Bloodstock Tax Guide

2025

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THE THOROUGHBRED BREEDERS' ASSOCIATION

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I am pleased to welcome you to the 2025 updated Bloodstock Taxation Guide. The guide is intended to help inform members on taxation from the point of view of a breeder. This supersedes the Horsemen's Group document for bloodstock taxation advice.

Taxation continues to be an important element for all participants in the industry, not least due to the different regimes that apply depending on the status of your bloodstock and the structure of ownership.

The Guide provides a general outline of major direct tax and VAT issues to be considered by those working in the industry and their professional advisors. The Guide is not intended to provide a definitive answer to every tax query that may arise and the advice of a qualified practitioner should always be sought before acting on any information in the Guide. *

We are particularly grateful for the participation of Streets Chartered Accountants in the writing and compiling of this Guide, particularly Jennie Brown, Rob Skilton, Andrew Cockman, Andrew Diplock, Partner with Streets Bloodstock Newmarket and Paul Tutin, Chairman, for steering the project as a whole. Their speed and accuracy of information has been exemplary.

It just remains for me to say thank you to my co-editor, Robert Levitt, for his input and time in reviewing the work with me and we hope that you find the Guide useful.

Peter Mendham
Lifetime Honorary Member,
Thoroughbred Breeders' Association

*The information in this guide is general in nature only and has been prepared without taking into account any particular individual circumstances. You should consider whether the advice is suitable for you and your personal circumstances and take guidance from a qualified practitioner before acting on any specific advice. The information contained in this guide is believed to be correct as at 31/07/2025 but there may be errors or omissions for which the Thoroughbred Breeders Association and Streets organization cannot be held responsible.

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PART 1 – DIRECT TAX ISSUES

1 Bloodstock Breeding

1.1 Basic principles

Income Taxes, National Insurance, and Corporation Taxes are levied by HM Revenue & Customs (HMRC). Within the realm of bloodstock breeding, two primary categories exist for tax purposes:

- Breeders Owning Horses and Stud Farms- These breeders either own or lease a stud farm. This category is more likely to be considered as carrying on a trade, hence taxed similarly to farmers.

For tax purposes, farming includes activities such as breeding and rearing horses as part of husbandry.

The profits from such farming trades are taxed as trading income under S9 of the Income Tax (Trading and Other Income) Act 2005 (ITTOIA 2005):

- Breeders that use Public Stud or Livery Yards- These breeders do not operate their own stud farms. They
  may still be regarded as engaging in a bona fide trade under Section 5 ITTOIA 2005, but proving this to

Evidence of commercial trading must always be retained to demonstrate this.

Commercial business vs. hobby - taxation implications

A significant tax consideration for breeders, shared with many professionals in the bloodstock sector, revolves around HMRC's classification of their operation as either a commercial enterprise or a hobby.

This distinction is pivotal, as treating the breeding as a hobby can lead to denial of tax relief on losses, though profits may still incur tax liabilities. The determination by HMRC of whether an activity constitutes a trade involves various factors detailed in Appendix I, applicable across both large-scale and small-scale breeding operations.

Taxation for breeders with stud farms

Breeders operating stud farms, irrespective of ownership or leasing status, are generally seen as engaging in a trade. Consequently, they are taxed in a manner akin to traditional farmers, such as those breeding livestock like cattle or sheep. The taxation framework starts with Section 9 of the ITTOIA 2005, which deems the profits of a farming trade as trading income.

In this context, 'farming' is defined tax-wise as the occupation of land primarily for husbandry, inclusive of horse breeding and rearing as integral activities.

Section 9 vs. section 10 ITTOIA 2005

If the breeding operation is classified as "farming", it falls under the purview of S9 of ITTOIA 2005.

Conversely, there are breeding activities not meeting the farming criteria, such as pinhooking. This is the term used to describe the purchase of young horses, being foals or yearlings, with a view to selling that horse in future prior to it entering training. Such activity might come under Section 10 of the same Act.

This section elaborates on the tax treatment for non-farming land used commercially with profit objectives, with the profits being taxed as trading income. The tax treatment remains consistent, whether covered by Section 9 or 10.

Taxation for non-stud farm breeders

Breeders not operating a stud farm can still be recognised as conducting a bona fide trade under the general provisions of S5 of ITTOIA 2005. However, persuading HMRC of this may present more of a challenge.

Calculating taxable profits

Once established as a trade, the tax calculation for breeders involves determining taxable profits. This process entails preparing accounts in the same way as any other trader, accounting for income from horse sales or transfers to racing and subtracting costs of sales and overhead expenses.

Racing and farming accounts integration

It is a common practice for stud farm operators to integrate other farming types and horse racing into their financial accounts. Traditionally, horse racing is not viewed as a taxable activity, necessitating a segregation of breeding-related profits/losses from those pertaining to racing for tax purposes.

In cases where racing is crucial for establishing the value of breeding stock, it might be argued that both activities constitute a singular trade, or at the very least, some racing-related expenses should be tax-deductible. Such treatment would be regarded as exceptional by HMRC and would have to be negotiated with and approved by them. These scenarios are further discussed in Part 1 Chapter 3.

Note on stud farm accounts

Specific considerations in relation to stud farm accounts are noteworthy and should be taken into account.

Leasing racehorses

Where a breeder does not want to sell a horse that is about to commence its racing career, but at the same time does not want to incur the costs of racing the horse, they may decide to lease the horse to another individual/company. This is a fairly common arrangement. The terms of the lease would usually be such that there would be no rents paid under the lease, and all the expenses and prize money of the racing accrue to the lessee. Any racing profits would be tax free since racing is not a taxable activity.

There are various forms of leases which can be arranged between the owner of the horse and the lessee. All leases need to be registered with the BHA under the Rules of Racing. A form of lease can either be obtained from the BHA or a legal document can be drawn up which will clearly define the relationship between the parties so that there can be no confusion at a later time. The leasing arrangement which may be required will depend upon the tax position of the parties and the likely future profitability of the activity.

1.2 Transfers to and from the stud

In the realm of bloodstock taxation, breeding horses is generally recognised as a taxable activity, while horse racing is considered a separate, non-taxable activity. This distinction has significant tax implications when horses are transferred from breeding (stud) to racing and vice versa.

The landmark 1955 case of Sharkey v Wernher (36TC275) laid the groundwork for these tax principles. The case established the need for valuing a horse at the point of transfer from the stud for training. According to the statutory rules, the market value of the horse, as it transitions from the stud to begin racing, determines the profit or loss generated by the stud from its breeding activities. This value is then recorded in the bloodstock accounts. Consequently, any profit or loss arising from breeding activities becomes taxable or allowable at the moment the horse starts its racing career, regardless of whether the horse has been sold. This process results in the realisation of profit or loss 'in kind' rather than in cash, necessitating the payment of tax on any profit, even in the absence of actual sale proceeds to cover the tax liability.

When a horse returns to the stud post-racing, it is re-entered into the bloodstock accounts at its current market value. To illustrate, a horse leaving the stud valued at £500,000, which becomes highly successful in racing and returns with a value of £3 million, results in a tax-free accrual of £2.5 million in value for the owner. In contrast, if the horse's value depreciates upon its return, this results in a non-allowable loss.

1.3 Valuation of stock – Cost or market value

Accounting for horses as stock

When accounting for horses as stock, they are to be individually valued at the lower of cost or net realisable value, or at fair value less costs to sell where Financial Reporting Standard (FRS) 102 or International Accounting Standards (IAS) 41 are applied (Business Income Manual 55710). This valuation is to be conducted at the end of each fiscal year.

