The sport of kings – and tax free

Julie Butler **looks at the tax implications of horse racing and stud farming**

Racing, so aptly named as the sport of kings, is an integral part of country life, as is the breeding of racehorses. It is also very encouraging to know that indulgence of this passion is tax efficient.

The equine industry affects more accountancy and tax practices than at first might be thought by most advisers. There has always been a core industry at the heartbeat of the horsey culture and that impacts upon most practices now as a result of farm diversification and the spread of ownership of racehorses. The latter is not just restricted to the Queen, Arab Sheiks and Sir Alex Ferguson. Horse owners can be spread amongst an urban corporate market who have a passion for the sport or use it as enjoyable corporate marketing and want to maximise tax reliefs including VAT. Ownership of racehorses often leads to breeding from beloved racehorses and so the empire grows.

Racehorse owners received some excellent news in December when the Treasury informed the British Horseracing Board that the VAT Scheme will continue until a further review by Customs in 2005.

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Racehorse owners

Tax advisers for racehorse owners should ensure that their clients earn business income from either sponsorship or appearance money. Are there racehorse owners not taking advantage?

For those racehorse owners who do not incorporate a stud farm into their racing activities, the tax efficiency of financing the racing activity through business interest, such as sponsorship should never be overlooked. Likewise, the VAT benefits of this option need careful review.

Tax benefits of a stud farm

So what are the tax benefits of the stud farm? The Tax Inspectors Manual helps give direction (IM 2350b).

Definition

Stud farming, defined as the occupation of land for the purpose of breeding thoroughbred horses, is a very expensive and high-risk activity. In some cases it may be carried on by wealthy individuals, essentially as an adjunct to their racing activities. Nevertheless, for tax purposes it is treated as farming by virtue of *ICTA 1988 s53(1)* and thus as the carrying on of a trade regardless of its commercial viability.

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Horse racing, however, is not a taxable activity. Where, as is often the case, a stud farmer also races horses, considerable care may be needed to ensure that the division between the two activities has been correctly made. In particular, attention should be given to any transfers of animals from the stud farm to training (that is, being kept for the purpose of racing) or vice versa.

The very significant point with regard to stud farms is that they do qualify as an agricultural property for agricultural property relief for inheritance tax purposes.

The other distinct advantage of the stud farm is that, where tax losses arise, the normal 'five year' rule is extended to 'eleven years'. Losses that arise from a stud farm can be offset against total income. The 'eleven year' loss rule is one-off; it then reverts to the 'five year' rule. A disadvantage can arise if a profit arises in, say, year 2 or 3, then the five year loss rule reverts.

Inheritance tax

A stud farm could benefit from the inheritance tax relief on cottages integrated into the business – *Farmer (Farmer's Executors) v IRC* [1999] STC (SCD) 321. With the tax advantages of farming there are also the tax disadvantages. Strictly, a stud farm is not eligible for EIS relief. However, other equestrian activities that do not count as 'farming' could be organised to qualify for EIS. It is likely that a large farmhouse with small land could come under attack in the same way as the recent *Higginson* and *Antrobus* cases.

Since 6 April 2002, provided that a business asset such as a stud farm has been owned for a minimum of two years and used for a business purpose (which a stud is) then the rate of capital gains tax is 10% (or better known as 75% business asset taper relief). The serial entrepreneur could possibly take advantage of these business rules by aiming to ensure that land due for development would obtain business status whilst having the pleasure of enjoying a stud farm.

Bloodstock tax is complex and it is worth enlisting the experts.

JULIE BUTLER FCA

Butler & Co, Bowland House, West Street, Alresford, Hampshire, SO24 9AT.

Tel: 01962 735544.

Email: j.butler@butler-co.co.uk.

Julie Butler is the author of the forthcoming LexisNexis UK title Equine Tax Planning.