NEWSFLASH

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BAN TACS Accountants Pty Ltd is a CPA Practice

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

Noel Whittaker's Column

"How can I access my superannuation" is a common question. Access is generally restricted to those who have reached their preservation age which is 55 for those born before 1 July 1960. The preservation age then rises until age 60 which is applicable for people born after 30 June 1964.

However, until you are 65 you cannot simply withdraw your superannuation once you reach your preservation age. If you are between 55 and 60 you must sign a statement that you intend to retire permanently. Of course, retirement is a state of mind and after retiring you could at some stage in the future decide you are tired of doing nothing and return to the workforce without penalty.

If this is your intention keep in mind that there may be tax to pay on money you withdraw before you turn 60. The first $180,000 of the taxable component is tax-free but withdrawals in excess of that suffer a tax of 15% plus Medicare levy.

Once you reach 60 things get a little easier. Withdrawals become tax free but to access your superannuation you need to retire from a job –it need not be your main job. You could start a casual job working for a while, resign from it, and then cash in your super provided the trustee of your fund is prepared to allow you to do it.

Once you reach 65 you can withdraw at will.

People aged 55 who are still working often ask me if they can access their superannuation to help with mortgage payments. The answer is generally yes – all they need to do is commence a transition to retirement pension which allows them to withdraw an income from the superannuation while they still work.

As always advice is essential.

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.

Deceased Estates Distributing Shares

It is best to give your executor as much flexibility as possible rather than specifying who gets what in your will. This gives the executor a chance for a bit of tax planning. For example you may specify in your will that all of your assets are to be distributed equally between your two children. The executor can talk to the children, find out their tax position and whether they want to keep any of the assets or sell them. As the Estate will be taxed as an individual for the first 3 tax returns after death it will be entitled to a tax free threshold of $18,200 and each of the tax brackets. Accordingly, if an asset that will trigger a capital gain is going to be sold anyway, then less tax may be paid if it is sold while still owned by the estate and just the after tax sale proceeds paid to the beneficiaries.

For example the executor may want to split $100,000 worth of shares between the two beneficiaries. One is in a high tax bracket the other has no income. The shares cost the deceased $40,000 so there is $60,000 capital less the 50% CGT discount leaves $30,000 taxable. If the estate sells them the tax will be $1,797. If instead the estate gives half to the low income beneficiary his taxable gain will be $15,000, too low to trigger any tax. Now the estate will only have a taxable gain of $15,000 as well so no tax is payable. Even if some tax was payable by the estate it will no doubt be lower than the high income earner's tax rate.

Cross Collateralising

There is a school of thought it is better to spread your investment loans over a few banks, giving each bank rights to only one or two properties so that if anything goes pear shaped there is a buffer. All this really does is slow the banks down. Unless your loan is limited recourse then if you default on your loan and the sale of the secured property does not cover the debt then the banks will pursue you and your other properties for the balance. Sure these properties may be mortgaged to another bank but they can still force you to sell them and give them the balance of the proceeds after paying out the mortgage to the other bank.

Just recently I came across the down side of this demarcation between banks. Clients were looking to sell a property that secured the deposits for a few rental properties with one bank but wanted to use the proceeds to pay off the loan with another bank. They were going to live in this other property so the interest on its loan would no longer be tax deductible. The trouble was they had plenty of equity but in properties with the second bank not the first so they were going to have to go through the cost of refinancing; a problem that would not have arisen if the loans were all with the same bank.

Binding Nominations and SMSFs

In a binding nomination you state who is to receive your super in the event of your death and what percentage they receive if there is more than one beneficiary. If you die without a binding nomination in place then your super fund trustee decides who receives your super and the life insurance held inside the super fund. Your will has no jurisdiction here unless you specify, in the binding nomination, that the super is to be paid to your estate. You might think that binding nominations are only relevant when you have your super in a public fund, whereas in your own SMSF the trustee will be one of your family. The catch is that the trustee does not have to consider your wishes or the contents of your will. They may have to distribute the proceeds to your family but not in any particular fashion. So without a binding nomination the trustee could just distribute it all to himself, leaving the rest of your family out in the cold and causing a rift. At least in a public fund the trustee is a little more objective about who gets the money and they can't give it to themselves. Here are a couple of recent cases about SMSFs and binding nominations.

In Ioppolo & Hesford v Conti 2013 WASC 389 a husband and wife had a SMSF. The wife died and her will specified that her superannuation was to be paid to her children. The husband, as trustee of the SMSF was entitled to ignore this and choose instead to pay the proceeds to her husband, namely himself. The wife should have made a binding nomination; the will can only affect assets held in the estate and in this case the superannuation never made it to the estate.

In Wooster v Morris 2013 VSC 594 the binding nomination was in favour of the deceased's children by an earlier marriage. The trustee decided that it was invalid and instead distributed the whole amount to the deceased's spouse. When the children complained the deceased's superannuation money was also used by the trustee to fight the court case. The court saw red and not only ruled that the deceased's superannuation go to the children but that the spouse's super be used to pay interest and the court costs, also making the trustee and spouse, who in the case where different people, jointly and severally liable.