The valuation process accommodates various scenarios:

- Mares may be acquired through purchase or transfer from training, and it is not unusual for some to enter stud without racing experience.

Horses bought are recorded at their purchase cost, while those transitioning from training are valued at the market rate as of the transfer date. In cases where a horse is bred and reared by the breeder without racing, its value in the accounts is based on the cumulative cost of rearing and maintenance.

Market value considerations

The market value of a horse can be influenced by factors such as pedigree, historical performance, racing career, current market conditions, and breeding potential. If the current market value is lower than the recorded cost, it is this lower value that is reflected in the accounts.

Taxation implications of stock value movements

The net change in stock values is a critical element in the profit and loss account, directly impacting the taxation position. Due to this significance, HMRC often scrutinises these values thoroughly.

In certain cases, obtaining a written independent valuation can be beneficial. HMRC's specialist bloodstock section within the Shares and Assets Valuation Division provides additional guidance (refer to Business Income Manual 55705).

Valuing foals and yearlings - Key considerations:

- Foals- The initial accounting for a foal includes transferring to stock costs such as the nomination fee and the mare's maintenance costs from the previous year. These costs might already be accounted for as deductions in the prior period due to the uncertainty of breeding a valuable foal. After weaning, the foal's value is augmented by its maintenance costs, up to the point of sale or training commencement. This also applies to purchased foals, starting from the acquisition date.

- HMRC's stance on depreciation- According to Business Income Manual 55710, HMRC acknowledges the possibility of depreciating stallions under certain conditions, although this approach is generally not extended to mares but see the inconsistency with FRS 102 below where it is accepted that all biological assets should be classified as stock.

Consideration of FRS 102 – Accounting standards for valuation of biological assets

With the implementation of FRS 102, effective from January 2015 for medium-sized entities and from January 2016 for small companies and LLPs, there have been significant shifts in the accounting practices for bloodstock breeding businesses. FRS 102 has introduced a more unified approach to the valuation of biological assets in agricultural activities, including bloodstock breeding.

Under this new standard, entities engaged in bloodstock breeding must treat stallions, mares and foals as trading stock. Each year, these assets are to be valued individually, adhering to the stipulations of FRS 102. This marks a departure from earlier practices where bloodstock could be accounted for either as closing stock at cost or net realisable value, or under the Herd Basis as fixed assets.

FRS 102's Section 34 elaborates on biological assets, encompassing all living plants and animals. It necessitates that businesses involved in the biological transformation of these assets for sale establish distinct accounting policies for each class of biological asset.

For breeders and stud farm owners, FRS 102 offers two models for valuing closing stock:

- the cost model, which values assets at the lower of cost and net realisable value, and
- the fair value model, where assets are valued at fair value minus selling costs. The fair value is determined based on the price achievable in an arm's length transaction between informed and willing parties.

One key aspect of FRS 102 is that irrespective of the Herd Basis election, all biological assets in the bloodstock breeding business must now be classified as stock rather than fixed assets.

1.4 Valuation of stock – the herd basis

Where horses are kept for breeding, the owner may elect, for tax purposes, for them to be treated as a single herd, that is, as a capital asset in accordance with S111 ITTOIA 2005.

However, the herd basis is not normally recommended for horses and indeed the Business Income Manual 55720 notes that such elections are unusual for horses.

Under FRS 102, the classification of biological assets, which broadly encompasses livestock and crops maintained for production, has shifted. Traditionally treated as capital assets in balance sheets to align with tax treatments, herds are now recognized as stock under FRS 102. This change means herds are valued either by production cost or a fair value that considers future earnings, requiring additional adjustments in tax computations derived from the accounts in order to take advantage of the capital asset tax treatment.

For detailed guidance on the herd basis, HMRC's help sheet HS224 serves as a valuable resource. It's important to remember that once elected, the herd basis is irrevocable and must be claimed by January 31 following the end of the first tax year it applies to. Additionally, the herd basis is incompatible with accounts prepared on a cash basis.

1.5 Capital allowances

The cost of the stud land does not give rise to a trading deduction for bloodstock breeders. A breeder may however qualify for tax deductions on other qualifying expenditure. These deductions, known as capital allowances are outlined in greater detail in Appendix II.

1.6 The use of tax losses

As previously indicated, losses from a commercial breeding trade are generally allowable for tax purposes while losses from racing are not- unless exceptionally there is a case for the racing to be treated as an extension of the breeding operation.

Where applicable, breeders trading as individuals are able to set the loss from breeding for the tax year against other income for that year or the previous tax year under S64 Income Tax Act (ITA) 2007. If the breeder pays tax on their other income at the current top marginal rate of 45% then the net cost of the breeding loss to them is only 55% after tax relief. If there is insufficient income in these two years to use up the available losses, or no claim is made, the losses can be carried forward and set against profits from the same trade, without time limit. In the first four years of a trade breeding losses can be carried back and set against the income of the trader of the previous three years under S72 ITA 2007.

There is a restriction to the amount of losses that "non active" partners or sole traders can set against their other income in a particular tax year. S103C ITA 2007 set a £25,000 cap on the loss relief that could be claimed, with a non-active partner or sole trader defined as one spending an average of less than ten hours a week personally engaged in the activities of the trade.

A company carrying on a trade of breeding can claim relief for the loss from breeding against its gains or profits in the same accounting period or can carry back the loss against the profits of the preceding 12-month period (provided the breeding trade was carried on during that period). As with an individual, any unused losses can be carried forward and used against future profits of the same trade without time limit. If the company has a qualifying group relationship or is a consortium company, there may be other avenues to receive loss relief via the company group or consortium members. There are a number of rules to be considered when establishing the differing types of loss that attract relief and restrictions.

If an individual or company is carrying back losses to a prior period or a company is passing on losses to another group company, a claim must be made to HMRC. These claims must be made within twelve months from 31 January following the end of the relevant tax year (for individuals) or two years from the end of the relevant accounting period (for companies). No claims are needed where losses are carried forward.

As losses from farming and breeding often continue for a number of years, specific legislation was brought in to restrict relief for losses in these circumstances. This is found in S67(2) ITA 2007, which states that if a tax loss (before taking into account capital allowances) from farming has been made for the past five fiscal years the above-mentioned reliefs against income in the current or prior periods shall not be available for losses sustained in any future year. S68(3) provides some exception to this restriction: where at the end of a tax year a 'competent person' would reasonably expect future profits, but could not reasonably have expected the activities to become profitable before then, loss relief will not be restricted.

It was confirmed in a letter sent in 1982 to TBA that HMRC accept that bloodstock breeding is a more long-term activity than farming and extend the five-year period to up to eleven years from the commencement of the trade (concession since 1982 following HMRC and TBA meeting). If a profit is then made losses can be made for a further five years before the provisions of ITA 2007 may again apply. However, in an update to BIM 55725 made during the course of 2022, HMRC guidance confirms that the tests in s67 should be checked in all cases. This suggests that stud farms will be treated in much the same ways as any other farming activity where the enterprise is clearly not being carried out on a commercial basis with a view to the realisation of profits.

As a result, it is important to take into account the possibility that the Inspector of Taxes may decide to review the case if losses continue to be made. If, in doing so, they consider that the activity has not been carried on commercially from the outset, they may attempt to deny tax relief for the losses of past years and raise assessments to recover any tax due as a result. Such an approach can have wider implications because sustained losses could cause IHT agricultural property relief to be denied in the future where the activity was not considered to have been undertaken on a commercial basis.

