

Tolley's

Practical VAT Newsletter

YOUR MONTHLY GUIDE TO THE LATEST VAT DEVELOPMENTS

Racehorse owners and VAT

FA 2006 set out the criteria for the renewal of the VAT registration scheme for racehorse owners. Do you know if your clients are affected?

Following a periodic review by HMRC and the Treasury, the scheme will continue for the lifetime of the current Parliament. The scheme was first introduced in 1993 and was renewed in 1997, 2002 and in 2006. Further details of the scheme are available in HMRC Notice 700/67 (January 2002). The notice details who can register, how to register and how the scheme operates. It appears that the British Horseracing Board's (BHB) efforts to demonstrate the significant value of the scheme for racehorse owners have been rewarded.

The scheme allows all owners the chance to run their racehorse interests as a business and thus reclaim their input VAT. Owners must declare their intention to seek income from prize money, appearance money and from sponsorship or advertising (the sponsorship framework for racehorse owners). To register on the scheme, owners have to generate business income and/or secure sponsorship before their racing activities can be included within a VAT registration.

The sponsorship framework for racehorse owners

The framework was introduced by the BHB in June 1994 to enhance the opportunities for owners to generate sponsorship through the provision of attractive logo sites. For example, a logo

might go on owners' silks, attendants' clothing, or rugs and blankets.

A Code of Conduct is in place that details the framework designed to facilitate sponsorship incomes for racehorse owners.

Impact on the British racing industry

The scheme has played an integral role in the current record levels of investment in British racing. The total value of owner sponsorship contracts in 2005 apparently stood at £10.6 million, up from £3.2 million in 2001, while the number of horses in training now stands at an all-time high. The effectiveness of the scheme is also reflected by the rise in the percentage of horses in training covered by sponsorship contracts – 77% in 2005 compared with 63% in 2001.

VAT registration forms

In addition to VAT1 and 2, there are two types of VAT declaration form available depending on whether the owner is registering a Sole Owner (D1) or a Joint Ownership/Racing Partnership (D2).

If the owner is already registered for VAT in the UK and intends to race horses under that VAT number, they do not need to complete a new VAT1 form. In such circumstances, only the completed and verified declaration form (D1/D2) should be forwarded to HMRC.

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Spearmint Rhino Ventures (UK) Ltd; Zurich Insurance Company; Royal Bank of Scotland Group plc; Gracechurch Management Services Ltd; Nissan Motor Manufacturing (UK) Ltd; Royal Society for the Prevention of Cruelty to Animals and Totel Ltd
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All cases and Tribunals are reported by **Adam Rycroft** of KPMG LLP Indirect Tax Legal Services.

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Action plan for the professional adviser

So what are the general considerations for the general practitioner and tax adviser?

First, as racehorse ownership is often (erroneously) considered to be 'outside the scope of tax' or 'tax free', many racehorse owners overlook informing their professional advisers of their interests.

Many trainers organise the sponsorship for the owners and there can be confusion over existing VAT registrations for other business interests.

The renewal of the VAT scheme can be used as a trigger for advisers to review

the complex tax angles of racehorse ownership and to try and unearth what compliance and planning problems clients are possibly failing to highlight, for example:

- ◆ Ownership with sponsorship income that needs declaring on the tax return.
- ◆ Ownership via the very fashionable enterprise investment scheme (EIS).
- ◆ Investment in racing clubs and pinhooking syndicates, again with tax relief via the EIS scheme.
- ◆ Shares in stallions where the nomination income is taxable as 'miscellaneous income' under ITTOIA 2005 (previously Schedule D Case VI).

There are also angles of tax planning

that the adviser should be involved in, eg the detail of the business sponsorship. Should the sponsorship agreement be reviewed before the VAT1/VAT2 or D1/D2 is submitted?

Action point – enter into client discussions before it is too late.

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VAT attack on the UK shooting industry

In November 2006 the success of the Shoot Project Team at Norwich VAT Office achieved 'front page' status. Not 'News of the World', but ONEhmr. It was reported that each visit by this team was yielding approximately an extra £19,000 'tax take' and that other areas of rural enterprise would now come under scrutiny.

Game shooting, which is often integrated into farming activities, has become a prosperous and thriving rural industry over the last few years. The sport provides healthy employment in non-urban environments, including very remote outposts of the British Isles.

Many farms and landed estates combine the sport of shooting into their agricultural enterprises, and the 'selling off' of days shooting to the outside world can provide lucrative income. But the activity is currently suffering various areas of 'VAT attack' or further scrutiny.

The VAT implications have been receiving the most attention. Are 'sold' days subject to the correct output VAT? If there is private use (days retained for the family), is the appropriate input VAT disallowed or output VAT charged?

For those VAT advisers who do not

understand the organisation and running of a game shoot, it could be very difficult to ensure that the correct questions are asked. But these queries must be raised. The key must be to warn clients and to look at solutions before the enquiry 'hits' the client. The notes must be on the file and consideration must be given to the points raised. Can the activity show commerciality or will this again be deemed to be private and for there to be a high proportion of private use? (See *Comrs of Customs & Excise v Lord Fisher* [1981] STC 238).

In April 2006 HMRC (the Shoot Project Team at Norwich VAT Office) issued a letter to the shooting authorities to say that they were looking closely at commercial shoots which consider themselves outside the scope of tax. HMRC are trying to bring shoots firmly within the scope of tax and to register them for VAT where appropriate. Clients were told they should receive a visit in the next year. These visits are still ongoing.

The apparent prime objective of HMRC is to improve the extent to which individuals and businesses pay the amount of tax due and receive the credits

and payments to which they are entitled. But what does that really mean to landowners and shoot organisers?

What are HMRC really looking for? The list is considered to be as follows:

◆ Shoots that have previously escaped the HMRC 'net'

Commercial shooting that has been variously misdescribed, in the opinion of HMRC, as private shooting, non-profit making club activity or the supply of zero-rated birds.

◆ The wicked barter

Exchanging supplies of VAT-able shooting for zero-rated or other supplies, by way of barter, with neither transaction recorded in business records.

◆ Not registering

Failure to register for VAT if the turnover of the shoot exceeds £64,000 (2007/08).

◆ Dividing to escape

Artificial separation of business activities to stay below VAT registration limits.

◆ What is everything really worth?

Under-recording of sales values.

◆ Paying VAT and tax on your private enjoyment

VAT and income tax irregularities on claims for private expenditure.

When in April 2006 HMRC wrote to