Cents Per Kilometre Rates

For the first time since the 2009 financial year the ATO have increased the kilometre rates you can claim for using your car to produce income. For this current financial year ie 2013/2014:

Cars under 1.6 litre: 65 cents a kilometre,
Between 1.6 litre and under 2.6 litre: 76 cents a kilometre,
Over this: 77 cents a kilometre.

All you need to claim is a detailed reasonable estimate. For more information on when you can claim your car have a read of our booklet
http://www.bantacs.com.au/booklets/Claiming_A_Motor_Vehicle_Booklet.pdf

Medicare Levy Surcharge

Many taxpayers are only just starting to notice that the health insurance rebate, which reduces premiums by 30%, is now asset tested. During the 2012/2013 financial year health funds sent out letters warning members that if they continued to pay the reduced premium the ATO would claw it back when they lodged their tax returns. Well those tax refunds are now starting to come back with hundreds of dollars missing and people are asking is it now worth having private health insurance.

Private health insurance is just like any other insurance, a bet that you hope not to win. Maybe it is more annoying than other insurances because it is relatively more expensive. It probably costs you more to insure yourself against a $10,000 operation than to insure your house for $400,000 should it burn down. In most cases it also appears annoyingly every month on your statement. Then there are all the expenses it doesn't cover. This is all part of a reasonable evaluation of whether you should keep paying your health insurance premiums. But please don't make the mistake that some have, thinking that because the means test applies to health insurance the surcharge no longer exists. If you are on a reasonable income and do not have private health insurance then you will be subject to the Medicare Levy Surcharge of between 1% and 1.5% of your income???. In many cases this is as much as the premiums anyway.

It is not necessary to have extras ie dental cover etc on your health insurance to avoid the surcharge. All that is required is that you have hospital cover for yourself and all your dependants with an excess of $1,000 or less if it is for a family or $500 for singles.

So let's get down to the numbers, here is how the Medicare Levy Surcharge and Private Health Insurance rebate are affected by income in the 2013/2014 financial year. If you are single and your income is less than $88,000 or a family where the 2 spouses combined income is under $176,000 then you will be entitled to the full 30% reduction in your private health insurance premiums and you will not be subject to the Medicare levy surcharge even if you do not have private health insurance. If you are single and your income is over $136,000 or a family where the 2 spouses combined income is over $272,000 then you will not be entitled to any private health insurance rebate and if you do not have private health insurance for yourself and all your dependants then you will be charged a 1.5% Medicare levy surcharge. In between is as follows:

Singles $88,001 to $102,000 or families $176,001 to $204,000 receive a rebate of 20% and if you do not have private health insurance you will be charged a 1% Medicare levy surcharge.

Singles $102,001 to $136,000 or families $204,001 to $272,000 receive a rebate of 10% and if you do not have private health insurance you will be charged a 1.25% Medicare levy surcharge.

Note:

- The family threshold increases by $1,500 for every child except the first one.
- There is a further bonus of an extra 5% private health insurance rebate if you are between 65 and 69 years and those 70 and over get an extra 10% rebate. So a single 70 year old could have an income of $120,000 and still receive a 20% private health insurance rebate.
- If you are a sole parent you qualify for the family threshold
- Even if you don't have custody of your child but you contribute to his or her maintenance you are entitled to use the family threshold.
- You must also cover any child you contribute to the maintenance of, this would include your spouse's children living in your household.
- You are only considered to have had a spouse if you actually had a spouse on the 30th June.

- Income is adjusted taxable income which starts with your taxable income or zero if you have a taxable loss. Then add back investment losses. Increase this amount by your reportable fringe benefits, salary sacrificed superannuation contributions, exempt foreign income and family trust income where the trustee has paid the tax for you. There are concessions for lump sum superannuation payments received by taxpayers aged between 55 and 59 years.

If you would like to get into all the details on this topic go to http://www.ato.gov.au/Individuals/Income-and-deductions/Income-tests--an-overview/

Seminars

Aged Care Changes From 1st July, 2014 – Free, Tuesday 11th March 2014 at 6pm Newton Event Centre 40 Reed Street, Newtown, Geelong Vic

If you are 50 or over these changes could affect you, our speaker will discuss the following:
- The current aged care market
- The process to enter a facility
- Explanation of the accommodation costs and care fees
- Overview of post July 2014 and what the changes are & their affects
- Example case study

Please call Cathy Korbut at our Geelong & Melbourne office on 03 5222 6962 to reserve your place

Destiny Property Investor Night – Free, Guess Speaker Julia Hartman
Wednesday 19h March, 6.50pm till 9pm
Crows Nest Community Centre, 2 Ernest Place Crows Nest NSW

This is a discussion group style event where we will present independent research material on two property markets in Australia that match our preferred criteria. Julia will be talking about and answering questions on property tax and self managed Superannuation Funds. If you would like to attend, please email Tracy Tracy.Little@Destiny.com.au For more information go to http://www.bantacs.com.au/seminars.php

Where is Julia?

Still at home in SEQ. I will be travelling to Sydney in March for Your Money Your Call live on Foxtel on the 10th March. Then on to Canberra and Lithgow, back to Sydney for the Destiny seminar at Crows Nest on 19th March.

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.

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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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.