

BUSINESS OR PLEASURE?

New columnist, Julie Butler, kicks off the first in a series of columns focusing on tax

A large number of equine enterprises involve vast amounts of energy and hours of hard work by the proprietors and/or a large amount of capital. This alone qualifies them as commercial businesses.

There are some who consider that the above ingredients alone make an operation a business that can register for VAT and income tax or corporation tax and claim various reliefs and advantages. The normal tax advantages are to be able to claim input VAT on various overheads, or in the case of an unincorporated business (a sole trader or partnership), to be able to claim the losses against other income.

This principle was recently tested in the courts when a First-tier Tribunal looked at an input VAT claim of over £70,000 on the purchase of a horse by Goodman Equine Limited.

In this case the claim for input VAT was disallowed as it was continued that, although there had been large purchases, there had been little effort to sell the horse and there were very few sales generally. This is a timely reminder that HMRC are attacking loss claims and claims for income tax relief or reduced profit where there is a personal interest and also testing claims for input VAT to ensure that they are justified. One of the criteria therefore is to ensure that if HMRC 'come knocking' there are robust replies:

- A business plan showing that this operation will make money, updating the business plan with actual results.
- Actual sales and strong marketing and advertising to emphasise this commercial intent.

- A fair and reasonable adjustment for personal interest which still reflects the commercial side of the operation. One of the points raised in Goodman Equine was the fact that the business making a loss is not in itself grounds to deny the input VAT claim. The key point in Goodman

Equine was lack of sales. There are plenty of tax breaks for the equine business to take advantage of that can help with cashflow and in some cases help the business survive but it is essential that the basic rules of commerciality are observed for both income tax, corporation tax and, as the case of Goodman Equine Limited illustrated, VAT.



Julie Butler F.C.A. is the author of Tax Planning for Farm and Land Diversification, Equine Tax Planning, and Stanley: Taxation of Farmers and Landowners.