# NEWSFLASH

Visit us at www.bantacs.com.au

For website technical support email technicalservices@bantacs.com.au

**For all accounting & tax support contact one of our offices or just go to Ask BAN TACS**

**Issue Number: 308** **Pages: 4** **Date: 15th April, 2016**



**New South Wales**

***Burwood*** ***CPA***
**Phone:** **1300 367 688**
**E-mail:** burwood@bantacs.com.au

***Central Coast*** ***MNIA***
**Phone:** **(02) 4390 8512**
**E-mail:** centralcoast@bantacs.com.au

***Tenterfield*** ***PNA***
**Phone:** **(02) 6736 5383**
**E-mail:** tenterfield@bantacs.com.au

***Sydney*** ***CPA***
**Phone:** **1300 367 688**
**E-mail:** sydney@bantacs.com.au

***Chatswood*** ***CA***
**Phone:** **(02) 9410 1366**
**E-mail:** chatswood@bantacs.com.au

**Queensland**

***Gold Coast*** ***PNA***
**Phone :** **(07) 4681 4288**
**E-mail:** goldcoast@bantacs.com.au

***Bribie Island Road , Ningi*** ***CPA***
**Phone:** **(07) 5497 6777**
**E-mail:** ningi@bantacs.com.au

***Brisbane (Morningside)*** ***CPA***
**Phone:** **1300 911 227**
**E-mail:** brisbane@bantacs.com.au

***Mackay*** ***CA***
**Phone:** **(07) 4951 1848**
**E-mail:** mackay@bantacs.com.au

***Stanthorpe*** ***PNA***
**Phone:** **(07) 4681 4288**
**E-mail:** stanthorpe@bantacs.com.au

***Toowoomba*** ***CPA***
**Phone:** **(07) 4638 2022**
**E-mail:** toowoomba@bantacs.com.au

**South Australia**

***Adelaide*** ***CPA***
**Phone:** **(08) 8352 7588**
**E-mail:** adelaide@bantacs.com.au



*Visit **Bantacs.com.au** About Us section to view office location details and information about BAN TACS practitioners.*

Liability limited by a scheme approved under Professional Standards Legislation


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

# Margin Scheme – Why, How and Dangers

If you build a house with the intention of selling it, you are in business, and the sale of a new house or substantially renovated house is subject to GST. Now, you are going to get the same price for the property whether or not you have to send 1/11th of the selling price off to the ATO as GST, it is just going to come out of your pocket. At least if you have to charge GST, you are entitled to receive GST input credits for the costs of construction, consultants, etc. These input credits will be the same whether you use the margin scheme or not.

The margin scheme reduces the amount to which you apply GST. Instead of 1/11 of the sale price the GST is 1/11th of the margin between the price you paid for the land, and your selling price. So the GST calculation would be as follows: **(Selling Price – Cost or Market Value of Property) / 11**

If you purchased the property after 30th June 2000 use the price you paid in the formula above. If you purchased the property **before** 1st July 2000, use the market value at 30th June 2000, or when you first registered for GST, if that was a later date.

You can only use the margin scheme if you owned the property before GST was introduced, or you purchased the property from someone who didn't charge you GST, or who used the margin scheme when selling the property to you. For example, they may be an investor or home owner not registered for GST; or you may have purchased an old house, so that sale wasn't subject to GST. However, when you build *new* homes on the land to sell that sale will be subject to GST. Basically the margin scheme is intended to compensate you for the fact you could not claim GST input credits on the original purchase price.

It is very difficult to apply the margin scheme after the sale has gone through, when the ATO data match and ask you for the GST. So if you are uncertain as to whether GST will apply to the contract, don't try flying under the radar. It is better to get a ruling from the ATO so you can put a margin scheme clause in the contract.
*References 75-5 and 75-10 GST Act and GSTR 2000/21*

# Column By Noel Whittaker

The banks are under attack again, with some politicians even suggesting a Royal Commission be held into their activities. However, one area that has been overlooked is fixed interest rates on loans.

