

# NEWSFLASH

Visit us at [www.bantacs.com.au](http://www.bantacs.com.au)

For website technical support email [technicalservices@bantacs.com.au](mailto:technicalservices@bantacs.com.au)

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## **BAN TACS** Accountants Pty Ltd

BAN TACS  
Accountants  
Pty Ltd is a  
CPA Practice



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### Queensland

#### **Gold Coast** **PNA**

Phone : (02) 6736 5383  
E-mail: [goldcoast@bantacs.com.au](mailto:goldcoast@bantacs.com.au)

#### **Mackay** **CA**

Phone: (07) 4957 8340  
E-mail: [mackay@bantacs.com.au](mailto:mackay@bantacs.com.au)

#### **Ningi** **CPA**

Phone: (07) 5497 6777  
E-mail: [ningi@bantacs.com.au](mailto:ningi@bantacs.com.au)

#### **Stanthorpe** **PNA**

Phone: (07) 4681 4288  
E-mail: [stanthorpe@bantacs.com.au](mailto:stanthorpe@bantacs.com.au)

### Toowoomba **CPA**

Phone: (07) 4638 2022  
E-mail: [toowoomba@bantacs.com.au](mailto:toowoomba@bantacs.com.au)

### New South Wales

#### **Burwood** **CPA**

Phone: 1300 367 688  
E-mail: [burwood@bantacs.com.au](mailto:burwood@bantacs.com.au)

#### **Central Coast** **MNIA**

Phone: (02) 4390 8512  
E-mail: [centralcoast@bantacs.com.au](mailto:centralcoast@bantacs.com.au)

#### **Tenterfield** **PNA**

Phone: (02) 6736 5383  
E-mail: [tenterfield@bantacs.com.au](mailto:tenterfield@bantacs.com.au)

### Victoria

#### **Geelong** **CPA**

Phone: (03) 5222 6962  
E-mail: [geelong@bantacs.com.au](mailto:geelong@bantacs.com.au)

#### **Melbourne** **CPA**

Phone: (03) 5222 6962  
E-mail: [melbourne@bantacs.com.au](mailto:melbourne@bantacs.com.au)

### South Australia

#### **Adelaide** **CPA**

Phone: (08) 8352 7588  
E-mail: [adelaide@bantacs.com.au](mailto:adelaide@bantacs.com.au)

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

## Column by Noel Whittaker

Do you want to make a guaranteed 50% on your money between now and June 30<sup>th</sup>? Then take advice about making a non-concessional contribution of \$1,000 to superannuation. Provided you meet the eligibility guidelines, the Government will give you a tax-free bonus of \$500, which will see your \$1,000 miraculously turned into \$1500.

The maximum government co-contribution is \$.50 for every \$1 of eligible personal super contributions made in a financial year and is subject to an income test. The maximum co-contribution of \$500 is reduced by 3.333 cents for every dollar that the taxpayer's total income exceeds \$31,920.

As income rises the co-contribution reduces by \$33.33 for each \$1,000 of additional income, until it cuts out at \$46,920 a year.

For co-contribution purposes you must be less than 71 at the end of the financial year.

Your income is your assessable income **plus** reportable fringe benefits and reportable superannuation contributions. To be eligible for the co-contribution, you must have received at least 10 percent of your income from what is called "eligible employment" – usually income from salary or wages or by being self employed. Eligible employment generally means anything resulting in your being treated as an employee.

Just be aware that the employer compulsory superannuation does not count for the co-contribution. To be eligible you must make an additional contribution from after tax dollars. This is not subject to the 15% entry tax.

*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: [noelwhit@gmail.com](mailto:noelwhit@gmail.com).*

## Year End Tax Strategies 2013

This booklet is now available on our web site at  
[www.bantacs.com.au/booklets/Year\\_End\\_Tax\\_Strategies\\_Booklet\\_2013.pdf](http://www.bantacs.com.au/booklets/Year_End_Tax_Strategies_Booklet_2013.pdf)

## Getting PAYG Summaries Right

The time is fast approaching for preparing your employee's PAYG summaries. Employees should also read this article to make sure they don't end up paying more tax because something is put in the wrong box. For example if you received a redundancy payment during the year the first \$ \$8,806, plus \$4,404 for each year of service is tax free but if your employer puts this amount anywhere other than box D on the PAYG summary you will end up paying tax on it.

**Conditions Allowances** – Any allowances that do not relate to actual costs incurred by the employee, such as danger, shift, travel time and extra qualifications such as safety officer are to be included in the gross wages and nowhere else. If they also appear in the allowance box they will be taxed twice. PAYG instalments should be deducted from these payments and they are included in the calculation of the 9% superannuation guarantee. On call allowances must also have tax withheld from them but it is not included in the 9% superannuation guarantee calculation if it is paid for being on call outside ordinary working hours. Work Related Expenses Allowances – For example tools and uniform allowances. Tax still has to be withheld from these payments but they are not included in the calculation of the 9% superannuation guarantee. These amounts are not included in gross income they appear in the allowance box instead. A Laundry allowance is not included in the 9% superannuation guarantee calculation and it must appear only in the allowance box. If it is under \$151 per year no tax has to be withheld.

