NEWSFLASH

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BAN TACS National Accountants Group

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Noel Whittaker's Column

Pensioners face two major challenges. The first is the continual shifting of the goal posts in one direction – to tighten eligibility. The second is the quandary facing pensioners whose assets are at the higher end of the scale when trying to maintain an investment portfolio which they can live with, but which will let them sleep at night. From next January a couple with assets of $750,000 will receive an age pension of less than $5000 a year. Yet that $750,000, if left in the bank, will be flat out returning $19,000 a year.

The paradox is that most people will have to rely on a portfolio that is biased towards shares to get by, yet, as we've seen in recent weeks, shares can be a nerve-racking investment. This is why I have long recommended that people start investing in shares at an early age – giving them time to get used to the vagaries of the market.

The value of your assets does not include your home, while your chattels such as furniture, car and boat are valued at second-hand value, not replacement value. This puts a figure of $5,000 on most people's furniture. Thus a couple could live in a multi-million-dollar home, earn $60,000 a year, have other assets worth $800,000, and still get a small portion of the age pension and all the goodies that go with it. You can reduce your assets by gifting money away but seek advice before you do so. Centrelink rules allow gifts of only $10,000 in a financial year, with a maximum of $30,000 over five years. Using these rules, a would-be pensioner could give away $10,000 before 30 June and $10,000 just after it, and so reduce their assessable assets by $20,000 quite quickly.

Pensioners who are income tested should note the deeming rules, which determine the income that Centrelink applies to pensioners' financial assets. The current rates for a couple are 1.75% on the first $80,600 and 3.25 % on the balance. For a single pensioner the first $48,600 is assessed at 1.75%, and the balance at 3.25%. The assets subject to deeming include bank accounts, shares and managed funds, debentures, superannuation when the owner has reached pensionable age, and deprived assets such as excess gifts. There is no penalty if the money is invested to earn a higher rate than the deeming rates.

One strategy to increase your pension is to spend money on renovations, or on travel. While this may be effective in the short term, it assumes there will be no more changes to pension eligibility. Given the deadly combination of budget deficits, and rising life expectancies, that would be a brave assumption indeed.

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:** noel@noelwhittaker.com.au

Audit Triggers for Small Business

Here is a list of some of the pointers that the ATO looks for when considering audit activity:

- Performance figures outside your industry benchmarks i.e. profit smaller than industry standards
- The ratio of cash sales compared with credit card sales
- Behavioural risk factors – i.e. one-off large or unusual transactions. We've seen this particularly with BAS audits.
- Continuous tax losses or low profits – the ATO starts to ask what you are living on and in fact part of the audit process includes the completion of a "Private Living Expenses" questionnaire.
- Big fluctuations of profit between years.
- Variances between tax returns and BAS information. Does the total income reported on the BAS's equal the amount reported in your tax return?
- Variances between PAYG yearly summary, BAS information and tax return figures
- Continuously late lodgements.
- Not paying the right amount of super for your employees – if a complaint is made to the ATO about the amount or timing of super paid this may start the ATO looking at your superannuation and wages and from there could escalate to income tax, GST and fringe benefits.

Another trap is the ATO spotting you not ringing up a sale, as happened when the ATO visited 130 Victorian takeaway businesses, cafes and restaurants last October.

Quick Check List to Protect Your Family

The following list was inspired by some terribly stressful situations experienced by certain clients recently. So yes, this can happen to you. Please take the time to check this off and protect your family:

1) Make a will with a solicitor, but don't rely on that solicitor being there many years later. Make sure you give a certified copy of that will to your spouse and executor.
2) Make a binding nomination on your superannuation and life insurance and renew it every 3 years. While you are talking to your superannuation fund ask if they make anti detriment payments. If they don't, change superannuation funds, as this could cost you money in the future.
3) Each spouse needs to have their own bank account. A joint account could be frozen, with not even enough money to pay for a funeral and get by for at least a few months. While everyone runs around attending to their "investigations", even your most recent pay cheque can be locked up in the mess. If you don't like the idea of tying up two lots of living expenses in bank accounts, consider a portfolio of shares held in joint names. Surprisingly these seem to be the easiest funds to access. Shares or managed funds held in joint names are the same as a house held in joint names. Ownership automatically passes to the surviving owner on production of the death certificate, no other questions asked.

Warning MLC Statements

Your annual MLC tax statement for management investments outside of super, will show the fees you have paid to MLC and your advisor as tax deductible. There are two problems with this:

1) MLC does not take into account whether the payment to your advisor is tax deductible or not. It will not be immediately tax deductible if it is in relation your initial investment strategy.
2) In recognition of the uncertainty stated in the point above MLC have chosen to only advise the ATO's data matching team of the fees you pay to them, not your advisor.

In short, if you fill out your tax return according to the MLC tax statement that you receive you may be claiming deductions that you are not entitled to. Further, if you fill out your tax return according the annual tax statement you receive from MLC it will contradict what they have told the ATO so the data matching department are likely to send you a please explain. If you try to do the right thing by downloading from the ATO portal the information MLC have provided to the ATO so you can use those figures, then you are probably missing out on many thousands of dollars in tax deductions.

A sad reflection on MLC's competency and concern for their investors.

