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## Quick Tip – Claiming Interest on a Rental Property

The interest on a loan is tax deductible if the borrowed money has been used to purchase an income producing asset. It does not matter where the loan is secured. So, when your Accountant asks you for the interest expense relating to your rental property they are not asking you about loans that are secured against it. They are asking you about interest on the loan to buy the rental property.

Further if you have repaid part of that rental property loan and then redrawn from it for another purpose then that portion of the interest will not be a deduction against the rent.

## Travel For Work Accompanied By Spouse

If your spouse is accompanying you in a private capacity ie has nothing to do with the work related purpose of your travel, then of course you can't claim their meals and air fares. But what about the accommodation costs if the room would have cost the same whether they accompanied you or not?

Case law is divided on this issue and until recently the ATO only had eyes for the case where the accommodation costs had to be halved because the spouse also stayed in the room. There appears to be a change of heart in TR 2017/D6 in example 7 because the room would have cost the same amount whether the spouse had stayed there or not the whole cost of the room is tax deductible.

## Quick Tip – Salary Sacrificing No Longer Necessary

From 1<sup>st</sup> July, 2017 employees are allowed to claim a tax deduction for superannuation contributions they make for themselves providing they qualify and stay under their \$25,000 cap which includes payments made by their employer.

The advantage of making the superannuation contributions direct, yourself, is that you can wait and see what you can afford later in the year rather than having to have a regular amount taken out of your pay all year.

## Travelling Itinerant Workers Update

Considering the loss of Walkers case and TR 2017/D6 we feel that travelling workers may be considered to have set up a new home in their work location unless the period they stay there is less than 3 months, preferably just 2 months.

Now TR 2017/D6 is for people who travel as part of their job and is not directed at itinerant workers such as fruit pickers but it does consider when you are travelling verses living away from home and this is very relevant for travelling workers. It certainly doesn't override TR 95/34 but that ruling does not specify what period of time you need to be in one place before you are considered to have set up home there.

In response to TR 2017/D6 one of the big 4 Accounting firms, BDO, is calling for the period of time you are considered to be travelling to be extended to 6 months. They put forward some very valid arguments of consistency across definitions.

## Getting The Biggest Deduction For Your LMI

Lenders Mortgage Insurance (LMI) only protects the banks, not you. If you default on your loan repayments the insurer pays out the bank but then the insurer chases you for the debt instead. As there is no benefit for you, LMI should be avoided or at least minimised.

Generally, a bank will want you to pay LMI if you have less than 20% deposit. If the LMI is for your own home of course there is no tax deduction but if it is for a rental property then the LMI can be deducted from your rental income over 5 years. If the LMI is for both loans then it is to be apportioned on the same ratio as the borrowed money. For example if you owe \$400,000 on your home loan and \$600,000 on your rental property loan then 60% of the LMI is tax deductible.

So, the trick is to only pay LMI on the borrowings for the rental property. Consider only borrowing enough of the deposit secured against your home to keep the borrowing at 80% of its value and then have a separate loan for the rental property that maybe even a 95% lend but at least you are only paying LMI on the rental loan. This may be difficult to get your bank to accept. You may even have to finance the new property through a different bank to prevent them charging you LMI on both loans.

If you have already paid LMI on your home loan then make sure the bank doesn't charge you it again. This may happen if they refinance that loan. Obviously there is a lot to be saved in LMI if you can stop them from charging it twice on your home but it also means that the LMI only applies to the rental property loan.

## When Is Your Child A Dependant For Tax Purposes?

Despite undertaking to standardise the definition of dependant across all items in the tax return we are still left with quite a few variations. So here they are in a nutshell.

**Medicare Surcharge** - Firstly, the definition of dependant is different between the Medicare levy and the Medicare levy surcharge. In the case of the surcharge you only need to be contributing to the maintenance of your child, they do not need to live with you. So you need to make sure your private health insurance covers any of you and your spouse's children. On the up side it means a single taxpayer can get the \$180k threshold. Further, the child needs to be under 21 or a full time student under 25, their personal income does not matter.

**Medicare Levy Reduction** - If your family income is low then you may not have to pay the Medicare Levy. How low your income needs to be depends on how many dependant children you have. Before you can count a child as a dependant you need to be entitled to family tax benefit from Centrelink for them. Their income also needs to be, if they are under 21 less than \$282 plus \$28.92 for each week you maintained them. If they are your second dependant child then this income test drops to \$282 plus \$21.70. The dependant age test increases to 25 if they are a full time student but still with the income test and really if your income is low enough for the Medicare Levy Reduction the child would have received a study allowance from Centrelink of more than the income test amount.

**Zone Tax Offset** - The child must be under 21 or a full time student under 25. Further, their own income must be less than \$282 plus \$28.92 for each week you maintained them.

