

NEWSFLASH

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BAN TACS
Accountants
Pty Ltd is a
CPA Practice



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Issue Number: 315

Pages: 4

Date: 15th December, 2016

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Visit Bantacs.com.au [About Us](#) section to view office location details and information about BAN TACS practitioners.

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

Christmas Hours

Merry Christmas. Wishing you a prosperous New Year! We hope you have a great holiday and please don't sign up to buy a holiday property over the break. All the offices will be shut over the break but you may still be able to get our attention for urgent questions through askbantacs

<http://www.bantacs.com.au/QandA/index.php>

Here are our office hours over the Christmas break:

Adelaide	- Closing Friday 16 December at 4pm re-opening Monday 9 January at 9am.
Brisbane	- Closing Thursday 22 December at 5pm re-opening 2 nd January at 9am
Burwood	- Closing Thursday 22 nd December at 4pm re-opening Monday 16 th January at 10am
Central Coast	- Closing Thursday 22 nd December at noon re-opening Tuesday 3 rd January at 9am
Chatswood	- Closing Thursday 22 nd December re-opening Monday 9 th January 9am
Gold Coast	- By Appointment
Mackay	- Closing Wednesday 21 st December at 4pm re-opening Tuesday 10 th January at 8.30am
Ningi	- Closing Friday 23 rd December at noon re-opening Monday 9 th January at 8.30am
Stanthorpe	- By Appointment
Sydney	- Closing Thursday 22 nd December at 4pm re-opening Monday 16 th January at 10am
Tenterfield	- Closing Tuesday 20 th December at 1pm re-opening on Monday 9 th January at 9am
Toowoomba	- Closing Thursday 22 nd December at 12noon re-opening on Tuesday 3 rd January at 8.30

Update For Travelling Workers

The reason this newsflash is so late is because I have been totally absorbed in our case before the AAT on travelling workers. Despite over a decade of the ATO accepting our interpretation of itinerancy and passing two audits they now seem to have a policy of throwing out all deductions with no explanation. We even have to go through the Inspector General of Taxation to get a written explanation from the ATO that we can object to. Then they deny the objection so we go to the AAT where the ATO will employ every ploy there is to delay the process. They even withdrew from the independent review process provided by the AAT. Certainly, if a fruit picker was paying for representation they would have had to give up by now and that is no doubt what the ATO were working on.

We finally got our day in court, well really just the tribunal which is the lowest court. Picture the ATO with a barrister and 3 underlings verses me with no idea of court procedure and two salt of the earth fruit pickers.

The first day was spent with the ATO barrister cross examining our client trying to trick him up, even asking him to guess distances and then when that didn't match the log book, accusing him of creating the log book after the fact. Of course, it was the client's guess that was wrong not the log book and he should not have been asked to guess under oath. Many attempts were made to discredit him by splitting hairs over words used but the client was telling the truth so he was never going to be caught out.

By the end of the day the ATO Barrister was asking to adjourn until mid January so he could look into some issues. In other words the ATO barrister had not done his preparation. Fortunately, the presiding AAT member only allowed an adjournment until the next day.

The next day began with our references to ATO rulings, case law and legislation explaining why we feel the taxpayer was itinerant and therefore entitled to claim his motor vehicle, accommodation and food costs while on a fruit picking circuit. Full details in our booklet

http://www.bantacs.com.au/booklets/Claim_Your_Trip_Around_Australia.pdf This was followed by the ATO's view. The highlight of which was the Barrister relying heavily on Payne's case without realising that it had been over ridden by section 25-100 of the ITAA 1997 12 years ago. When I pointed this out, that got the papers shuffling.

We haven't got a decision yet. Our arguments were good and we got a full opportunity to present our case. The catch is the presiding member could see that his decision could open floodgates. He quizzed us quite a bit himself. I think if he can find anything against us he will use it to deny the deduction simply because of the opportunity to others and publicity the case will get. But he was clearly a fair man and if he can't find anything I believe he will rule in our favour. We will let you know in the new year.

From the questioning we received I would like everyone to do a bit more to cover themselves. These may not be deal breakers but if you can eliminate them why not? Fortunately, our client had most of these covered. Please read the booklet for all the important points you need to follow these are just some new additions.

- 1) Try not to change occupation start the circuit as a fruit picker and only move on when the season finishes.
- 2) Try to make it a true circuit returning the following years to the same farms or at least the same areas.
- 3) Try to pick an inherently itinerant occupation ie don't go from one woollies store to another when you could have stayed at the first.
- 4) Live in your home base for as long as possible before becoming itinerant
- 5) Don't appear to have quit your local job and gone into something completely different to be on the road.
- 6) Give more detail in the log book/diary, not just one day total kilometres but break it down to each trip during that day and use the description column which is really for expenses to describe the journey or set up more activity codes. To see our record keeping templates go to

<http://www.bantacs.com.au/topics/travelling-workers/>

We stand by the advice we give but can't protect you from a change of attitude from the ATO. Fortunately, the law is the law. The ATO's job is to enforce it, not change it. It is just unfortunate that the process is so slanted in their favour.