Combining a Holiday Home and an Investment Property

Thinking of buying a holiday home and renting it out when you are not using it? This article covers the tax consequences and investment considerations. It does not cover BNB type arrangements where you invite guest into your home. This was covered in Newsflash 305
http://www.bantacs.com.au/newsflash/Newsflash_305_15th-January-2016.pdf

Combining these two cross purposes means a compromise; quite possibly leading to the acquisition of a property that does not stack up as an investment, or locking your family into a holiday destination they will tire of. Further, if you are considering buying a unit in a holiday destination you are unlikely to receive the benefit of capital growth from a shortage of supply. Even on the Sunshine Coast in Queensland there are still plenty of potential development blocks available. Once demand for units increases, another newer and better one than yours could go up next door. Units are best purchased in the CBD, which I assume is the last place you would want to holiday. This may leave you looking for an old home on a large block, with an eye to future development. The downside of such a property is it might not be an attractive option for your family on holiday (for example no pool), and this may also keep away holiday renters. Being an older property, there is often no depreciation to negatively gear.

I do like the idea of buying an investment property in an area that you want to retire in. It allows you to effectively cover two properties with your main residence exemption at the same time. When you retire you sell the family home CGT free and move to the retirement home. If this is your home at date of death, then your heirs inherit it at market value at date of death so any CGT liability accrued before you moved there is ignored.

If you somehow find a property that manages to meet all the requirements of an investment and great long term holiday destination, the next step is to work out if you can afford to holiday there at all, considering the effect it will have on your ability to negatively gear the investment.

If you receive below market income from friends and family for staying at the holiday home, the ATO will limit your deductions for that period to the amount of rent received. If your expenses are quite small so that even a small amount received from friends exceeds expenses, then the ATO may try to tax the difference. Quote paragraph 21 of IT 2167 to them, which says that a small amount received from family and friends is not considered income, despite the ATO web site contradicting this.

Obviously the ATO recognises the rental income when it is market value and allow a deduction for costs during that period. The questions arise when the property is vacant. When it can neither be considered used by family and friends or to produce arm's length rent. How are the expenses during this time claimed? In Case No. P116, 82 ATC 590 : Case No. 49, 26 CTBR (NS) 372, a property was let for 16 days during the year of income, occupied by the owners for 107 and vacant for the balance of the year. The expenses for the whole year were apportioned on a time basis i.e. 16/123rds of the expenses were deductible. To actually have the expenses associated with the periods of vacancies taken into account as tax deductions you need to prove that it was genuinely available for rent, that efforts were made to find a tenant, you weren't being unreasonable in rejecting applicants or setting the rent at an unreasonably high rate to avoid tenants. If you take up all the peak holiday period with private use, even though it may be available for rent during the rest of the year, if the rental period is very small then all the expenses associated with the period of vacancy are considered private.

Of course any expenses associated with the property that you cannot claim will increase its CGT cost base under section 110-25(4) if you purchased the property after 20 August 1991.

If you travel to the property merely to inspect and repair after tenants or to prepare the property for tenants, then the cost of this travel would be deductible against the rent. Further if you need to stay in the property overnight to undertake the repairs, that night is not considered private use.

Note there are lots of good reasons to buy an investment property in your SMSF. You cannot, even for one night, stay in a property owned by your SMSF. If a SMSF turns out to be the best investment vehicle for you then trying to combine the two purposes is going to mean you are not going to be able to buy the property in an entity that will give you the best tax outcome.

Seminar – Holiday Rental Income

The Property Education Company is presenting a **free** workshop on how to increase your holiday rental income and how to get a loan for your holiday investment property. You will also receive a **bonus** video.

Melbourne	**Gold Coast**
Seasons Botanic Gardens Hotel	Intercontinential Sanctuary Cove
348 St Kilda Road, Melbourne	Hope Island
Saturday 2 April 2016	Saturday 9 April 2016
Registration 8.30am	Registration 8.30am
9am start to 12.30pm	9am start to 12.30pm

To Book **http://holidayrentalacademy.com/workshop/**

What's Happening On Facebook?

Please **like** us on https://www.facebook.com/BANTACSpropertypage and enjoy the most entertaining way of keeping abreast of property investment issues. There are news items relating to property investors' taxation issues, posts from property experts and lots of property tax tips.

We have set up a bit of a routine for our posts, so if you miss them in your time line you can still catch them by simply going to our Facebook page. Our regular posts are made in the early evening, if there is a property tax related news item in the press than will be posted during the day. Our regular evening posts are usually a clever tax tip, warnings or a myth buster. On Sunday we have a Soap Box where Julia has a little rant about the state of the nation. On Wednesday there is a 5-minute webinar relating to property investing and development, this week it was on subdividing off your back yard. On Friday we have a forum, a chance for everyone to engage in discussion and draw out information or opinion from members of the BAN TACS group.

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 CGT, Rental Properties and Work Related Expenses answered by Julia. First check the Notice Board, your question may have already been answered. Four very generous askbantacsers have allowed their answers to be posted on the notice board.
http://www.bantacs.com.au/QandA/index.php?xq=723 Developer of small subdivisions trfr new unit to spouse.
http://www.bantacs.com.au/QandA/index.php?xq=724 GST calc when splitting property & build new house.
http://www.bantacs.com.au/QandA/index.php?xq=726 A good overview of the tax consequences when you buy an established house, build a new one in the back yard then sell then buy another established house to demolish.
http://www.bantacs.com.au/QandA/index.php?xq=730 A very detailed explanation resetting the 6-year rule.