

Tax and horseracing – don't fall at the first hurdle! Julie Butler looks at some tips from her latest book

It has been said that horseracing is an easy way to make a large fortune a small one. It is interesting to note that the money spent on this passion can be instant inheritance tax planning (at the current rate of 40 per cent) without any apparent drawbacks apart from the heirs being a little irritated about the lack of wealth protection.

There is a strong tendency for accountants and tax advisers to totally or partially ignore any of their client involvement with racing on the basis that horseracing is tax free (Inspector's Manual IM2350b). Likewise, gambling is totally tax free (*Graham v Green* (1925) 9 TC 309).

Profitable racehorse owners and gamblers are so rare that the Inland Revenue would not want to disturb the tax free position and open floodgates to loss claims. But what are the tax pitfalls of racing that are often overlooked and what are the practical tax planning points that can be used to help clients?

Stallion fees

Stallion fees are taxable in the UK under Sched D case VI (*Benson v Counsel* (Inspector of Taxes) 1942 24 TC 178). This nomination income (Inspector's Manual IM2350A) must be included on the Tax Return even if the costs of racehorse ownership far exceed the nominations.

So how can the tax bill on stallion fees be minimised? The stallion fees can be included in a Sched D Case I stud farm provided the stallion share is used on the stud's own mares. Alternatively, if the stallion stands in Ireland the stallion fees are tax free in that country and do not have to be declared on the Irish Tax Return.

However, this income stream does have to be declared on the UK Tax Return unless there is a 'bridge' between the UK owner and the stream, eg Irish trusts and companies which reinvest the stallion fee profit into other Irish assets.

Racehorse Owners VAT scheme

Tax advisers should try to ensure that VAT claims are maximised. The current scheme is due for review in 2005. The key emphasis is on sponsorship and/or appearance money to show commercial compliance with the 'code of conduct' in order to qualify for the claim. This area of tax planning can be taken a stage further to incorporate income tax or corporation tax relief from racehorse sponsorship with emphasis on marketing, advertising and PR.

The stud farm

Other VAT registrations such as stud farms etc should be reviewed in connection with the Racehorse Owners VAT Scheme. 'Hobby' stud farms carefully restructured with commercial direction can achieve income tax, VAT, capital gains tax and inheritance tax including 11-year loss relief if appropriate.

Non-cash benefits

The racing industry is riddled with non-cash benefits which can cause practical problems for advisers. Presents to successful jockeys and trainers by owners are taxable – *Wing v O'Connell Supreme Court* (IFS) 1926 IR84. Living accommodation provided to stable staff can be tax free provided the conditions are met (Inspector's Manual SE68502). This can include accommodation being provided by third parties (Extra Statutory Concession C60) which

means double tax relief can be achieved through the rent-a-room scheme.

It is standard practice for trainers, jockeys and sometimes other interested parties to receive free shares or nominations on the syndication of a stallion when it retires to stud. For the self-employed the current value of the nomination should be shown as trading income. The employed should be taxed on the value of the 'cost to the provider'. Ironically it is Alex Ferguson who has brought this benefit to the eye of the public in the form of the potential stud income from the horse 'Rock of Gibraltar'.

Find out more

It is suggested that all advisers take time out to enquire into a brief summary of their client's equine interests (with special emphasis in racing and gambling) to see if there are any tax pitfalls that could cause compliance or investigation problems or areas of tax planning that would be overlooked. Could more tax relief on the expenditure be achieved via commercial restructuring? Are there prizes, benefits or offsets taking place which need greater clarification, disclosure or declaration?

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