2 Stallions and Syndicates

2.1 Introduction

Bloodstock breeding is a high risk, long-term business. Mares do not generate income until their progeny are sold, a period of at least 18 months; meanwhile the owner must pay for their upkeep, together with the nomination fees. As a result, losses are likely to be made in the early years. Stallions on the other hand produce income sooner, normally within a year of returning to stand at stud. The initial value of the stallion will depend on its success during its racing career as well as its pedigree and a stallion can be an extremely profitable asset from the outset, particularly where the stallion has a large book of mares.

The owner of a successful colt has a number of choices at the end of its racing career. It can be sold and, as the racing activity is not taxable, the proceeds will be received tax-free. Alternatively, the stallion can be retired to stud where it will enter the accounts at its market value on retirement, so that if it is sold by the stud at a later date, any increase in its value during its racing career would be tax-free. The stallion will generate income indirectly by covering mares belonging to the owner and directly through the sale of nominations to other breeders. This income can be generated in both the Northern and Southern Hemispheres, i.e. during two breeding seasons in one year.

A stallion's value on retirement from racing is determined by its future earning potential. A stallion which, from the outset, stands in both Northern and Southern Hemispheres will therefore have a higher value than if it was restricted to one hemisphere. As the future value of the stallion and its income producing life is uncertain, the owner may prefer to realise capital and still receive an element of future taxable income through nomination fees, as well as retaining the right to send their mares to the stallion. This can be achieved by selling the stallion to a syndicate of which the original owner is a member. However, more commonly, an owner might now sell a majority stake to a major stallion stud, either retaining a small minority share or simply a number of non-transferable annual breeding rights.

2.2 Valuation of stallions as stock

As discussed in section 1.3 above, horses treated as stock should be included in the accounts individually at the lower of cost and net realisable value, or at fair value less costs to sell where FRS 102 or IAS 41 are applied. Stock valuations should also include any foals and, where appropriate, stud fees paid. The value of the horse therefore has to be considered at the beginning and end of each year.

However, as far as stallions are concerned HMRC generally accept a rule of thumb method of valuation where they allow the cost of a stallion to be written off in equal instalments until the stallion reaches the age of 10, with the write off being included in each year's profit and loss account. The aim of this method is to give an acceptable approximation to the net realisable value of the stallion.

The method is not appropriate in the following circumstances:

- where the actual value of the horse is known at the balance sheet date; or
- where it gives an unreasonable result, for example, where the value of the stallion has increased or fallen at a significantly different rate than under the rule of thumb method.

2.3 Establishment of syndicates

Traditionally, where a number of individuals owned shares in a stallion, a syndicate was formed to manage the stallion on behalf of the owners.

While the individual owner would deal with the covering rights attached to their share, the syndicate would sell surplus nominations and would manage the stallion and pay for common expenses such as keep, advertising and registrations.

2.4 Taxation of syndicates

Where a syndicate operates in this manner then it is taxed as if it were a company as an unincorporated association. This is on the principle that the syndicate represents a pooling of common interests under the control of a syndicate manager and committee with the power to accumulate and distribute surplus income.

The syndicate will produce annual accounts and the profit will be subject to corporation tax. As with a company, the members will be taxed on any distribution of profit, as if it is a dividend.

The syndicate can also register for VAT to recover VAT on its expenses.

2.5 Other arrangements

Traditional syndicate arrangements have become much less common. In many cases now the public stud or stallion owner will sell surplus nominations and deal with common expenses on behalf of all owners, and will then account to the individual shareholders for their share of the profit created.

The public stud then deals with all common income and expenditure as principal and as part of its trade. The net income will belong to the public stud for tax purposes until such time that is accounts to individual owners for their share of the income, at which point the individual shareholder will be taxable on that profit.

Part III of the guide outlines further detail on Multi Ownership.

2.6 Foal Sharing

This is where the owner of the (share in the) stallion agrees with the owner of the broodmare to split, in varying proportions, usually 50:50, the resulting proceeds from the sale of the foal or yearling which is the outcome from the mating concerned. Each person's share of the proceeds will be taxed in the normal way as income in their accounts.

The allocation of the costs of upkeep, insurance, etc of this joint venture are normally set out fully in the "foal sharing" agreement.

2.7 Gifts of free shares or nominations

Trainers and jockeys may receive free shares, nominations, or breeding rights on the syndication of a stallion when it retires to stud. The income which arises from this source is taxable in the recipient's hands- including the value of a share in a stallion given to a trainer or jockey- as income arising from the particular profession of trainer or jockey.

2.8 Free nominations in respect of keep

In order to reduce the costs of the syndicate committee in respect of keep it is often agreed that in lieu of this expense, the stud farm at which the stallion stands will receive free nominations.

Any income which arises to the stud farm from the sale of the nominations will be taxed in the normal way as part of its trading income.

The VAT implications of free nominations are discussed in the VAT section of this guide.

2.9 Dual hemisphere stallions

As mentioned above, many stallions shuttle between the Northern and Southern Hemispheres, travelling from the UK in July/August and returning in December/January.

The taxation treatment of the income earned while in the Southern Hemisphere is dependent on the arrangements under which the stallion stands.

It is customary for the stallion to be leased to the stud in the Southern Hemisphere. In order for the income arising to the UK stallion owner not to be taxed in the Southern Hemisphere and possibly be subject to withholding taxes, the terms of the lease need to reflect a rental rather than trading arrangement. In other words, the stallion should be leased for a fixed rental to the Southern Hemisphere stud for them to exploit, with the risks and rewards associated with the transaction being transferred to the lessee, i.e. the income and expenses arising from the moment the stallion enters quarantine to its return to the UK. Any arrangement whereby the lease rental is linked to the total nomination income is likely to lead to the stallion owner being deemed to trade in the Southern Hemisphere jurisdiction.

Independent professional advice should always be sought before engaging in such a transaction.

3 Racing

3.1 Basic principles

The major taxation issue facing anyone involved in the racing of horses is whether this constitutes a taxable activity. As discussed in Chapter 1, in order for an activity to be treated as a separate taxable trade, it must be managed on a commercial basis with a view to the realisation of profits. As far as racing is concerned, the majority of horses are not profitable as only a relatively small number win enough to cover the cost of their training. S30 ITTOIA 2005 specifically states that animals kept wholly or mainly for racing or other competitive purposes should not be treated as trading stock and thus the racing activity cannot constitute a taxable activity. Where there are racing activities that do not form part of an owner/breeders activities, as discussed below, the income and expenses incurred for the purposes of that activity should be confined to a separate racing account and excluded from any tax calculation.

It must be noted that what is a trade for income tax purposes is not necessarily the same as a business for VAT purposes.

In most circumstances, HMRC generally regard the prospect of profit from racing to be too remote and so do not accept that it is a taxable trade. Rather, they regard it as a hobby or recreational activity or, in the case of a company, a non-taxable activity. This means that the costs of training are not tax deductible and any prize money is non-taxable.

In the case of an owner breeder, racing is often an integral part of a stud farm's activities and could be taxed as part of the breeding activity, yearlings being transferred from stud to racing and returned to stud after their racing career. The argument runs that the horse will need to be tested on the racecourse to determine whether it has the appropriate physical qualities such as speed, stamina and courage to justify its retention for a breeding career. Where this is the case, a breeder's racing activities may exceptionally be regarded as an integral part of their breeding trade for tax purposes; the expenses of racing become an allowable deduction and winnings taxable in calculating trading profits. HMRC may accept by exception that fillies should be treated in this way as statistically a higher percentage return to their breeders' stud operations.