## List Of Traps For Renovators

- 1) If you are intending to rent the property out once you have finished it is wise not to live there during the renovations. If you live there then any appliances will be considered previously used so you will not be entitled to depreciate their cost against the rent.
- 2) If you are renovating to sell for a profit then you are in business. This means no 50% CGT discount because it is a business venture not an investment. Even if you live there while renovating you will not qualify for the main residence exemption.
- 3) If you employ a builder to undertake part of the renovation, for example a kitchen makeover, sure you are the one to buy all the plant and equipment such as the stove. Unless that renovation is substantial (GSTR 2003/3) then you will not be entitled to depreciate the plant and equipment if it is purchased by the builder.
- 4) If you owned a property before the budget announcement but it was not being used to produce income in the 2016-2017 income year then whenever you do use it to produce income you will not be entitled to a tax deduction for depreciation on any of the plant and equipment in that property unless you purchased it brand new after it became income producing. Among others, this will catch out renovations in progress on budget night.

Here is what the draft legislation says:

(2) The amendments made by this Schedule also apply to the entity, for income years commencing on or after 1 July 2017, for any other asset acquired by the entity, if:

(a) the asset's start time is during the income year that includes 9 May 2017 or during an earlier income year; and

(b) no amount can be deducted under Division 40, or Subdivision 328 D, of the Income Tax Assessment Act 1997 by the entity for the asset for the income year that includes 9 May 2017.

## New Zealanders In Australia Beware

With the Government proposing, according to the May 2017 budget, to remove the main residence exemption for temporary residents New Zealanders here on a 444 visa should be alarmed. At least start keeping all receipts relating to you home, even cleaning materials.

Treasury have released an exposure draft on the removal of the main residence exemption for people who are non-residents of Australia for tax purposes when they sell a property. So be careful of this trap too, refer last month's newsflash.

There is nothing in the exposure draft applying to temporary residents. The explanatory memorandum to the exposure draft even tells at example 1.1 of a New Zealander on a "special category visa" that was entitled to the main residence exemption. Maybe they have decided to forget about taking the main residence exemption away from temporary residents but I wouldn't bet on that until it is announced. The trouble is if they do bring it in it will probably apply back to budget night May 2017.

Maybe we are over reacting but we feel the need to warn you to start keeping receipts just in case. That is unless you are not considered a temporary resident.

So when is a New Zealander considered a temporary resident? You are a temporary resident if you hold "a temporary visa granted under the Migration Act 1958", a 444 visa meets this definition. If you have a temporary visa the only way you will **not** be considered a temporary resident is if you or your spouse are considered an Australian resident within the meaning of the Social Security Act 1991 refer section 7(2) [http://www.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol\\_act/ssa1991186/s7.html](http://www.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/ssa1991186/s7.html)

If you were in Australia before 26<sup>th</sup> February 2001 you are considered a permanent resident for social security purposes. Failing that the legislation says you need to be a citizen of Australia or apply for a permanent visa. That is what the law says but Centrelink certainly give social security payments to New Zealand residents <https://www.humanservices.gov.au/individuals/enablers/new-zealand-citizens-claiming-payments-australia> it has to do with the paperwork they give you when you arrive in Australia.

If you or your spouse is receiving family payment then you are not a temporary resident. Having a Medicare card does not necessarily mean that you are entitled under the Social Security Act.

## Our Chatswood Office Has Moved

I guess you could say it is now our Crows Nest Office. New details are as follows:  
Phone: 1300 790 535 Fax: 1300 790 887  
Mailing Address: PO Box 672 Willoughby NSW 2068  
Street Address: 6/133 Alexander Street, Crows Nest, NSW 2065

## 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.

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?q=837> About residency status when working on a yacht  
<http://www.bantacs.com.au/QandA/index.php?q=838> Subdividing a rental and building another house  
<http://www.bantacs.com.au/QandA/index.php?q=840> Making your holiday house your home after being a non resident for tax purposes.  
<http://www.bantacs.com.au/QandA/index.php?q=842> A good example of the problems faced by couples who own a home each when they get together.

## We Are Very Serious About Facebook

Sure, there are times when we have a bit of fun and even the serious stuff has great funny pictures a lot of the time. Nevertheless, we have found Facebook to be an excellent way to keep our clients up to date on the important issues that come up from time to time. In between we use it to educate our followers in small bite size bits on how to minimise their tax. Every Monday Noel Whittaker provides a column for our Facebook followers. Newsflash will of course give you the detail you need to know but Facebook allows us to be in your face as soon as it happens and inform you in a more enjoyable fashion, less bogged down with detail.

BAN TACS is passionate about making sure our clients take every tax advantage and avoid every tax trap. There is no Accounting firm that provides as much free, relevant information as we do. We love doing it and it shows. Please make sure you make the most of this by following us on Facebook. To keep the posts that appear on your timeline as relevant as possible we have two pages we post to. BAN TACS Accountants Pty. Ltd. <https://www.facebook.com/bantacs/> is the page for everything that is not property related and BAN TACS Property Accountants for Investors and Developers <https://www.facebook.com/BANTACSpropertypage/> has all the property related information. So, if you are not interested in property you can just like the first page but if you are into property make sure you like and follow both.

## 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>

**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.