Potential problems arise when a borrower needs to pay out the loan early. Their first port of call will usually be the bank, to find out how much the break costs will be. The reply from the staff member will almost certainly be that they will need to check with the bank's Treasury Department who will calculate the number.

Apparently, when a bank makes a fixed-rate loan, that individual loan is bundled with many other loans, and placed by the bank with an outside source at a set fee. This fee is referred to as the funding cost.

In order to calculate the break fee, only four pieces of information are necessary. They are the funding cost, the remaining term of the loan, the balance outstanding and the funding cost when the loan is discharged. The first is almost impossible to find out, because the bank keeps the information confidential, while the other three are simple to work out.

It would be simpler if the bank advised the borrower what the initial funding cost is when they issue the breakdown of settlement proceeds letter around a week after the loan is settled. Then it would be a simple matter for the borrower or their advisors to calculate the break cost if they were considering exiting the loan early.

I am not suggesting that the banks are manipulating break fees for their own profitability, even though the behaviours of their treasury departments are under scrutiny right now. There have been many instances where borrowers have been stunned by the size of the break costs, and by the bank's inability to explain the reasoning behind them. The idea of advising initial funding costs at the time the original loan is settled is a good one, and simple to put into practice. It would also enable the banks to be more transparent and prevent further bad publicity.

*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*

# Warning - Lending Money to your SMSF

As the ATO initially originally sanctioned zero interest related party loans to Self-Managed Superannuation Funds (SMSFs) they have not actively pursued SMSFs with related party borrowings. This "amnesty" will cease in the 2016 financial year. **It is important that you sort any loans you have made to your SMSF before 30th June, 2016. They need to be on a commercial basis; this means the loan arrangement must be identical in every way to those available to the public.** *Reference ID 2015/27 and ID 2015/28*.

No special terms at all, even the same security and deposit requirements. Of course the interest rate will also need to be at commercial rates. You need to collect evidence that the loan arrangement you have with your SMSF is the same as that offered by arm's length lenders. If you can't find a comparable arrangement, then you will need to adjust your loan agreement in line with those conditions offered by banks.

# Centrelink Deadline – Must Act Before End of April

If you have not lodged your 2015 tax return by 30th June 2016 then Centrelink, Family Assistance Office or whatever you want to call it will demand you repay all entitlements you have received during the 2014-2015 financial year. Even if you lodge after that date you will still not get your money back. Not lodging before 30th June 2016 totally destroys your entitlement to any payments during the 2014-2015 year.

That is right, the children of parents you who not lodge in time (probably because they can’t afford to pay someone to lodge their tax return, are condiment to living outside our social security net. The Government has done this before as a cash grab and eventually had to change the law back to what is reasonable but never retrospectively. Please take this up with your local member.

This of course puts extreme pressure on Accountants at this time of year. It is just plain impossible for our offices to complete everyone’s tax return at the last minute. **So this is a final warning!** If you don’t get all the necessary information to your accountant before the end of April we will not be able to process your tax return in time to meet this deadline.

# The New Business Roll-Over Rules

It has long been the quandary of Accountants when a client first starts out in business. Either incur the costs of setting the business up in an entity that will adapt well with the business's success, or keep costs at a minimum and concentrate on making sure that any losses can be offset against personal income. You might say the latter attitude lacks faith and confidence in one's client but you have got to consider just how few start-up businesses make it to their second year.

**From 1st July 2016, businesses will be able to roll their assets from one entity to another without any CGT or income tax consequences.** This means that new businesses can just start out as a sole trader but as they become more successful, change to a far more suitable entity that allows for a more flexible profit distribution and better asset protection.

There are, of course, some catches. The restructure must be a genuine, ongoing small business with a turnover of under $2 million, or net business assets of less than $6 million; the same individual must still ultimately own the business; and the assets transferred must be "active" in the business. Note that you cannot use this rollover concession to transfer a business into a superannuation fund.

