NEWSFLASH

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BAN TACS Accountants Pty Ltd

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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

The government has finally released its response to the final report of the Financial Services Inquiry FSI. Two major recommendations of the FSI are to enshrine in legislation the objectives of the superannuation system, and to support the development of a comprehensive income product for retirement – neither of these are going to happen overnight.

The government has agreed with the inquiry that the objectives of superannuation are to provide income in retirement, help manage risk in retirement, be invested in the best interest of members, and reduce fiscal pressure on the government.

Accordingly it has been announced that the government will spend the next year talking to stakeholders to see how the superannuation rules can be amended to make the above a reality. Once the ways and means are agreed, legislation can be passed to make it extremely difficult for any future governments to change the superannuation rules.

That will be a difficult and convoluted process. Prime Minister Malcolm Turnbull has flagged the possibility of hitting the rich by reducing tax concessions to superannuation in exchange for increasing the GST, but has promised to take any changes to the next election.

When you consider that any proposals to change superannuation will have to be considered in the light of the Tax Reform White Paper and the Treasury's Review of Retirement Income Stream Regulations, neither of which will be released until the middle of next year, it's obvious that certainty regarding superannuation is still years away.

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

Operate A Business Through A Trust Or Company? Hold Back on Those Wages

The new 5% reduction on the tax rate applicable to business income starts from 1st July, 2015 so it is important that this financial year, and future years, you make sure that each "owner" of the business receives at least $20,000 in profit distributions if the business is operating as a trust.

If the profits are instead received as wages none of these small business tax rate concessions will apply. You will be treated like any other wage earner regardless of the fact you own, control and accept all the risk associated with owning the business.

The circumstances for a company are different because the company will be taxed on the profits at the reduced tax rate of 28.5% instead of 30% for bigger businesses. Nevertheless, there is a benefit in increasing the company's profits by not taking a wage. This will require more careful planning with your accountant as to how those profits will be paid out in dividends. You see the company only pays 28.5% tax but can frank its dividends at the rate of 30% providing it has excess franking credits available to top up the franked amount.

The bottom line is talk to your Accountant about this now, it is important to plan this well in advance of the end of the financial year.

You also need to take into account how this change will affect any superannuation contributions you intend to make.

The ATO Wants Your Youtube Income

If you start getting "business-like" in your Youtube activities the income you earn from Google for advertising is included in your taxable income.

Business-like would involve repetition, so don't worry if you come up with a one hit wonder just because you saw something great, there has to be more intention to make a profit than that. To be business-like it needs to have a profit motive rather than just a hobby. Nevertheless, this means that if you are making the videos for the purpose of appealing to the public, ie obtain lots of hits, then the Google advertising payments you earn could be considered to have a profit motive.

If you are caught as being in business it is important that you are aware of section 405-25 ITAA 1997 which allows you to average your income by looking at the amount of extra tax you would pay if you just added one fifth of your Youtube income to your other taxable income. Then take this amount and multiply it by 4 to calculate the tax on the other four fifths of your Youtube income. This could prevent your Youtube income pushing you into a higher tax bracket. Reference ID 2014/41.

Let this also be a warning to keep receipts for any expenses you incur when making videos for Youtube, just in case they go viral!

They Are Watching You On eBay Too

The ATO has expanded its data matching arrangements to eBay accounts where the total transactions exceed $10,000 for the financial year. This will apply to the 2014/2015 and future financial years.

eBay is now required to provide the ATO with your transaction history together with your name, address and contact details.

It is important that you get advice as to whether your transactions amount to a hobby or are private in nature ie disposing of personal items no longer necessary such as baby clothes. If there is a profit making motive and regular transactions you may be considered by the ATO to be in business.

First Home Owners Grant Trap

In *Gonzalez & Anor v Commissioner of State Revenue* [2015] QCAT 65, a first home owner was required to repay the first home owners grant. The $15,000 Queensland grant is only available for new homes. In this case the original developer had gone broke during the construction stage. Another developer finished the project and sold the units. The Queensland Civil and Administrative Tribunal found that the unit did not qualify as a new home as it had been owned by another entity, the second developer, before the first home owner purchased it.

It is worth checking the history of the building before you buy.

Strata Title Bodies and Owners of Units Beware

A reader was concerned that a unit owner had been told by their strata body that they would have to pay personal income tax on some of the interest the strata body had received. This is not the case but a unit owner could end up receiving taxable income if the building earned income from its common property such as rent from a shop in the building.

The ATO treat all strata bodies as companies for tax purposes. Companies are clearly a separate entity from the unit owners. For a unit owner to be taxed on any income of the strata body it would have to receive a dividend from the "company". If the strata body does this it would have already paid tax on that amount as it's own income so there is no tax avoiding opportunity here for strata bodies. The strata body can even frank the dividend with the tax it pays. Note this only applies when the strata body returns profits to the unit owner. If it returns monies received from levies ie repairs did not cost as much as anticipated, therefore part of the levy is refunded, this is not taxable income to the unit owner because it is a return of mutual funds. Nevertheless, if the unit owner is renting out the property they will have to reduce the amount they claim in strata body fees by the amount that has been refunded.

