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

Column by Noel Whittaker – The Stock Market

Stock markets around the world are going through a turbulent time as the world tries to sort out its many financial problems.

Naturally, this has led to a spate of emails from readers asking whether they should cash in all their share-based investments and place the money in the bank while they wait for the upturn. While this strategy may give peace of mind in the short term, the problem is that nobody is able to consistently forecast what markets will do in the future. To make it more difficult it is also a fact of life that markets tend to bounce back very quickly and unexpectedly when they do.

I believe a better option is to agree on a diversified portfolio and decide how much you wish to keep in each of the three asset classes – cash, property and shares. When you do this, you should keep in mind that property and shares should never be bought unless you have at least a seven to ten year time frame in mind. This will give you time to ride out the inevitable downturns.

I understand the gloomy headlines are depressing, but history shows that it is common for the stock market to have up to four negative years in every ten – this means there are at least six good ones every decade.

I agree that owning shares can be scary at times, but that is the price you pay for the benefits that shares bring. Just remember to hang in when the inevitable falls occur, and don't lose your nerve and sell out at the wrong time. Interest rates are at an all time low and look like staying that way – I would much prefer a fully franked dividend of 5% with the chance of growth than 2.5% bank interest with no tax benefits or growth potential.

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.

Resetting the Cost Base When First Rented

Section 118-192 resets the cost base and deemed acquisition date of a property to the market value at the date it first becomes income producing providing for every day of ownership up to that date it was fully covered by your main residence exemption. There are a few catches that readers need to know about this section:

1) If you later demolish the dwelling on the property you will lose that reset and have to calculate the capital gain right back to the date you purchased the property.
2) If you die your heirs will not be entitled to use the reset cost base, they will have to go back to the original purchase cost. Section 118-192 requires you to have been entitled to a partial exemption from CGT as a result of the property becoming income producing. When you die a CGT event takes place but no CGT is payable because the liability rolls over to your heirs or your estate. Accordingly, you personally receive a full exemption not a partial one.
3) There is no market value measurement if the reverse applies i.e. you make a rental property your home. Instead the capital gain for the whole period of ownership is calculated and then apportioned between days covered by your main residence exemption and days not.

The bottom line is you can never be confident of relying on section 118-192 so you should keep records.

Fee-Help and Other Non Commonwealth Supported Study

Of course your books, student union fees, computer, internet etc are tax deductible and you will think to keep those receipts for us. In regard to internet and computer use you may need to keep a diary for 1 month to show the ration of private to study related use.

Repaying your HECS/HELP debt is not tax deductible. This article is about the course fees and tuition fees you pay.

If the tuition fees you pay are subsidised under the Governments HECS-HELP they are not tax deductible. Another term for this is a Commonwealth Supported Place. Fee-Help on the other hand is a loan to pay fees that are not Government subsidised. Course and tuition fees that you do not receive any assistance by way of a government subsidy actually reducing the fee and fees where the only assistance you receive is a loan under the Fee-Help scheme are tax deductible.

For example you could be accepted into university but because you do not have an OP score you are not entitled to a Commonwealth Supported Place for the first year, until you prove yourself through your marks. You can still use Fee-Help to borrow to pay your university fees and still claim them as a tax deduction, providing you meet the conditions discussed below. Now take this one step further. In most cases if you are accepted into a Commonwealth Supported Place you only receive a 10% discount on the fees you pay. If you are working full time and the course is deductible then claiming the course fees as a tax deduction will probably result in a refund equivalent to 1/3rd of the fees you pay. So if you are studying and have enough income to be taxable you may end up paying less out of your pocket if your studies are not Commonwealth Supported.

Now all of this is providing the course is associated with your income earning activities. For a discussion on this and how to claim your other education expenses go to beyond newsflash on our forum http://bantacs.com.au/Jblog/self-education-expenses/

The objective of this article is to just warn you to keep all the records you have on these fees and bring them with you when you do your tax return. In particular we will need to know if the course fee has been reduced by a government subsidy.

Warning - there is a trap with Fee-Help in that unscrupulous education institutions obtain details of people enquiring about their courses and sign them up. The student goes away not realising they are enrolled until they get an assessment to pay from the ATO.

Paying Overseas Businesses for Software Rights

Just a short warning that if you are paying an overseas business for a right to reproduce or modify a program or for source code or algorithms, this is considered a royalty payment, reference TR 93/12 and Task Technology 2014 FCAFC 113. Accordingly, you will be required to withhold tax of between 10 and 30% from the payment. Refer the relevant country's double tax agreement for specifics.

Contributed Too Much To Super?

The good news is from 1st July, 2013 this is not going to be nearly as costly as in previous years when you could lose up to 98% of the excess contribution. Now it will just be added to your taxable income and taxed at your marginal rate, the same as if it had never gone into the super fund in the first place. You can even opt to take the money out of the superfund so you can pay the tax.