**Motor Vehicle Allowance** – This allowance is not included in the 9% superannuation guarantee calculation, it is not included in gross income but it is included in the allowance box.. Providing the employer expects the employee to be entitled to a tax deduction for the associated expenses and the amount paid is within the ATO limits of no more than 63 cents for a vehicle with an engine capacity of 1.6 litres or less, 74 cents for over 1.6 up to 2.6 and 75 cents for over 2.6 litres for up to 5,000kms tax does not need to be withheld. If the amount you pay is at a rate higher than the kilometre rates stated or exceeds 5,000km for the financial year, tax must be withheld on the excess.

**Travel Allowance** – Tax concessions only apply to travel allowances if the employee is required to sleep away from home overnight, otherwise it is just included in gross wages, with PAYG instalments deducted and included in the superannuation guarantee calculation. If the travel allowance is within the reasonable amounts as listed in TD 2012/17

<http://law.ato.gov.au/atolaw/print.htm?DocID=TXD%2FTD201217%2FNAT%2FATO%2F00001&PiT=99991231235958&Life=20120919000001-99991231235959>

and you expect the amount to be fully expended then you do not have to deduct tax from the payment or include it on the PAYG Summary and it is not included in the 9% superannuation guarantee calculation. It may be best to include the amount on the PAYG summary if you pay less than these reasonable amounts as some employees may include it as income and claim up to the reasonable amount as a tax deduction.

**Employee Truck Drivers** – Who sleep away from home can receive an allowance of \$89.60 per day if their wages is below \$104,871 per year or \$97.75 per day if their wage is \$104,871 and above, even though they sleep in the truck. This allowance is tax free as long as it is reasonable to consider it has been fully expended. Accordingly, tax is not required to be deducted from the allowance and it is not included in the 9% superannuation guarantee calculation. Technically it does not have to be included anywhere on the PAYG summary but if you pay under the daily amounts quoted above it may be worth including the amount in the allowance box so the employee has the information needed to claim more than the allowance paid.

**Living Away From Home Allowance** – This should only ever appear in the Reportable Fringe Benefits Box and then only if the employee does not meet the requirements for the allowance to be exempt from FBT

**Overtime Meal Allowance** – As long as this is paid under the award, is under \$27.10 and relates to overtime worked then this amount is not taxable to the employee so no withholding is necessary. It does not have to be included in the PAYG summary at all but it is recommended that you do include it, in the allowance box only, so that the employee can claim a deduction for the actual amount spent if it exceeds the amount paid. It is not included in the superannuation guarantee calculation regardless of the amount paid. Anything over the \$27.10 per day, must have tax withheld and appear in the allowance box.

**Award Transport Payments** – This only applies to award payments that were in force at 29<sup>th</sup> October, 1986, where there will be deductible transport expenses. Tax does not need to be withheld nor is the amount included in the Superannuation Guarantee calculation. It is not included in gross income but it still must appear in the allowance box. If there will not be deductible transport expenses or the award is post 29<sup>th</sup> October, 1986 then it is treated as normal wages.

## **Year End Summaries for Construction Industry**

The 2012/2013 financial year is the first year that payers of people and entities in the construction industry are required to report these payments to the ATO. The summaries are due by 21<sup>st</sup> July, 2013 but if you lodge your activity statement quarterly, as this is the first year you can delay until 28<sup>th</sup> July, 2013.

The report form you need to fill in for each employee is a NAT 74109, this cannot be downloaded from the ATO web site. You need to ring 1300 720 092 to organise to have the forms posted to you.

You will need a separate report for each entity or person you pay, it needs to record their ABN, name; address, gross amount (including GST) you paid them for the financial year, and the GST portion. Note even if the amount includes materials it must still be included in the report but invoices that are solely for materials do not need to be included.

Anyone whose business is primarily in the building and construction industry and makes payments to contractors who are also in that industry is required to report. This also includes payments for designers, architects, decorating, earth moving, project management, installations, repairs and maintenance.

A business is considered to be primarily in the building and construction industry, if in the current financial year or previous financial year 50% or more of its income or activity is from the building and construction industry. So there is a carve out for businesses that may sell materials but also provide an installation service as a minor part of their business.

Please note this obligation affects even the smallest contractors who may just pay someone to help them.

## **Timing of Superannuation Contributions**

Employers have until the 28<sup>th</sup> July to make the superannuation contributions they are obligated to pay for the June period, under the superannuation guarantee. But if the contribution is made after the 30<sup>th</sup> June, 2013 the employer will not be entitled to a tax deduction for it until the 2013/2014 financial year even though the liability fell in the 2012/2013 financial year.

If you are contributing salary sacrificed contributions or have employees who are close to the \$25,000 cap you should also take a careful look at their particular circumstances. The amount contributed for the purposes of the cap is also based on the date it is received by the fund, providing the fund allocates the amount immediately to the members account. If an employer delays making the contributions relating to the June quarter until after 30<sup>th</sup> June it could result in the employees missing out on maximising their cap this year and possibly exceeding their cap next year.

