/index.php?xq=487 is about juggling a main residence exemption between 2 properties.