If there is any doubt as to the correct tax treatment, advice should be obtained. Any deduction claimed for racing expenses would be exceptional to HMRC's usual treatment and would have to be agreed with them.

There is one other occasion when HMRC may attempt to combine the breeding and racing activities. This is when they consider the breeding of horses to be a hobby, and merely ancillary to the racing activity. In this situation, they will not allow relief for the breeding expenses since these expenses would be considered to have arisen from a non-taxable activity.

Although the hobby breeder is not trading, HMRC may, in certain circumstances, still raise an enquiry into the treatment by the individual of the occasional profit which they may make under the self-assessment regime. HMRC are however expected to take a consistent view when considering profit and loss making years.

The offsets against general income and capital gains as detailed in S64 & S71 ITA 2007 are restricted where breeding activities are not considered to be both carried out on a commercial basis and with the view to making a profit. The usual carry forward of trade losses (S83 ITA 2007) should however still be available. It is advisable therefore that full records are maintained to provide concrete evidence of a trade being carried out commercially with a view to making a profit in such a situation. A robust business plan, continually updated, is very helpful in this regard.

3.2 Business and Racing

Horse racing today is a high-profile sport and one of the most televised. Many companies are using racing to promote their products through advertising and sponsorship. It is therefore worth considering at this point the tax treatment of expenses incurred in connection with racing by businesses which do not operate a racing or breeding trade. Common examples of such expenditure include owning and running a racehorse, sponsorship and advertising. These types of expenses are almost always examined very carefully by HMRC.

The general rules for deductibility are in S54 Corporation Tax Act (CTA) 2009 and S34 ITTOIA 2005. These sections state that expenditure will be deductible if it is wholly and exclusively incurred for the benefit of the trade. Therefore, in general, a business will be able to obtain tax relief for racing expenses, and conversely will be taxed on any race winnings, where it can satisfy HMRC that the expenditure is incurred to promote the trade, for example by increasing awareness of its location, products and brands. Advertising and sponsorship may satisfy this criterion.

Successfully claiming a deduction for racing expenditure will be more difficult when the owners/managers of the business themselves have a known interest in racing, particularly where the company is a private company. HMRC will probably argue that the expenditure has been incurred because of the personal interest of the owners rather than for the benefit of the trade. This is discussed further below.

There is also the risk that there may be a taxable benefit on the employee or owner where HMRC regard the business's racing expenditure as a perk for that person, also referred to as there being a duality of purpose. This means there is benefit on a personal basis as well as for business. This is particularly likely to be the case where the business in question is a close company as defined by S439 CTA 2010. That is, very broadly, where five or fewer persons control the company and therefore where it is more likely that a director shareholder will be able to influence the spending of the company.

3.2.1 Advertising

Given the above, it is unlikely that a business will be able to claim a deduction for the cost of keeping and training a racehorse unless it can show that the expenditure is for the purpose of advertising its products. This will be dependent on the particular facts. In such circumstances any prize money from the horse will be taxable.

The factors that will determine whether advertising expenditure is incurred wholly and exclusively for the benefit of the trade include:

- What is the purpose behind the expense – is it to provide a corporate entertaining package or is it genuine advertising?
- What is the form of the advertising and is it in keeping with the company's size, structure and image?
- Is there evidence that the horse is being used for advertising purposes? Where the horse is named after the business or its products then the expenditure is more likely to be accepted as advertising. This will be a question of fact and good records should be kept.
- Is the advertising likely to generate more business and has the decision to advertise in this way been based on commercial principles?
- Is the amount spent reasonable in relation to the benefits claimed from the advertising or promotion?

3.2.2 Sponsorship

In 1994 owner-sponsorship was introduced in racing. This allowed owners to be sponsored and the sponsor to advertise on the jockeys silks, breeches, horse rugs etc.

Before entering into any sponsorship agreement, businesses should consider how such an agreement can be best structured for tax so that the maximum relief is obtained.

Claiming a deduction for a sponsorship payment should in theory be no different to claiming a deduction for advertising expenditure. In structuring sponsorship there are a number of basic principles which should be followed.

The main benefit of the expenditure must be to the trading business which then needs to show that the sponsorship payment falls into the same category as its normal marketing and promotional activities. A deduction will be available if the business can show that the sole purpose of the payment is to help market its products and services and that any benefit to an employee or director is purely incidental.

The question of what is considered incidental was examined in McQueen v Revenue & Customs Commissioners 2007 STC (SCD) 457 where the owner of a coach company promoted the trade by racing a liveried rally car personally. In that case the personal satisfaction of Mr McQueen was considered to be incidental to the promotional activity so it could be considered that the mere enjoyment of racing will not conclusively rule out a deduction. In this particular case Mr McQueen claimed that he was interested in sailing yachts, so rallying was not necessarily his primary hobby.

That the motive for a payment is important was made clear in the 1996 Special Commissioners case Executive Network (Consultants) Ltd v O'Connor. Here a company made payments to the controlling shareholder's wife's riding school business and claimed a deduction on the basis that they were sponsorship payments. The deduction was disallowed on the basis that it was not wholly and exclusively for the purpose of the company's trade, even though the sponsorship had generated new work. The Special Commissioners determined that 'personal benefit played a part in the decision to make the sponsorship payments,' particularly as the amount of the payments was strongly influenced by the losses being made by the wife's business.

Even where there is no personal or family connection, care needs to be taken where there is any benefit to the racehorse owner or trainer who receives the sponsorship funds, whether or not this is of primary concern to the sponsor. In the case of Interfish Limited v Revenue & Customs Commissioners UKFTT TC520 the First Tier Tribunal considered sponsorship payments by the company to a rugby club. The director of Interfish had considerable involvement with the club. The Tribunal found the payments were made both to improve the financial position of the club and to promote the business of the company. This meant that the payments failed the required 'wholly and exclusively' tests. The case was eventually heard by the Court of Appeal, that stated that simply having dual motives for making the payment was enough to prevent a deduction under s54 CTA 2009.

More recently, in Chepstow Plant International & Another v Revenue & Customs [2011] UK FTT 166 (TC) the company paid training expenses for several horses. HMRC sought to have the expenses treated as a benefit to the director in whose name the horses ran. The First Tier Tribunal (at 29) found that there was no evidence that the director concerned had visited the horses at their trainer's yard and took a more active involvement in their training. Similarly there was no evidence that he had entertained customers of the Company in person at any racing event, or was present in any parade ring, or had been observed in any situation with racehorses. Accordingly, it was held that as he did not have a personal interest he was not receiving a personal benefit, so was not liable to personal tax or national insurance.

Further details on race sponsorship are contained in the British Horseracing Board's publication: Racehorse Owner's Sponsorship Code of Conduct.

3.2.3 Sponsorship and corporate entertaining

A further benefit to a business of sponsorship, other than marketing and advertising its products, is that it may provide the business with a structured corporate entertaining package, for both staff and clients. As a general rule a business will only get a tax deduction for entertaining expenses that relate to the entertaining of staff (although the staff could face personal tax liabilities – see below). For this reason, sponsorship deals that include an entertaining package should be carefully structured so that the entertaining element, if any, can be separately identified and the size of any disallowable expenditure identified. It may be preferable to agree an allocation of cost, showing how much of it relates to entertaining, with the provider of the packages, rather than leave it to HMRC to suggest an apportionment on an inappropriate basis. Remember that the marginal cost to the racecourse of providing badges, and even a box, may be little or nothing if, as is regularly the case, racecourse attendance is less than capacity.

