# 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**

# Farewell to 2013

This is our last Newsflash for the 2013 year; the next edition will be available mid-January, 2014. We hope all our readers enjoy the holiday season and have a very Merry Christmas.

# Christmas Break Closure Dates

Over the Christmas break our offices will be closed on the following days:
**Adelaide** – Closing 5pm on Wednesday 18th December, re-opening 9am Monday 13th January
**Bribie Island Rd, Ningi** – Closing midday Friday 20th December, re-opening 8.30am Monday 6th January
**Burwood Sydney** – Closing 5pm Tuesday 10th December, re-opening on Monday13th January
**Central Coast** – Closing 3pm Wednesday 18th December, re-opening on Monday 6th January
**Geelong** – Closing 5pm Monday 23rd December, re-opening at 8.30am Monday 6th January
**Gold Coast** – Closing midday Friday 20th December, re-opening at 9am Monday 6th January
**Mackay** – Closing 4pm Thursday 19th December, re-opening at 9am Monday 13th January
**Melbourne** – Closing 5pm Monday 23rd December, re-opening at 8.30 am Monday 6th January
**Stanthorpe** – Closing midday Friday 20th December, re-opening at 9am Monday 6th January
**Tenterfield** – Closing midday Friday 20th December, re-opening at 9am Monday 6th January
**Toowoomba** – Closing midday Tuesday 24th December, re-opening Monday 6th January

# Great Question For Small Property Developers

One of our askbantacs questions provided a great opportunity to cover many of the issues facing taxpayers who are considering buying a property to live in that also has development potential. If this could apply to you the answer is well worth a read and fortunately the asker has allowed it to be posted on the notice board http://www.bantacs.com.au/QandA/index.php?xq=504

There are another 3 questions added to the notice board, links are provided at the end of this newsletter.

# Noel Whittaker's Column

This week I will continue discussing investment bonds. They are becoming more and more popular now that the marginal tax rate above $37,000 a year has been increased to 32.5%, and because the amount that can be placed in superannuation is now restricted.

As I pointed out last week they are a tax paid investment, with the bond fund paying tax of up to 30% on your behalf.

They also offer significant capital gains tax advantages. They can be transferred from one investor to another at any time without capital gains tax, and most investment bond issuers allow a range of options within the bond, and you can switch between them without capital gains tax whenever you feel it is appropriate.

CASE STUDY: Peter and Joan are a high income couple - they invest $200,000 in an investment bond in Peter's name. Because they believe the share market is at a low point they ask for the entire investment to be placed in the Australian shares option. Three years later the market has surged and they decide to take some profits. All they have to do is make a free switch from the share based option to the more conservative cash option. This will be free of capital gains tax irrespective of how long the bond has been held. Four years later they have a major change in their circumstances and decide to redeem the bond to renovate their home as Joan had stopped work to have a baby. Before the bond is cashed in, Peter transfers it to Joan free of CGT – the result is the entire proceeds are tax free as Joan earns no income in that year.

I am often asked what kind of returns one can expect from an investment bond. It's no different to asking what returns you can expect from your superannuation. An investment bond is not an asset class of its own like property or shares but merely a structure that lets you hold assets in a tax concessional environment. The performance of your bond will depend entirely on the performance of the assets it holds.

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.

# Solicitors Corner – Buying Real Estate GST Free

When your client buys a property that is GST free because it is farm land or subject to the going concern provisions it is important that the seller provides you with their original contract to purchase the property and whether they were registered for GST at the time.

If your client ever wants to sell this property using the margin scheme they have to stand in the place of the person they purchased the property off because there was no GST on this current sale. The base price for the margin will not be the price your client pays but the price paid by the entity that sold the property to your client. Reference Section 75-11(5) GST Act.

Want more useful tax information for solicitors? We have a whole booklet on the topic: http://www.bantacs.com.au/booklets/Solicitors%20Selection_Booklet.pdf

# Doing Up A Rental Property Before You Move In Or Sell

IT 180 allows you to claim a deduction for repairs to a rental property that became necessary while the tenant was living there. If the tenant has moved out and you do not intend renting the property again it is important you undertake those repairs before the end of the financial year.

The catch with IT 180 is that the repairs can only be claimed in a year that the property has earned income so it is a bit of a rush if your tenant moves out in June. This problem can be overcome by incurring the expense even though the work is not actually done. As long as you have accepted the quote and advised the tradie to go ahead before 30th June you should be ok.

If you intend renting the property out again after the repairs are completed there is not quite the same rush, just make sure you do not use the property for private purposes during the gap between tenants. For example don't live there while doing the repairs.

# Penalty of Getting Your Tax Wrong

Puts it all in perspective. If you incorrectly claim a deduction in your tax return knowingly or carelessly the penalty is 75% of the tax avoided. Yet if a parliamentarian knowingly or carelessly makes an incorrect claim for travel expenses the penalty is 25% of the amount claimed.

