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

Warning When Posting Cheques to The ATO – The ATO's Incompetency Is Our Problem Not Theirs

Apparently the machine at the ATO that opens their mail sometimes separates correspondence from cheques. When this happens the cheques are just placed in a suspense account. This account is not checked when you ring and complain that your cheque has been cashed but not credited to your tax account, it will only be checked if you go through all the escalation processes and make a formal complaint. In our client's case it was nearly a year from when the original cheque was processed before we found someone who was prepared to look into this suspense account for the week in question.

The ATO advised that it was the client's fault for not writing his TFN on the back of the cheque!

If at all possible only ever pay the ATO electronically using an EFT code they have given you.

Facebook Property Community Page

We have started a Facebook page all about property, for both investors and small developers https://www.facebook.com/BANTACSpropertypage/ There will be a daily posting of useful tips and alerts for property investors and developers. We hope you will participate in the discussion and ask questions.

Please like us!

We get it that facebook is supposed to be fun and nothing too long winded. We will even have some cartoons accompanying our very useful information. Also looking forward to making some posts just for fun.

Column By Noel Whittaker

Many would-be property investors procrastinate because they simply do not know where to start. As a result they often end up victims of property spruikers who make around 50,000 cold calls every week. The initial phone call is hard to resist; "Are you interested in saving tax while paying your house off faster?" Of course, the answer is going to be yes, which leads to the next question: "Are you free next week for one of our experts to show you how it works?"

The only purpose of the interview at the victim's home is to make an appointment for them to attend the spruiker's office, where they will be subjected to hours of hard sell.

Here they are given a long spiel about the pressure on government budgets caused by rising life expectancies, and then shown vivid illustrations of the life of poverty that will be faced by those who don't provide for themselves. They have a great patter: "Money in the bank earns nothing, shares are risky, and you can't trust superannuation as the government is always changing the rules". But then comes the sting – the way to wealth is to negative gear into over priced residential property chosen and sold by the spruiker.

Until recently it's been open slather, with ASIC providing no supervision because a property investment is not recognised as a financial instrument. However, a recent judgement in the Supreme Court of New South Wales has confirmed that ASIC has power to act if the spruiker is involving the victim in setting up a self-managed superannuation fund (SMSF).

On Monday, 30 November 2015, the court declared that the Park Trent Property group had unlawfully carried on an unlicensed financial services business for over five years by providing advice to clients to purchase investment properties through an SMSF. The court issued a permanent injunction against Park Trent, restraining them from providing unlicensed financial product advice regarding SMSFs.

ASIC Commissioner Greg Tanzer said, "This outcome sends a strong message that there are serious consequences for property spruikers who break the law by providing unlicensed financial advice". While this is a welcome development, those spruikers who are recommending people invest in their own name are still acting outside the regulators' control.

This means the onus is on property buyers to ignore the spruikers and do their own research to find an undervalued property that is offered for sale by a vendor who is very keen to sell. That may not be an easy task, but it will pay off in the long run.

Noel Whittaker is the author of Making Money Made Simple & 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 noel@noelwhittaker.com.au

Editor's Note – And when you find the property that looks like it may be a good investment make sure you utilise our pre purchase service http://bantacs.com.au/Bantacs_pipkit.php

Reducing CGT Discount - Goodwill & Commercial Property

In his speech about the abolition of negative gearing for established properties and reduction in the 50% CGT discount, Bill Shorten stated that the small business concessions would not be affected. Technically correct but small businesses get the CGT discount as well as the small business concessions. If the CGT discount is reduced to 25% and your lifetime small business capital gains exceed $1,333,333 there will be an increase in tax payable.

Taxpayers are allowed to receive $500,000 tax free through the retirement exemption when they sell an active asset of a business. If they are under 55 years of age they have to pay it into a superannuation fund but it is not taxed going into the fund. Here is how the numbers work:

	$2,000,000	Capital Gain Current Situation		$1,333,333	Capital Gain Proposed Changes
Less	1,000,000	50% CGT Discount	Less	333,333	25% CGT Discount
	1,000,000			1,000,000	
Less	500,000	50% Active Asset Discount	Less	500,000	50% Active Asset Discount
	500,000	Retirement Exemption		500,000	Retirement Exemption

Small businesses don't be fooled into thinking everything is as it was for you. In the example above that is $666,667 extra taxable income at 49% that is an extra $326,667 in tax on your retirement nest egg.

Of course this wouldn't be a problem if the commercial property was owned in a SMSF as the CGT discount for SMSF's has not changed, the maximum tax on capital gains for superannuation funds is 10%.

Labor's Removal of Negative Gearing on Established Properties and Reducing CGT Discount To 25%

Big news for property investors! If Labor win the election this year they will remove negative gearing for properties purchased after 1st July 2017 unless they are new builds. Chris Bowen explained new builds as completed within the last 12 months and the investor is the first owner after the developer. I would hate to be a developer caught with a couple of properties that were slow to sell. They also intend to reduce the CGT Discount to 25% on properties purchased after 1st July, 2017.