There is often a fine line between what constitutes entertaining clients and what in effect is the rewarding of staff and the tax treatment is very different in each case. Where an employee is involved in entertaining clients then this is claimed as client entertaining and the business will not get a deduction for the expense. There will also be no benefit taxable on the employee. The opposite is true where the business is solely entertaining employees, for example by paying for a day at the races. In this case the business will be able to claim a tax deduction for the expense but the employee may be taxable on the benefit received. This issue is considered further in Chapter 5.

Further guidance is provided in the HMRC Business Income Manual at BIM45000- Specific deductions: entertainment; introduction and contents. The contents within BIM45000: BIM45005-BIM090 provides a great resource of reference.

The VAT treatment of advertising and sponsorship is dealt with later within this guide.

4 Employee Issues

4.1 Introduction

Employment issues are relevant to all the sectors being considered in this guidebook; breeding, racing and training, and the tax treatment of potential employee benefits is of particular importance.

Status

Before considering the treatment of employees it is important to review whether workers should be considered to be employed or self-employed. Businesses will often have permanent or temporary employees but also require the services of self-employed contractors on a regular or intermittent basis. In racing self-employed contractors can include book-keepers, work riders, and farriers.

A worker's employment status, that is, whether they are employed or self employed, is not a matter of choice and it is important for both the worker and the engager to consider the employment status of the worker. For the self-employed there are obligations to comply with the requirements of both national insurance and self-assessment. For the employer there will be requirements under PAYE and also for example for compliance with the Working Time Directive and the National Minimum Wage legislation.

General guidance on employment status can be found at the HMRC website. However, of particular use is the Employment Status Indicator found at the following location:

http://www.hmrc.gov.uk/calcs/esi.htm

The following guidance is issued by HMRC in considering employment status. There may well however be no definitive answer so it is important to ensure evidence is available to support the engager's viewpoint should HMRC challenge the status of for example, self-employed work riders.

Employed or self-employed

Often it can be very difficult to decide whether someone is employed or self-employed.

As a general guide, if the answer is 'Yes' to all of the following questions, then the worker is probably an employee:

- Do they have to do the work themselves?
- Can someone tell them at any time what to do, where to carry out the work or when and how to do it?
- Can they work a set amount of hours?
- Can someone move them from task to task?
- Are they paid by the hour, week, or month?
- Can they get overtime pay or a bonus payment?

If the answer is 'Yes' to all of the following questions, it will usually mean that the worker is self-employed:

- Can they hire someone to do the work or engage helpers at their own expense?
- Do they risk their own money?
- Do they provide the main items of equipment they need to do their job, not just the small tools that many employees provide for themselves?
- Do they agree to do a job for a fixed price regardless of how long the job may take?
- Can they decide what work to do, how and when to do the work and where to provide the services?
- Do they regularly work for a number of different people?
- Do they have to correct unsatisfactory work in their own time and at their own expense?

It is important to have evidence that self-employed contractors are paying tax and national insurance in their own right. Keeping details of their tax references is the minimum requirement.

Employees

Where an employee is provided with, by reason of his employment, any benefit that is not otherwise charged to tax as their income, then the cash equivalent of the benefit will be taxed as part of their earnings. The governing law is given in the general charging provisions of S201 Income Tax (Earnings and Pensions) Act (ITEPA) 2003. This covers all benefits other than those that are specifically included elsewhere in the legislation, for example the provision of cars and car fuel, vouchers and living accommodation. As mentioned above, in general an employee will be taxed on the cash equivalent of any benefit received. The exception to this is where the benefit is provided 'in- house', for example, the provision of livery. In this case the employee will be taxed on the marginal cost to the business of providing the benefit, following the decision in the 1992 case Pepper v Hart (65TC421)

Two areas where benefits arise, which are particularly relevant here are the provision of living accommodation and staff entertaining. These are considered below.

4.2 Taxation of accommodation

Guidance has been provided to trainers by the National Trainers Federation that deals with the tax treatment of living accommodation for stable staff.

This guidance note relates to stable employees. There is no formal agreement for Stud staff though many studs will have negotiated individual agreements. The general rules with regards to accommodation will apply where there are no separate agreements in place. These general rules are as follows:

If the accommodation is job related, there is no taxable benefit. Job related accommodation is that which is either:

- necessary for the proper performance of the duties of the employee OR
- both customary AND enables the better performance of the employees' duties OR
- where there is a special threat to security.

This applies to all employees except directors, however much they earn. Directors can only claim the exemption in limited circumstances.

If the accommodation is exempt the following amounts paid on behalf of or reimbursed to, the employee are also excluded:

- Council tax
- Water charges
- Sewerage charges

If other items are paid for or provided to the employee such as utility bills or furniture these are assessable on the employee.

If the accommodation is not job related there will be a benefit assessed on the employee. The benefit will be valued at the greater of the gross rateable value and the rent paid by the provider of the accommodation, if applicable. There is an extra charge where the total cost of the property is greater than £75,000. Any rent paid by the employee towards the accommodation will be deducted when calculating the benefit.

Living expenses as mentioned above are not a taxable benefit for those earning less than £8,500 per annum, where the £8,500 includes all benefits, provided the costs are met directly by the employers. There will be a taxable benefit for employees earning more than this amount. The value of the benefit will depend on whether the accommodation is job related or not.

4.3 Taxation of staff entertaining

As discussed in Chapter3, employees may be subject to a taxable benefit where a company is involved in staff entertaining. The employee will be taxed on the cash equivalent of the entertaining expenditure. For example, when a company spends £50 on a night out for the employee, they will be taxed on a benefit of £50. (Expenditure on annual parties and functions is exempt provided expenditure does not exceed £150 per head. If the £150 is exceeded the whole benefit is taxable).

Under the guidance given by Pepper v Hart an employee can argue that they should be taxed on the marginal cost to the company. This will be relevant where a company provides staff entertaining as part of a sponsorship package. For example, a company may decide to sponsor a major racing event, by funding the prizes, publicity and marquees and may receive day tickets at no extra cost. If it makes these available to its employees, then the benefit to the employee is arguably nil. However, HM Revenue & Customs may question such an arrangement closely to determine whether the employees do actually receive a taxable benefit. Clearly companies must take great care in this area and document all their decisions and the reasons behind them. There will be many other issues to address as part of the overall decision making process.

Isolating 'marginal' costs is therefore a key area for tax purposes and companies need to decide whether it would be better to offer up a small PAYE liability calculated by establishing a marginal cost if tickets have been received at a bulk discounted rate well below normal market value. Alternatively, companies may decide to strip out all client entertaining and staff-related costs from the sponsorship package.

4.4 Annual Settlement

In circumstances where an employee is taxable on a benefit received, a company can pay the tax on the benefit by entering into a 'PAYE settlement agreement' (PSA) with their local PAYE office. PSAs were introduced in the 1996 Finance Act to replace the 'annual voluntary settlement' system. They allow employers to settle in one payment the income tax liability on minor benefits which are not paid to employees on a regular basis. They therefore provide flexibility to a company and mean that an employee does not have to suffer the tax on the benefits they receive which are covered by the agreement, and the company effectively meets their tax liability. This will, of course, increase the cost of the benefit for the company. The employer has to make the payment agreed on the PSA by 19 October if paying by cheque or 22 October if another form of payment is used, following the end of the tax year to which the PSA relates. PSA agreements have to be revisited and agreed each year with HMRC, unless they are of an enduring nature.

