

Bloodstock**update****MORE RESTRICTIONS TO LOSS RELIEF**

Breeding quality horses is a long term, high risk business. The risk reward factor favours the brave - meaning that very significant profits can be made from the sale of youngstock.

HM Revenue & Customs (HMRC) is very happy to distribute a share of the profit to the community via the income tax system, but is increasingly reluctant to allow loss relief in a bad year.

This year's budget introduced yet another restriction to loss relief available to businesses. Since 2 March 2007 HMRC has not allowed 'non active partners' to offset partnership losses in excess of £25,000 per year against other income to obtain a tax refund. The effect of this change will not be noticed until January 2009. This restriction has been extended to sole traders from 12 March 2008.

A non-active partner or sole trader is defined as someone who spends less than an average of ten hours per week personally engaged in carrying on the business's trading activities. If you are in more than one loss making unincorporated business, £25,000 is the maximum tax relief you can receive in any one year from all such businesses. A number of bloodstock businesses, including studs, will be affected by this change.

It is of little consolation that relief for losses in excess of £25,000 may be carried forward and offset against future profits because it could be a number of years before tax relief is eventually obtained. It is worth noting that you cannot set any losses against other income unless you can demonstrate to HMRC that you are trading commercially with a view to profit, and the business is actually capable of making a profit.



Business plans should be drawn up from the outset, and periodically updated on a regular basis, to demonstrate that profits are anticipated and how and when you plan to achieve these. HMRC is likely to ask to see these plans where there is a new bloodstock/equestrian business or commerciality is in question. It is important to keep a diary to demonstrate the hours spent in the business to produce as evidence to HMRC. We are noticing an increase in the requests for these documents as evidence that the business is being carried on commercially before loss relief is allowed.

If you need any further advice contact Penelope Lang on +44 (0) 1635 35255 or plang@jamescowper.co.uk

Please call in to see us at our stand at this year's Badminton Horse Trials, 1 – 4 May.

Peter Treadgold, Penelope Lang and other members of the team will be on Stand 65, which we are again sharing with the Country Landowners' and Business Association. James Cowper is holding a series of free mini-seminars on the stand, looking at the new, hard-line approach by HMRC towards equestrian businesses, specifically focusing on loss relief and tax relief for loan interest.

A warm welcome will await all our clients and professional contacts who pop in to see us. We are looking forward to what promises to be a great event in an Olympic year.

**Changes to Capital Gains Tax rules**

Most people are aware that capital gains tax changed from 6 April 2008, when a flat rate of 18 per cent was brought in for all chargeable gains made by individuals and trustees. Indexation allowance and taper relief were abolished.

Rural landowners are badly hit by these changes as they tend to have owned their land for a long time. Many have owned the land since before March 1982. Land values were high at that date, so landowners benefited from indexation relief. Until 2005, there was no real increase in the price of land, so the indexation relief simply compensated for inflationary gain. Under the new regime, inflationary gains will now be taxed. Companies are unaffected by these changes.

What reliefs from capital gains tax are available under the new regime?

- The new 'entrepreneurs' relief' grants a lower tax rate of 10 per cent (instead of 18 per cent) on the first £1 million of qualifying lifetime gains but only if the disposal is associated with the sale of the whole or part of a business. It will not apply on the sale of one field unless the sale is accompanied by the disposal of all or part of the business.
- Rollover relief is still available on the disposal of business assets where the proceeds are re-invested in another qualifying business asset within the period of one year before the sale or up to three years after.
- Holdover relief is still available for gifts of business assets, assets which qualify for Agricultural Property Relief from Inheritance Tax and gifts into trusts.
- Deferral relief using an EIS investment.

With the increased potential capital gains tax cost of selling land in the future, these reliefs will again play an important part in the taxpayer's armoury.

For more information please contact Penelope Lang on +44 (0) 1635 35255 or plang@jamescowper.co.uk

Employed or Self Employed?

The Wrong Decision Could Cost You Money

Employment status is an important issue for HM Revenue & Customs (HMRC) and should be for you too. Are your work riders employed or self employed? Do you have the evidence to support this?

Where arrears go back several years then the tax, NIC, interest and penalties can be considerable.

Employers are responsible for deciding the employment status (categorisation) of the people working for them. If the employment status of the employee is determined incorrectly as self employed, then the employer will be liable for any arrears of tax and NIC.

The worker could be in business on their own account, but not self-employed when working for the employer. If the individual worker was carrying out the same duties as employed workers then that individual would be an employee. The worker may only be a casual employee.

For example, if in the current tax year, a worker was treated as self employed by the employer and received net pay of £400 per week but is then re-categorised as an employee by HMRC, the tax and Class I NIC due from the employer would be approximately £240 per week (or £12,480 if working for the whole tax year) and the 'employer' may not be able to recover anything from the employee.

The employer needs to consider the following:

Contracts

These can be written, oral or implied.

- What are the terms and conditions of the contract?
- What is the actual reality of the relationship?

Control

Does the employer have the right to:

- control how the worker performs the service?
- determine what tasks have to be performed?
- when and where they are performed?

Substitution

- Is the specific individual worker required to carry out the work?
- Can the worker provide someone else, at his own expense, to carry out the work or task?

Mutual Obligations

- Is the employer obliged to offer further work to the worker?
- Is the worker obliged to accept the work?

In cases where the employer needs to control the work and determine what is carried out, then it is probable the worker is an employee and will be subject to PAYE.

Workers such as farriers, blacksmiths and electricians are most likely to be self employed and in business on their own account because the service they are providing is the service they are in business to provide.

For more information please contact Nigel Timmins on +44 (0) 1635 35255 or ntimmins@jamescowper.co.uk

Working seasonally abroad?



It is becoming increasingly popular, particularly among work riders, to spend the winter months working overseas in locations such as Dubai.

From a tax perspective it is not as idyllic as you might imagine. While it might seem logical that if you aren't working in the UK you won't have to pay UK tax, this is not actually the case. UK tax law states that UK residents are taxable in the UK on their worldwide income, and in order to become non-UK resident they must leave the UK for at least one complete tax year.

So where does that leave the seasonal foreign worker?

Employees should remain on the payroll of their UK employer and PAYE and NIC should continue to be withheld. If you have an overseas employer you should keep details of your earnings and any taxes withheld and complete a UK tax return each year to report this additional employment income.

If you are self-employed abroad, the income and any related expenses should be included in your tax return, together with your earnings from the earlier part of the year.

If you pay tax on your foreign earnings, whether as an employee or self-employed, this can be credited against your UK tax liability. However, there is no personal tax applied to earnings in Dubai so the income is taxable in the UK in full.

For more information contact Lucy Bryant on +44 (0) 1635 35255 or lbryant@jamescowper.co.uk

Single Payment Scheme

Many bloodstock and associated businesses receive the Single Farm Payment. From 2008, the 10 month occupation period is being replaced by one single qualifying date of 15 May and this change may affect the tax year in which the payment is taxed.

Businesses with year ends between 1 March and 30 July will be unaffected by the change but many other businesses may have up to two years' payments falling into the 2008/09

tax year, depending on the occupation periods they have chosen in the past.

There are a number of steps, including farmers' averaging, that can be taken to mitigate the tax effects of this. If this income is significant to your business, you should take further advice.

For further information contact Jane Gould on + 44 (0) 1635 35255 or jgould@jamescowper.co.uk

Race Sponsorship

James Cowper is once again sponsoring a race at Newbury Racecourse this year. The James Cowper Fillies Handicap is one of the

feature races on the card on Friday 18 July. Peter Treadgold and the team look forward to seeing as many clients and contacts as possible on the day.



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