The big question now, is how should property investors respond to this news? Chris Bowen says that only 7% of negative gearing applies to new builds so the abolition of negative gearing on established properties should increase the supply of houses. With an increase in the supply of houses and tax disincentives on established houses it would be reasonable to expect this policy to increase housing prices for the time between the election of the ALP and 1st July, 2017 followed by an overall slump in demand for properties from investors because they would have all purchased before that date. Eventually new properties will increase in value but the properties bought before 1st July, 2017 will experience sluggish growth if investors have as much effect on the market as the Labor party thinks.

Please don't think this is going to be the only factor driving prices. There will be differing effects in different areas, for example regional areas are easier to positively gear with a bit bigger deposit, and city areas have very little land available to build a new house so properties with potential for unit development will be in demand. Interest rates will still play a much stronger part in the price of property.

I am old enough to remember when Keating abolished negative gearing. He applied it across the board to all properties immediately so there was a pretty dramatic affect in Sydney and Perth. Within 2 years he had to reverse it. The interesting thing is that the supply of rentals dropped in these capital cities but increased elsewhere. Some commentators say this proves that the abolition of negative gearing had no effect on the supply of rental properties. My opinion is that property investors moved from negatively geared properties to positively geared properties. Investors were most likely to achieve this by selling their Sydney or Perth property and buying a property in the regional areas that had a much better chance of breaking even, even if that was because they could use the net sale proceeds of the capital city to place a bigger deposit on a regional property.

Once we go past the 1st July, 2017 taxpayers wanting to invest in areas where the rent return to purchase price ratio is very poor, such as Sydney and Melbourne, will find brand new properties more attractive because it would be unusual for them to have enough deposit for the property to be positively geared, in fact by the time you take into account the high land tax in these areas they may even have trouble breaking even if they owned the property outright. An affordable house and land package in these areas would be difficult to find so one would expect the demand for units to increase.

If you are going to rush out and buy a property before 1st July, 2017 it maybe best to buy a property on a future development block. Then if/when demand for new properties out strip established ones your property will at least be attractive to developers who are set to profit from these changes. They won't care about negative gearing or the CGT discount so the value of such properties shouldn't be changed by these new policies.

After 1st July, 2017 I would be more likely to buy a property in a SMSF because the reduction in the CGT discount does not apply to SMSF's which still only pay a maximum of 10% on capital gains. Further, I could still reduce my personal income by superannuation contributions regardless of whether the fund buys a new or established property.

What of the reduction in the CGT discount? This will make the tax on selling higher so maybe people, realising they will not have enough money left to buy a similar property after they pay the tax, will not sell. That may push prices up through lack of supply but probably not enough to counter the fact the property is no longer new so investors are not interested in it unless they can get it to breakeven.

Now if you think this sounds bad you have got to be even more worried about Scott Morrison's reply claiming that it does not raise taxes soon enough because it will only apply to properties purchased after 30th

June 2017. This would suggest that he is not actually against abolishing negative gearing and reducing the CGT discount so he may well be planning to do it sooner, possibly in the May budget.

Before you rush out and sell your rental property in case the value of established properties drop or in fear that the Coalition will reduce the CGT discount to properties sold after the May budget, just remember you have to put your money somewhere.

Abolishing negative gearing is not all about a level playing field, it is only the people who have to borrow heaps to buy an investment property who negatively gear. The wealthy with plenty of cash will have positively geared properties anyway, no doubt held in a SMSF or trust so the profits don't get taxed at their personal tax rates.

Newsflash Flashes – Chris Bowen on Monday morning in the Australian elaborated further. It appears that losses on properties purchased after 1st July, 2017 can still be offset against other rental property profits. This is good news for investors with properties already, not for people trying to get into the market.

Bowen also says that if the losses aren't offset elsewhere they can be used to reduce the capital gain. No mention of whether this is before or after the discount is taken into account.

Scott Morrison will be delivering a counter proposal at the Press Club on Wednesday. I am also hoping to obtain more information about Labor's policy if this topic affects you please utilise our new facebook page to keep up with the latest, presented in a way that explains how this all applies to you. So please follow us at https://www.facebook.com/BANTACSpropertypage/

How to Make Sure Your Next Property Is a Good Investment

- Do you really know how much the property is going to cost you to hold?
- What name should the property be purchased in?
- Will this property fit your investment strategy and goals?
- What does the contract say about GST?
- How does the price compare with similar sales in the area?
- If it is negatively geared, how much capital growth is required before you breakeven?
- Do you know what records you need to keep and how?
- Are your financing arrangements maximising your tax deductions?
- What happens if interest rates rise?

......and the list goes on!

To ensure you don't make a costly mistake with your next purchase, contact us today http://bantacs.com.au/Bantacs_pipkit.php

Askbantacs

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.

Two very generous askbantacsers have allowed their questions and answers to be posted on the notice board. http://www.bantacs.com.au/QandA/index.php?xq=717 When you are a non resident for tax purposes and how that affects your main residence exemption.

http://www.bantacs.com.au/QandA/index.php?xq=718 Cutting a pre CGT block in ½ & building down back.