

THE POLO STUD FARM - PROTECTING TAX RELIEFS

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February 2012

The commercial UK polo stud farm enjoys distinct tax benefits: income tax relief, through the claim for tax losses; and, possible inheritance tax (IHT) relief on death as a trading business. This article reviews the 'trading' aspect.

The profit motive

To achieve income tax relief there has to be proof of a commercial motive for the breeding operation.

The stud business must be 'potentially profit making'. A recent relevant case, *John Agnew* (TC566), was actually about a beautician's business, but the key factor here was whether, within the existing structure, the business was capable of making a profit, which in that case it was not.

In simple terms there are two ways to prove whether potential profit exists: either by achieving an actual profit; or, by showing that a profit can and will be made through accurate, well thought out business plans. There has to be a 'financial road map' for the breeding operation showing how the stud farm has learnt from its own specific mistakes, as well as from generic mistakes common in the trade and any problems arising in the polo industry.

Badges of Trade – not a hobby

There has to be proof of the profit motive as evidence of one of the important 'badges of trade'. With the power of the internet and its potential for revealing contradictory statements through searches of Google or Twitter, it is essential that there are no quotes anywhere which might suggest otherwise.

There are also provisions to restrict losses where the involvement in breeding is deemed to be "non-active". The tax loss claim will be capped at £25,000 unless there is evidence of under 10 hours of active involvement per week. Evidence of the work and involvement in the polo stud should be obtained, especially when the taxpayer making the loss claim has other commercial interests that demand time, making the 10 hours hard to prove.

UK income tax losses can be offset against total income which, with a top rate of income tax of 50%, is very attractive.

The inheritance tax (IHT) concerns of the polo stud are parallel and entwined with those of the income tax concerns.

For inheritance tax purposes the stud should be entitled to a combination of APR and BPR subject to the make up of the stud.

If BPR is needed in addition to APR or where APR does not apply, for example where the non-stud activities dominate and it is really just a normal equestrian business, then there must be commerciality. In order to achieve BPR there must be a business carried on for gain, not just a business. In the same way it is important to prove there is commerciality in order to be able to obtain income tax relief on the losses, it is equally important to be able to prove that there is commerciality and a business carried on for gain in order to achieve inheritance tax reliefs.

Practical Tips

- Produce a business plan, budgets and regular management accounts that show a realistic profit can be achieved and how lessons have been learned from previous problems. Make it clear how anticipated production costs and overheads can be recovered in potential sales proceeds.
- Keep a portfolio of evidence to show commercial intent, active involvement, lack of hobby status and motive, and how the focus is on profitability.

- Look at alternative income streams against which overheads can be offset, e.g. farming and woodland grants, renewable energy schemes.



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