4.5 Revenue Guidance Issued July 2011

PAYE70275 PAYE Operation: Specific Employments: Racehorse Trainers / Stud Farm Employees

Additional payments by employers and horse owners

Where an employee of a racehorse trainer or stud farm receives payments in addition to wages (see the Employment Income Manual (EIM) at EIM68500), these are assessable as employment income.

Payments made by the employer

Payments may be made:

- By the employer on his or her own behalf, or
- By the employer on behalf of a third party such as a racehorse owner

Examples of payments are:

- A percentage of prize money for a winning horse
- Fees for leading a horse between stable, stud farm or station
- Presents for mares in foal
- Groom fees

Such payments should be taxed under PAYE by the employer in the normal way along with the wages or salary of the employee. The payments are also normally liable to National Insurance contributions. Under certain circumstances, stable prize money percentages (pool money) can be paid to stable employees without a liability to National Insurance. Further information can be found in NIM02300.

In any case of difficulty, consult PAYE Technical Advice- Shipley.

5 General Direct Tax Issues

As has been seen from the discussions above, the tax treatment of some elements of the racing industry has evolved over time and has become specific to these industries. However, there are still some basic rules that should be considered. These are set out below.

5.1 Planning the trading vehicle

Where HMRC determine that a person is operating a trade, the profits from that trade will be taxed as trading income. This is the case where the trade is operated through a company or otherwise. The tax paid will, however, vary depending on the type of operating vehicle for the trade, the main difference being that broadly, a company is subject to corporation tax on any taxable profits at the effective rate shown below:

Rate	2024	2025
Main rate	25%	25%
Small profits rate (companies with profits under £50,000)	19%	19%
Marginal Relief lower limit	£50,000	£50,000
Marginal Relief upper limit	£250,000	£250,000
Standard fraction	3/200	3/200

A sole trader is subject to income tax at a marginal top rate of 45%. It is therefore important that professional advice is taken when commencing a trade to determine which vehicle is best for the individual concerned. The main differences between the three most common options – operating through a limited company, as a sole trader or via a husband and wife partnership or civil partner partnership – are discussed below.

The decision will depend on the activity being carried on, whether it be racing or breeding or a mixture of the two. For example, an owner wishing to withdraw profits earned tax free in a racing company would pay personal tax on any dividend drawn. This tax would have been avoided if the racing activity were operated directly by the individual. Of course, there are many factors to consider to determine which route is most appropriate.

5.1.1 Trading as a sole trader

Where a person operates a trade as a sole trader, they will be subject to income tax on the tax adjusted trading profits, at the individual's top marginal rate of income tax, which, at the current rates, could be 45%. Any trading losses, provided they are not restricted due to the trade not being run on a commercial basis (see section 1.6), can be relieved against any other current year or prior year income, or future profits from the same trade.

The trader will also have to pay class 4 national insurance contributions. Class 2 national insurance contributions have been abolished from 6 April 2024.

5.1.2 Trading through a husband and wife or civil partner partnership

Where a husband and wife or civil partners are both actively involved in the trade and particularly where the premises are jointly owned, operating the trading business as a husband and wife or civil partner partnership can have certain tax advantages.

The income tax liability of each spouse would be based on their share of the tax adjusted business profits thus maximising the lower rates of tax. The class 4 national insurance liability needs to be considered as this may reduce the overall benefit of trading through a partnership.

The introduction into the business of a spouse or civil partner as a (working) partner will ensure that the spouse's or civil partners interest in the business premises qualifies for Business Asset Disposal Relief (BADR) for capital gains and also for Business Property Relief for Inheritance Tax, subject to the other conditions being met.

As with any form of planning, the particular circumstances of each case should be considered.

5.1.3 Trading through a company

The business profits will be computed as trading income in accordance with the Taxes Act and subjected to corporation tax. Accordingly it is important that the activity of the company is considered to be of a trading nature. If this is not the case the company will not be able to benefit from the standard small profits rate listed in the table above, or marginal small companies relief. It will instead be treated as a close investment company chargeable to corporation tax at the main rate irrespective of the level of its profits or the number of associated companies which might have had the effect of limiting the profits available to benefit from a reduced charge to tax. The total profits are calculated in the normal way.

Given that the corporation tax rate on profits is lower than the income tax rates there is at first sight an obvious advantage to trading through a company. However, if the shareholder wishes to withdraw the profits from the company then these profits will be taxed again on that individual, as employment income if the funds are withdrawn by the shareholder taking a salary, or as investment income if the shareholder is paid a dividend. A shareholder can withdraw monies tax free where they represent repayment of any loan funds advanced to the company by the shareholder.

Where the shareholder is paid a salary the company will, provided the salary is not excessive, receive a tax deduction for that salary. The individual will then pay income tax on that salary. National Insurance contributions will also need to be paid.

Dividends are paid gross; they no longer carry a tax credit. The tax credit ceased from 6 April 2016.

If the company makes losses these can be set off against total taxable profits of the same period, total taxable profits of the previous twelve months or against future profits of the same trade. This gives much the same loss relief as for a sole trader or partner in a partnership.

Where the trade is operated from a company that is part of a group of companies, any losses can also be passed on to other companies in the same 75% group. A 75% group exists where one company is a 75% owned subsidiary of another, or both are 75% owned subsidiaries of the same company. Therefore, it may be advisable that, where an individual who already owns a group of companies decides to set up a trade in a new company and anticipates that the trade will make losses, for the company to be held as a member of the group of companies. The long-term implications should also be taken into account. For example, what will the shareholder do when and if they want to sell; if they decide to sell the shares in the company then the proceeds will flow up to a holding company in the group and this holding company may have to pay corporation tax on the capital gain, subject to the availability of substantial shareholder exemption.

Substantial shareholder exemption is available on the disposal of a shareholding in a trading company by a company which holds in excess of 10% of the share capital of the company and has held these shares for more than 12 months at any time in the past six years. The holder of the shares must be beneficially entitled to not less than 10% (or the pro rate share if higher) of the profits available for distribution to the shareholders. Similarly, they must be entitled to receive not less than 10% (or the pro rate share if higher) of the assets of the company available for distribution to the shareholders on a winding up. These rules are relatively complex and professional advice should always be taken when considering their possible application. If these proceeds are then distributed back to the shareholder they will be taxed again on the investment income. This obviously may not be tax efficient. There are other ways in which the value can be taken out of a company.

5.2 Capital Gains Tax (CGT)

Both horses which form part of the bloodstock of the stud farm and racehorses in training are not subject to CGT, for the following reasons.

The bloodstock forms part of the commercial activity of the stud farm and will normally be treated as stock-in-trade. They are therefore not capital assets for the purposes of this tax.

Racehorses in training are both tangible moveable property and "wasting assets" as defined by s44 Taxation of Chargeable Gains Act (TCGA) 1992, as they have a predictable life of less than fifty years. S45 TCGA 1992 states that "no chargeable gain shall accrue on the disposal of, or of an interest in, an asset which is tangible moveable property and which is a wasting asset".

The exception to this wasting asset rule is where an asset is used solely for the purposes of the trade and the expenditure is eligible for capital allowances. This exception does not apply to racehorses in training as this activity is not treated as a trade and a horse may not be eligible for capital allowances in some circumstances.

5.3 Inheritance Tax (IHT)

5.3.1 General

IHT is a tax that primarily arises on death, although it can arise on some lifetime transfers. From April 2025 IHT has moved to being determined by reference to an individual's residence status rather than in accordance with their domicile, legal or deemed for tax purposes. All long-term resident individuals are treated for IHT purposes as being subject to the charge to tax, and all UK sited assets also fall within the charge to tax. We set out what this means in greater detail in Appendix III. There are numerous reliefs and exemptions that also need to be considered. On death an individual's estate is assessed including all property, possessions and money. Some non-exempt lifetime gifts may also come within the charge to tax where they were made less than 7 years prior to the date of death.