Normal fees and levies paid by unit owners to their strata title bodies are not considered taxable income to the strata body because they are mutual receipts, but other income it receives could be. For example, if a tribunal rules that a penalty is payable by an owner for a breach of the strata body bylaws then the receipt of that penalty by the strata body is taxable income. Yet if the strata body imposes a penalty or interest for late payment of levies this would not be considered assessable income to the strata body. On the other hand interest received from the bank is taxable income to the strata body. Obviously most expenses paid by the strata body will not be deductible because they do not relate to earning taxable income, they relate to the mutual income from levies.

Want more? The ATO has issued draft ruling TR 2015/D1 to, purportedly, clarify this issue. https://www.ato.gov.au/law/view/document?docid=%22DTR%2FTR2015D1%2FNAT%2FATO%2F00001%22 but if you are going to read it note that it is the explanations at the back of the ruling that are necessary to make sense of what is said at the front.

Rent for use of washing machines etc. received from non unit owners is assessable income to the strata body as are fees received from prospective buyers (not owners) to view the strata body records. It is important to note that washing machines and the like are plant and equipment so can actually be owned by the strata body but common areas (real property) cannot be owned by the strata body they are owned by the unit owners.

Some buildings have shops on the bottom floor that earn rent. These shops would be common property. When it comes to income received from non unit owners ie business owners, for the use of common property, the outcome changes depending on which state you are in because the strata title laws are different. It is a question of whether the strata body is acting as trustee or as agent for the unit owners when it receives the rent.

In Queensland, New South Wales, Australian Capital Territory, Victoria, South Australia and Western Australia the strata body is considered to only be acting as agent for the unit holders so it is the unit holders who are taxable on the income. Even though the unit holders may never receive this income they are considered to have benefited from it because it is used by the strata body to offset other costs.

In South Australia, Tasmania and the Northern Territory the strata body is considered to be acting as trustee for the unit holders therefore it is the trust created by this arrangement that is taxable on the rent received on common property such as a restaurant in the building. But the strata body as trustee, providing the strata laws in that state permit it, could technically distribute that income to the beneficiaries ie unit owners and they would then be the ones taxable on it.

Make sure your strata body gives you all the information you need to offset deductions against this rent.

There is probably building depreciation available as a tax deduction against the rent from the common property. It is important that your quantity surveyor reports clearly show this separately. Further, unit owners that do not use their unit as an investment will still need to know the depreciation allowance for the area of the building that is generating the rental income. You do not need a quantity surveyor's report if the strata body can tell you the original building costs for that area.

A strata body only needs to lodge a tax return if it has income from sources other than normal levies from unit owners. For example, if it receives some bank interest on its accounts.

Now just one final little point if you can hang in there, mutual income (what the strata body receives from unit owners) is not exempt income, even though it is not taxable. This means that in a year that the strata body makes a loss for tax purposes it does not have to reduce the amount it carries forward to the next year by any mutual income.

Great School Fund Raising Idea

Efundraizer is more than just a fund raising tool; it can organise much of the school's communications with students and parents. It is also suitable for other organisations such as sporting clubs.

Click on http://www.efundraizer.com/page/videoexplainer for a 3 minute explanation. Or go to their web site http://www.efundraizer.com

Skype Julia

Skype has become a very effective way of consulting. Skype allows me to see the client's face so that I know they are following what I am saying. Most of the people who have used this service to date just want to talk about their overall strategy or get a straight answer to a difficult question. It is not intended to replace your current Accountant but it is an excellent method of getting specialist advice on property from investing to developing or just a second opinion. http://www.bantacs.com.au/shopping.php

Before You Buy An Investment Property

Make sure you do the numbers, know you are paying the right price, buying the property in the right name and set your loan up correctly.

Property investing is about finding the right property, not just any property. Our Pre purchase due diligence process can help you buy with confidence and more importantly help you avoid very expensive mistakes. It also includes the software you need to keep the right records and lots of material to educate you as a property investor. Go to http://bantacs.com.au/Bantacs_pipkit.php for more information.

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!

Askbantacs Free Notice Board

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. They will include ATO references to support the conclusion; answers are generally 300 to 700 words long depending on the complexity.

First check the Notice Board, your question may have already been answered at someone else's expense.

Four very generous askbantacsers have allowed their question and answer to be posted on the notice board.

http://www.bantacs.com.au/QandA/index.php?xq=693 The CGT calculation when you build a couple of units down the back.

http://www.bantacs.com.au/QandA/index.php?xq=695 Capital Gains and Carried Forward Revenue Losses

http://www.bantacs.com.au/QandA/index.php?xq=698 Demolishing a Main residence and the problems associated with property purchased between Sept 1985 and August 1991.

http://www.bantacs.com.au/QandA/index.php?xq=699 CGT calculation - a new house and a new spouse