Claiming A Car Registered In Someone Else's Name

When using the cents per kilometre method to claim a tax deduction for motor vehicle expenses you are entitled to a maximum of 5,000kms per car per year. This means that if you own two cars you have potential to claim up to 10,000kms a year.

Owning a car does not necessarily mean that your name is on the registration. You may well have two cars. One in your spouse's name and one in yours but they were both paid for out of joint funds so you both technically own both cars and you are both entitled to claim up to 5,000kms for each car providing of course that you have used them for tax deductible purposes.

In order to claim a car that someone else holds on your behalf, they must sign a declaration of joint ownership. Here is a link to one on our web site

<http://www.bantacs.com.au/docs/Declaration%20of%20Joint%20Ownership.pdf>

A declaration of joint ownership will not prevent the registered owner from making their own claim for 5,000kms work related travel in the same car. But of course, you cannot both claim for the same trip. If you are both travelling for deductible purposes on the same trip, that trip should be claimed by the person that is driving.

For more information on when you can claim a tax deduction for using your car read our Claiming A Motor Vehicle booklet http://www.bantacs.com.au/booklets/Claiming_A_Motor_Vehicle_Booklet.pdf

Great Example:

Many years ago I had 3 brothers as clients who all worked at the same wrecking yard 100kms travel each way from their home. Even though they shared one car they were still turning over 1,000kms a week. Fortunately, being mechanics they would buy cars from the wreckers, do them up and sell them for a (tax free) profit even after putting 10,000 to 20,000 extra kilometres on the speedo.

They would take turns in driving the car and carefully documented how each of them had driven the car for 5,000kms. Then they would do it up and sell it, moving onto the next wreck and another 5,000kms deduction each. This usually meant that they could each claim 15,000kms under the kilometre method per year.

Medical Graduates

When you first graduate you might not slip straight into a great job. You might have to pick up bits and pieces of casual and locum work so it is important to know where you stand for GST and sub contract purposes.

Medical services are not subject to GST if it is the patient or Medicare that pays you. If on the other-hand you provide services to patients but you are paid by another practitioner then you will have to charge GST if your turnover that is subject to GST is more than \$75,000. Don't go thinking as there is only 6 months to go on the financial year you won't reach \$75,000. You have to look at the current month and predict the next 11 months so if your income that is subject to GST exceeds \$6,250 for the month start to look into your GST responsibilities. Probably the practitioner you are contracting to will want you to charge GST anyway.

Getting an ABN is relatively easy if you are just operating as a sole trader, if you have a TFN it is automatic, just go to <https://abr.gov.au/For-Business,-Super-funds---Charities/Applying-for-an-ABN/Apply-for-an-ABN/>

The link below will explain whether you need to charge GST if you are being paid by the patient. It lists the associated medical professions that are able to utilise the GST exemption for medical services providing they are registered as a recognised health profession in their state <https://www.ato.gov.au/Business/GST/In-detail/Your-industry/Health/GST-and-other-health-services/#Whichhealthservicesareeligible>

If you are working for a practitioner they should probably be paying you as an employee including superannuation, if you are not allowed to contract the work out to someone else. Here is a link to the ATO web site <https://www.ato.gov.au/Calculators-and-tools/Host/?anchor=ECDTSGET&anchor=ECDTSGET/questions/ECDT#ECDTSGET/questions/ECDT> that will help you work out if you are a contractor or employee.

Employee or Contractor?

The ATO have provided a great little calculator that will show you the difference between an employee or contractor. <https://www.ato.gov.au/Calculators-and-tools/Host/?anchor=ECDTSGET&anchor=ECDTSGET/questions/ECDT#ECDTSGET/questions/ECDT> Even if they are a contractor you, as their payer, could still be liable for superannuation, it will tell you that too. If you have any doubts please make sure you check this out because it is a hot spot for the ATO.

Do some what if analysis, notice how an employee can change to a contractor is they have a contract that allows them to employ others to do the work.

If you would like to know more about this, here is a link to our sub-contractors booklet http://www.bantacs.com.au/booklets/Subcontractors_Booklet.pdf We also have a page on our web site for contractors <http://www.bantacs.com.au/topics/contractors/>

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

Note: If you are an experienced property investor we understand you might not need all of these services, please feel free to discuss exactly what you need with your local BAN TACS Accountant



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For daily property tax tips and a bit of fun like us on <https://www.facebook.com/BANTACSpropertypage/>

Askbantacs Free Notice Board

For \$79.95 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.

One very generous askbantacsers have allowed their question and answer to be posted on the notice board. <http://www.bantacs.com.au/QandA/index.php?q=784> Apportioning the capital gain between the period you lived in the property and the period you did not.

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.