On the other hand if last year you made the June contribution in July but this year you are making it in June your employees will have 5 quarters' worth of contributions in the 2012/2013 financial year. So before you do this make sure you will not be pushing anyone over their cap.

In Peaker 2012 AATA 140, the employer posted the contribution on 28<sup>th</sup> June but it was not recorded as income of the fund until 5<sup>th</sup> July. This meant that the employee exceeded his cap for the following year. The AAT upheld the ATO's assessment of excess contributions tax as there were no special circumstances which would allow the amount to be allocated to another year.

On the other hand in ID 2012/16 The ATO accept that a member of a SMSF who only qualifies for a \$25,000 cap can claim a tax deduction of \$50,000 by making two \$25,000 contributions in the same financial year. In this case the last contribution was received by the SMSF on 28<sup>th</sup> June and the SMSF trustee (the member in another hat) put it into an unallocated account until the 4<sup>th</sup> July so it counted towards the following years cap yet the tax deduction was allowed on the basis of the time the SMSF received the income. Take care to read the ruling in detail before implementing this strategy, for example the governing rules of the fund must allow contributions to be placed in an unallocated account and there must only be one member's contribution in that account.

Due to data matching the ATO will always be informed should your cap be exceeded.

Employees when negotiating their salary package should consider including a clause requiring their employer to physically make the superannuation contribution in the month that it is sacrificed.

## To Do List Before 30<sup>th</sup> June

This section is not so much about how to plan for the best tax outcome at year end. It is more a warning about the simple slip ups that can completely stuff it for you.

- 1) Make sure you do Minutes for your Discretionary Trust profit Distribution before 30<sup>th</sup> June. As the exact amount may not be known, this should be done on a percentage basis or by exact amounts with a beneficiary who will receive the balance. Note children under 18 are only allowed to earn \$416, in passive income a year before being subject to tax at the top marginal rate. If you intend distributing some of the trust profits into a bucket company make sure you consult your accountant first.
- 2) If your Discretionary Trust has received franking credits make sure it is in a position to make a profit so the franking credits can be distributed. The profit must exist before including the franking credits as income.
- 3) Make sure any superannuation contributions have been deposited into the fund's bank account before 30<sup>th</sup> June, 2013
- 4) If you personally contributed to superannuation in 2011/2012 make sure you have notified your fund if any of that contribution has been claimed as a tax deduction, before 30<sup>th</sup> June, 2013; even if you have still not lodged your tax return
- 5) Take your car speedo reading at 30<sup>th</sup> June, just in case.
- 6) Start diaries you need to substantiate expenses in for the 2012/13 financial year.

## Where is Julia?

Still in SEQ for another month yet then off to Sydney for a few weeks before heading north to Mackay.

## Ask BAN TACS – Price Increase Next Month

For \$59.95 at Ask BAN TACS, [www.bantacs.com.au/ask-bantacs.php](http://www.bantacs.com.au/ask-bantacs.php), you can have your questions regarding Capital Gains Tax, Rental Properties and Work Related Expenses answered. We will include ATO references to support our conclusion. This price will increase to \$69.95 at 1<sup>st</sup> July, 2013 so if you have been considering asking a question best get in now before the price rise. Yes, this is more than inflation and is not so much driven by that but the time needed to answer a typical question. Rarely are they one succinct question as was initially intended by the service. Nevertheless, the complexity of the questions shows how useful this service is to taxpayers, accountants, solicitors and other advisors. It is clear the more in-depth approach is appreciated so we have decided to increase the price rather than restrict the answers.

## 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. You can purchase it online by going to [www.bantacs.com.au/book\\_winning-property-tax-strategies.php](http://www.bantacs.com.au/book_winning-property-tax-strategies.php) The cost is still a low \$29.95 plus \$5.95 postage – tax deductible of course!

## What Is New on [www.bantacs.com.au](http://www.bantacs.com.au)

Want more? Please go to [www.bantacs.com.au/publications.php](http://www.bantacs.com.au/publications.php) for back issues of newsflash or download our free booklets where past newsflash articles are collated according to their topic. There are over 30 topics, for example How Not To Be A Developer, Claiming Your Trip Around Australia As A Tax Deduction, Claimable Loans, Rental Properties, Overseas, FBT, Claiming a Motor Vehicle, GST etc.

Information regularly changes in the Forum, [www.bantacs.com.au/forum](http://www.bantacs.com.au/forum), and the Ask BAN TACS Notice Board, [www.bantacs.com.au/ask-browse.php](http://www.bantacs.com.au/ask-browse.php).

Two very generous askbantacers have allowed their questions and answers to be placed on the notice board. <http://www.bantacs.com.au/QandA/index.php?q=459> is about holding pre CGT property in a company. <http://www.bantacs.com.au/QandA/index.php?q=458> is about the CGT on a property that's use has changed to being trading stock in a development business.

**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.