IHT is a cumulative transfer, taking into account non-exempt transfers made within the period of seven years prior to the date of death. The current rate of IHT on death is 40% and this is only charged on the part of an individual's estate that falls above the tax free threshold, which is currently £325,000 At the time of writing it has been announced that legislation will be introduced to fix the nil-rate band at its current level until the end of the tax year 2029-2030.

The tax-free threshold that is available to everyone of £325,000 is known as the Nil Rate Band (NRB). There are no conditions on this being available.

In 2017 the Residence Nil Rate Band (RNRB) was introduced, which means, in some cases, a married couple/ civil partners would have up to £1million of tax-free threshold available in respect of their death estates. However, unlike the NRB, the RNRB comes with several conditions. Namely that at death property must be held that was the individual's main residence, and this must pass to direct descendants. There can also be relief if the home has been sold but the resultant value goes to the direct descendants. This is a valuable additional threshold if it is available but advice should be sought to fully understand the conditions attached to it. These include a restriction for large estates. Where an estate exceeds £2 million the RNRB is tapered away by £1 for every £2 that the value exceeds the threshold and estates of £2.35million or greater will not benefit from the RNRB.

Where all assets are left between UK domiciled spouses/civil partners they pass free of IHT, the IHT effectively deferred until second death. In addition, the NRB and RNRB of the deceased may be available to the surviving spouse/civil partner for use on second death. This also means the estate on the second death would benefit from the RNRB up to a value of £2.7million.

Where one spouse/civil partner is treated as being a long-term UK resident for IHT purposes advice should be taken, as the passing of assets by a long-term UK resident spouse to one who does not so qualify on death, or in lifetime, do not all flow free of IHT as they do between UK domiciled spouses/civil partners. Elections and other planning options are available which is why it is wise to seek professional advice.

Lifetime gifts to an individual are exempt so long as the donor survives seven years, and the donor does not continue to benefit from the asset or money that was gifted. However, lifetime gifts to any form of trust (i.e. interest in possession trusts or discretionary trusts) or a Company not wholly owned by the donor, are normally chargeable at the time of the transfer at a lifetime rate of 20%, following changes adopted in the Finance Act 2006.

A general description of IHT is set out in Appendix III.

5.3.2 Reliefs available

In the present context, the IHT reliefs which are of particular significance are Agricultural Property Relief (APR) and Business Relief (BPR). These forms of relief are considered below. APR takes precedence over a claim for BPR if both forms of relief are available on the same item.

The Chancellor announced changes in the Autumn 2024 Budget reducing the benefit of BPR and APR from 6 April 2026. The existing 100% rates of relief will continue for the first £1 million of combined agricultural and business property. The rate of relief will be 50% thereafter. Whilst agricultural and business property will continue to benefit from 100% IHT relief there is now an important cap.

Agricultural Property Relief (APR)

APR is available solely on the agricultural value of UK agricultural property with effect from 6 April 2024.

It is available where an individual or partnership owns land and buildings that they own/owned and use for agricultural purposes. It is also available in respect of shares or securities in agricultural companies to the extent that their value is attributable to agricultural property and provided that the transferor has control of the company immediately before the transfer.

Naturally the rules delve into detail as to what constitutes qualifying agricultural property.

Land and buildings at a stud farm in the UK used for the breeding, rearing and grazing of horses should qualify for APR. The farmhouse or stud house can be included within the definition of APR. In order to qualify, the house must be both of a character appropriate to the stud farm, and must be occupied for the purposes of running the stud farm. There have been several cases where relief has been denied.

Period of ownership or occupation

Relief is available if the property has been owned and occupied for agricultural purposes, immediately before its transfer for:

- 2 years if occupied by the owner, or a company controlled by them taking into account shares owned by their spouse or civil partner
- 7 years if occupied by someone else

Rates of APR

Agricultural Relief is due at 100% if:

- the person who owned the land farmed it themselves
- the transferor has the right to vacant possession or can obtain vacant possession within 24 months
- it was let on a tenancy that began on or after 1 September 1995

A property that was owned before 10 March 1981 can qualify for 100% relief if:

- it would have qualified under Schedule 8 Finance Act 1975 had it been transferred before that date
- the person who owned it had no possible right to vacant possession between that date and the date of the current transfer

Relief is due at a lower rate of 50% in any other case. Under the new proposals the existence of relief at 50% will not operate to reduce the level of relief which is to be capped at £1 million per individual. The allowance will refresh every seven years.

For APR purposes the value of any agricultural property is taken to be the value of the property if the property were subject to a perpetual covenant prohibiting its use otherwise than as agricultural property. This means that the value may be less than open market value where for example the land has development potential. In such circumstances relief may be available for the excess under the BPR rules.

It is important to note you must deduct outstanding mortgages or any other secured liabilities on the property before calculating the Agricultural Relief.

If a gift of agricultural property is made and the donor dies within seven years, further conditions must be met for APR to be obtained. Namely the original transferee must still own the property at the date of death and it must still be used for agricultural purposes.

Naturally it is important to note, APR is only available on the agricultural value and that APR must be claimed in priority to BPR. However, there will be cases where APR is claimed first but then BPR can be claimed on any further value that can be covered by this relief. Of course advice should be taken to ensure both reliefs are maximised and conditions met.

Business Relief (BPR)

BPR is available on 'relevant business property' provided that the deceased owned the business or asset for at least two years before they died.

The legislation sets out the definition of relevant business property at s105 IHTA 1984 and seeks to emphasise that this must include property consisting of a business or interest in a business.

BPR may be claimed on the value of agricultural property that isn't eligible for APR. Again understanding the ability to claim both reliefs and the interaction is important.

Rates of BPR

100% Business Relief on:

- a business or interest in a business
- shares in an unlisted company

50% Business Relief on:

- shares controlling more than 50% of the voting rights in a listed company
- land, buildings or machinery owned by the deceased and used in a business they were a partner of or by a close company they controlled
- land, buildings or machinery used in the business and held in a trust under which they had an important trust interest known as an interest in possession.

Therefore, shares in an unquoted company which carries on bloodstock breeding activities, taxable by HMRC as a trade, could attract BPR of up to 100%. Whereas shares in a company which does not carry on a trading activity, such as racing, will not attract BPR.

Again, for a gift in lifetime, the business property will still need to be held by the done at the donor's death and remain as business property if the donor dies within seven years of making the gift, for relief to be given.

As mentioned, there are detailed rules and legislation which define exactly what land, assets and business interests would qualify for APR and BPR. However, a key consideration before relief is available is whether there is a commercial activity being undertaken with a view to the realisation of profits.

Additionally, although this section focuses on IHT, qualifying business assets and assets which qualify for APR for IHT purposes can benefit from what is known as 'Hold-Over' Relief for CGT purposes in relation to lifetime gifts. What this means is that if such land, assets and business interests were gifted during an individual's lifetime, there may not be an immediate charge to CGT, but instead the gain could be held over and deferred. Essentially the recipient takes on the transferor's base cost. This can provide a cash flow benefit and prevent a dry tax charge. However, there are further considerations where the donor has a short life expectancy. Here separate advice is required.