# Payroll Tax Thresholds

Just some useful figures for our business readers to keep in mind. There are lots of tricks and traps regarding payroll tax so once you get anywhere near these thresholds seek advice. The thresholds for the 2012/2013 financial year are:

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|---|---|---|---|---|---|---|---|
| NSW | $689,000 | ACT | $1,750,000 | VIC | $550,000 | SA | $600,000 |
| QLD | $1,100,000 | NT | $1,500,000 | WA | $750,000 | TAS | $1,250,000 |

# Repairs That Replace Something In Its Entirety

A repair by definition means that the item being repaired still remains in use after the repair. You cannot repair something by replacing it.

A replacement in its entirety so can only depreciate, 2.5%pa if it is part of the building but plant and equipment such as stove, range hood, dishwasher and hot water system would get a higher rate of depreciation. To avoid being classed as a replacement in its entirety look at what still exists. For example in Domjan's case 2004 AATA 815 a vanity was not considered to be a replacement in its entirety because the same pipes were still used. It is only considered a repair when part of the original item is still left. Though this is a messy area because in TR97/23 (the ATO's ruling on this topic) the ATO claims if you replace almost all of something it is still an improvement. TR 97/23 was released before Domjan's case and case law has precedent, nevertheless the ATO have not corrected TR 97/23 so they will probably still try this line of argument, when it suits them.

Another trap is identifying the original item. For example replacing a whole roof is not a replacement in its entirety because it relies on the 4 walls to hold it up. Yet ripping out all the kitchen cupboards rather than just a few damaged doors is a replacement in its entirety

# Renovating and Scrapping

The tax deductions associated with scrapping items you destroy or remove while renovating might not be as great as all the publicity makes out. There is a good chance it might not be worth the costs of a quantity surveyors report.

If you have just bought a property to renovate and then rent out you are not going to qualify at all because section 43-40(c) ITAA 1997 requires the property to be used to produce income immediately beforehand.

If you have been using the property as a rental before the renovation then you will qualify for some deduction for the unclaimed building depreciation, assuming the area being removed was constructed after 16th September, 1987. You should already have a QS report but you will need the QS to come out and look at the area you will be demolishing so its portion of the original construction costs can be calculated.

Let's say this amount was $40,000 and the property is now 25 years old at the 2.5% rate of special building write off that leaves $15,000 in unclaimed depreciation that can potentially be claimed. Your next problem is section 43-250 ITAA 1997 which requires you to work out the number of days the property has been used to produce rental income as a percentage of the total days from construction to destruction. Unless you have owned this property for the last 25 years you will have to find out what the previous owners used it for or assume it was not a rental during that time. So if you have owned the property as a rental for the last 5 years that is 20% of the time or $3,000 of the remaining unclaimed depreciation you are entitled to. In this scenario it is worth the cost of the QS mainly because the property is only 25 years old when the renovations are undertaken. Reference ID 2010/36

Now what about the plant and equipment such as carpets, stoves, hot water systems etc.? Well the property still has to be used as a rental beforehand and in the year you do claim. If there is any private use during that year the claim will be apportioned. You are allowed to estimate yourself the second hand value of the plant and equipment when you purchase a second hand property. Whether the property is used for private purposes or to produce income after that you still have to reduce this second hand value every year by notional depreciation so at around 10 years many items have no depreciation left to scrap. There is no need for quantity surveyors just note the items of plant and equipment you remove during the renovation.

Replacement plant and equipment can start to be depreciated once the property starts earning rent.

If you would like to know the difference between items that qualify as plant and equipment and those that are considered part of the building go to the back of this booklet http://www.ato.gov.au/uploadedFiles/Content/MEI/downloads/ind00342353n17290613.pdf

# Where is Julia?

Still at home, I just want to advise readers I have once again busted my phone and have not yet worked out how to recover my phone numbers so if you think I owe you a call please call again.

# Ask BAN TACS

For $69.95 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.

# Christmas Gift Idea - Winning Property Tax Strategies

This has got to be the perfect gift for anyone you know interested in wealth creation. Not only will they enjoy all the information provided in the book but you will be helping to protect them from spruikers.

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!

# 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. There are over 30 topics, for example How Not To Be A Developer, Claiming Your Trip Around Australia As A Tax Deduction, Claimable Loans, Rental Properties, Overseas, Fringe Benefits Tax, Claiming a Motor Vehicle, GST etc.

With the forum and the Ask BAN TACS Notice Board the information on the site regularly changes. Four very generous askbantacsers have allowed their questions and answers to be placed on the notice board.

http://www.bantacs.com.au/QandA/index.php?xq=502 The problems associated with keeping your old home as a rental when you upgrade.

http://www.bantacs.com.au/QandA/index.php?xq=504 Subdividing a property you have lived on for a short while, selling some blocks and building a new home for yourself.

http://www.bantacs.com.au/QandA/index.php?xq=505 Putting the sale proceeds from a property held in trust, into a SMSF when you are over 65 years of age.

http://www.bantacs.com.au/QandA/index.php?xq=506 Setting up a SMSF to buy a commercial property.