Now when you made the contribution into the fund it would have been taxed at 15%. To compensate for this the ATO even give you a tax offset for this amount against the tax paid in your tax return. The only penalty is an interest charge of around 6% starting from 1st July, 2013 up to the day the tax is paid.

All this boils down to is that it will all revert back to the tax that would have been payable if you had not over contributed anyway, with just a nominal interest amount. If you would like to know all the details go to: **https://www.ato.gov.au/individuals/super/in-detail/contributions/super-contributions---too-much-super-can-mean-extra-tax/?page=11#If_you_go_over_the_concessional_contributions_cap**

Leaving Australia & Taking Your Superannuation with You

This is not even going to be possible if you are only going to New Zealand. If you are a temporary resident of Australia and permanently leave then you are entitled to withdraw your superannuation, the catch is Australia will withhold tax from any taxable component at a rate of 38% if the contribution was taxed when the fund received it. The rate is 47% if the contribution is from an untaxed superannuation fund.

Scammers

Please check with your tax agent first before dealing with anyone who rings or emails you claiming to be from the ATO and demanding information or money. The following article gives you an idea of just how prevalent this practice is.
http://www.abc.net.au/news/2014-07-01/scammers-impersonating-ato-employees-to-extort-money/5563768

If they are really demanding and you are concerned simply redirect them to your tax agent. If you are worried that your Tax File Number has been compromised you can apply to have it replaced.

The catch is many agencies ring you yet demand you identify yourself before they will speak to you. If you refuse they give you a number to ring back, of course that is no protection at all. Asking them to write to you but of course not giving them your address maybe one solution. One I use is to agree that if I give them half the information they will give me the other half. So for example if they tell me what year and month I was born I will tell them the day. If they accept this it might at least persuade them to tell you why they are ringing but nevertheless do not give them any other personal information.

Question for QLD Politicians

I don't quite understand how the leasing of assets achieves anything to help reduce the consequences of our debt, maybe there is something I am missing and a reader can set me straight, or ask their local state member.

If an entity is going to lease a business or asset for a limited period of time the only real consideration is how much profit it will make in that time. I would think it would be a simple discounted cash flow calculation. Discounted because the money has to be paid up front for the income stream and of course there is an element of risk. I can't see how anything else can be taken into account because the entity will have nothing at the end of the 50 year term, they have to return the income stream i.e. business or building, to the government.

For example let's say the government grants a lease on a building, the entity can use it or sub let it for the next 50 years but then the entity must hand it back. This of course means they don't benefit from any capital growth on the property during that time though they do benefit from effectively locking in the amount they pay to control that building for 50 years. This is a benefit as it would be expected rents would rise but there is a risk factor around just how much.

Now from the government's point of view they are saying we will forgo the rent (including potential increases) on the building for 50 years in return for a lump sum now.

The amount that would be set for the 50 year lease would be discounted by at least the expected interest rate during that time. Why else would someone lease a building and accept the associated risk if they could make the same return on their money by simply putting it in the bank? Normally entities want to put their money to work rather than just earn bank interest because money in the bank does not receive any capital growth and inflation erodes its purchasing power. Likewise leasing premises rather than owning them does not avail the entity to any benefits from capital growth.

So my question is, if the entity leasing the premises off the government would only pay an amount less (by at least expected interest rates) than the cash flow the building will earn how is the government any better off by the transaction? They can choose to take a smaller amount now and save themselves the interest on their debt for that amount or they can use the rent they would receive on the building anyway to meet the interest on that portion of the debt. It seems to me the only difference is going to be the huge cost of finding an entity to enter into one of these leases and draw up the contract. There is also the downside that Queensland will then lose the right to sell that asset for the next 50 years. It might preserve the asset for future generations but for no improvement in the bottom line all it does is deprive the current generations of the flexibility that comes with owning that asset.

Where is Julia?

Sydney, Canberra, NSW south coast, mid western NSW, Toowoomba then home for the rest of the year at least.

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 by Julia. I will include ATO references to support our conclusion, answer are generally 300 to 700 words long depending on the complexity.

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

You can also purchase it online by going to www.bantacs.com.au/book_winning-property-tax-strategies.php

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 Blog and the Ask BAN TACS Notice Board the information on the site regularly changes.
Some very generous askbantacsers have allowed their question and answer to be placed on the notice board.
http://www.bantacs.com.au/QandA/index.php?xq=601 Demolishing, building apartments, GST & Joint Venture
http://www.bantacs.com.au/QandA/index.php?xq=603 Transfer Property to a Discretionary Trust for Protection
http://www.bantacs.com.au/QandA/index.php?xq=604 Constructing units and holding until GST does not apply
http://www.bantacs.com.au/QandA/index.php?xq=605 Apply 6 year rule, 4 year rule and 6 months overlap
http://www.bantacs.com.au/QandA/index.php?xq=607 Siblings building a duplex
http://www.bantacs.com.au/QandA/index.php?xq=613 whether to charge daughter rent and CGT calculation