The genuine restructure is intended to prevent people from using the rollover purely for tax purposes for example rolling over into a company just before you sell so that the profit is only taxed at company tax rates. Though it would only be in limited circumstances that rolling into a company would actually provide a better tax situation. To decide whether your motivation was pure, the ATO can come along in 3 years' time and check that the business is still using the assets that were rolled over. If this is not the case you will need to be able to prove your rollover was genuine, not just tax driven.

The biggest hurdle is the requirement that the same individual must still effectively own the business. This means that if you are transferring to a company the shares must be owned by the same individuals in the same ratio as the original business. Fortunately, there is more flexibility when it comes to transferring to a discretionary trust. It is only required that the discretionary trust make a family trust election and that all the previous owners are a member of that family.

Not all of the business needs to be transferred. This rollover relief is ideal for transferring a building out of a trading entity so that the property is not exposed to the business risk; but of course there will be stamp duty consequences.

GST could also apply to the transfers though you would expect a corresponding input credit.

So who should be seeing their Accountant about utilising these concessions? When you first start out in business you might just trade in your own name as you test the market or a hobby might evolve into a business. It's not a bad idea to starting in your own name because there is a chance if you make a loss you will be able to offset that against your other income. Once the business gets serious you may want to transfer it out of your name to protect yourself from the business risk. A discretionary trust with a corporate trustee will achieve this and at the same time give you the flexibility to distribute profits to other members of your family, which you couldn't have done as a sole trader.

The rollover for CGT purposes means that the new entity holds the asset with the same cost base as the old entity so all the CGT numbers just move across but the treatment of the purchase date varies. If the new entity sells the asset less than 12 months after the transfer, it will not qualify for the 50% CGT discount as it is considered to have acquired the asset at the date of transfer. Yet for the purposes of the 15-year small business concession the period before the transfer can be taken into account. In the case of pre 1985 assets the pre 1985 status also transfers across.

Trading stock is transferred at whatever value the old entity had on it. Goodwill transfers at zero value unless it has been purchased originally for an independent third party, and the depreciation schedule just transfers across as is. All this means no tax affect.

Note that the transfer can go the other way, too. For example, you may be fed up with the costs of operating a company, so you may wish to transfer the business to a sole trader operation.

*Reference – ITAA 1997 subdivision 328-G, section 328-430 to 440 in particular.*

# Just Some Of What We Have Going On Facebook

The "going on" starts with a rant every Sunday (soap box Sunday), lots of tax tips during the week, a webinar on Wednesday and a forum on Friday.

Take advantage of this totally free resource aimed at helping to educate property investors, we even troll other property sites to give you their interesting posts when we know they are credible. Just looking back over the last month, followers have learned about GST and commercial properties, land banking and hobby farms, overseas investments, the problems you face when your home started out as a rental property, tax planning when taking time off work to travel or look after your family, retirement planning, insurance issues and negative gearing was explained.

I hope to develop the Friday forums into some great discussions. This is your opportunity to learn from other investors out there with the content carefully monitored by people you trust.

The Wednesday webinars covered the basics on self-managed superannuation funds, the dangers in going concern contracts, the differing investment strategies for young people, explained the margin scheme, subdividing your back yard and buying off the plan, each in a few minutes. These are still available in the video section of the page.

We even snuck in an April fool's joke. All this on a facebook page where you know we have vetted all the information. Please like our page https://www.facebook.com/BANTACSpropertypage/

# 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/shop-2/

# 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 http://www.bantacs.com.au/shop-2/bookwinning-property-tax-strategies/ The cost is still a low low $29.95 plus $5.95 postage – tax deductible of course!

# Want More?

Visit our facebook page https://www.facebook.com/BANTACSpropertypage/ Or see the library section of our web site http://www.bantacs.com.au/media-library/

# 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.

Some very generous askbantacser have allowed their question and answer to be posted on the notice board, check there first you may find your answer for free. Here is what went up there this month. http://www.bantacs.com.au/QandA/index.php?xq=734 A duplex with daughter and the main residence exemption also consider whether to cover another property with the MRE.

**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.