Additionally there is a relief known as Business Asset Disposal Relief (BADR) which can provide for a lower rate of CGT on the disposal of qualifying business assets. As confirmed by the Finance Act 2025 the CGT rate of BADR has increased from 10% to 14% with effect from 6 April 2025. It will increase to 18% as from 6 April 2026, in line with the new lower rate of CGT of 18% that applies in relation to gains realised on or after 30 October 2024.

5.4 Enterprise Investment Scheme

The Enterprise Investment Scheme ("EIS") is a government-sponsored program designed to spur economic growth. It offers investors tax relief when they invest in smaller businesses and start-ups that carry greater risk. Equally it offers a company the ability to raise money and grow its business. HMRC Treasury confirmed on 3 September 2024 the extension of EIS relief to shares issued before 6 April 2035 (from 6 April 2025).

The EIS company

EIS relief is only available for companies engaged in a new qualifying trade.

EIS qualifying companies must satisfy a number of requirements at the time of the share issue and the following three years. This includes engagement in a qualifying trade and its activities do not include to any substantial extent 'excluded activities.' HMRC also expect to see a robust business plan and evidence that a company will create employment.

Since 17 March 1998 "farming" has been an excluded activity and HMRC regard the commercial breeding of livestock as farming. Bloodstock breeding is, however, not an excluded activity and if this is carried out without the occupation of land, this is generally an accepted trade.

Advice should be sought for those who may want to consider setting up as an EIS Company. There are key conditions that should be understood, together with an application process and compliance that must be undertaken to ensure the EIS status is in place.

In addition, it is sensible to apply for what is known as advance clearance with HMRC, to ensure that the activity to be carried out by the company falls within legislation and the definition of qualifying trade and is not an excluded activity, before making an application for EIS status.

The EIS investor

Even with clearance for the company, individual shareholders might be denied the relief. HMRC might, for example take the view that for the investor there is not a new trade if the EIS company is engaged in a trade that the shareholder has been in engaged in themselves, i.e. it is not a new trade to that shareholder. In this circumstance the individual's relief might be challenged, but other EIS investors might still qualify.

In terms of the benefits for the investor, the tax reliefs are as follows:

Income tax

An investor can obtain up to 30% relief on investments of up to £1,000,000 each year (£2,000,000 if at least £1,000,000 is in knowledge-intensive companies).

This relief can be claimed either in the tax year the investment is made, or in the previous year. However, EIS is limited by the amount of tax paid by the investor. It can reduce the investors tax liability down to nil, but not create a repayment of income tax.

Income tax relief is withdrawn and clawed back if the investor disposes of the shares within three years of issue, and/or if the EIS company fails to meet the conditions above within the first three years.

Inheritance Tax

On the basis an investor owns shares in a qualifying unquoted trading company for at least two years, and certain conditions are met at the time of transfer, IHT BPR of 100% may be available, which reduces the IHT liability to nil. As announced in the Autumn 2024 Budget statement there is to be a combined cap of £1m for BPR/APR assets as from 6 April 2026.

Capital Gains Tax

A reinvestment of any capital gain into EIS shares will defer the CGT liability until the disposal of the EIS shares occurs.

If an investor holds EIS shares for at least 3 years, any capital gains realised on the disposal of the shares will be free of CGT, provided income tax relief has been given and has not been withdrawn.

Loss relief

If a loss is made on the disposal of EIS shares, the loss net of income tax relief, may be claimed against either current or future years capital gains or, by election, against income of the current or previous tax year. Naturally this is an area where advice is thoroughly recommended.

5.5 UK taxation implications for foreign nationals

General

This section concentrates on the UK taxation implications for foreign nationals. As from 6 April 2025, the remittance basis of taxation for non-UK domiciled individuals is to be abolished. It is to be replaced with a new set of rules linked to an individual's length of residency in the UK. This means that from 6 April 2025 all UK residents will be taxed on an arising basis. However, there will be a new set of rules for Foreign Income and Gains (FIG) which will apply for the first four years of tax residency, provided the individual has been non-UK resident for a consecutive period of 10 years immediately prior to becoming UK resident. It is necessary to make an election and quantify the income and gains to which the FIG regime will apply. Only certain categories of income and gains will qualify for relief. Making a claim will result in a loss of the individual's personal allowance for income tax as well as their annual exempt amount for CGT.

Residency

To determine an individual's UK residency status, the Statutory Residence Test (SRT) was introduced in Finance Act 2013.

The SRT which is broadly a series of three tests, are used in consecutive order to determine an individual's UK tax residence status. It is based on the number of days spent in the UK, and can take into account ties to the UK.

Arising Basis

If an individual is resident and domiciled in the UK, they will pay tax on their worldwide income and gains as it arises.

UK property and capital gains tax for non-UK residents

The CGT rules were extended from 6 April 2019 such that disposals of UK property or land owned will be subject to UK tax in the year of sale. The rules were also widened to include indirect disposals made by 'property rich' companies where at least 75% of its gross asset value is derived from UK land held as investments. Tax is charged on non-residents where they own at least 25% of the company. The normal rules will still apply for the purposes of calculating the gain or loss. In the case of a disposal of an asset that was not within the charge to tax prior to 6 April 2019, there are a series of rules to calculate the Non- Resident Capital Gain (NRCGT) or loss. All persons making a NRCGT disposal have 60 days to submit a NRCGT Return and pay the tax, post completion.

Capital gains tax and temporary UK non-resident taxpayers

Although an individual is regarded as not resident in the UK for Income Tax and CGT purposes, they will remain subject to CGT on the sale of assets e.g. shares, owned at the time that they left the UK, unless they are absent from the UK for at least five years, and they were resident in the UK for at least four of the seven tax years preceding the year of departure.

Bloodstock breeding

The UK tax treatment of bloodstock breeding activities is explained in detail in Chapter 1. The main points of relevance to a non-UK domiciled UK resident are:

- A capital gain on the disposal of UK land used and owned by a non-resident in their trade will be liable to UK CGT.
- As mentioned above, UK IHT applies to UK assets only except where an individual is a long-term UK resident where their worldwide estate will be subject to the charge to tax. Bloodstock and land in the UK which are owned through a non-UK incorporated company may not be subject to the charge to IHT. This could be the case even if the company was UK resident. Special considerations apply where residential property is held through a non-resident company or partnership. Property enveloped in this way falls outside the usual rules that treat shares or interests in foreign companies or partnerships as being located outside the UK.

Stallions

The UK tax treatment of income from stallions and stallion syndicate shares is explained in Chapter 2. The main points of relevance to a UK resident foreign national are:

- A gain on the sale of a colt which is being raced and is not used for breeding purposes should not be liable to UK tax.
- A gain on the sale of a stallion which is at stud is normally included in the calculation of the profit/loss of the breeding activity, hence liable to UK income tax.
- Nomination fees from a stallion standing at stud in the UK or from a share in a UK stallion syndicate, are generally regarded as UK source income and liable to UK tax. Care must be taken where a foreign national has substantial breeding activities outside the UK.
- A gain on the sale of a share in a UK stallion syndicate which is held as an investment rather than as part of the stock in trade of a breeding activity is tax-free in the UK.

PART 2 – VALUE ADDED TAX

1 Introduction to VAT

Value Added Tax is a tax charged on supplies of goods and services made by VAT registered businesses. Although there are categories of supplies of goods and services which do not attract VAT, these only apply in limited circumstances in the bloodstock industry and it is, therefore, a tax which has widespread impact.

1.1 VAT registration

Value Added Tax is collected by HMRC using a system requiring businesses making VATable (taxable) supplies to charge VAT to their customers. They are then required to pay this VAT to HMRC but are allowed to offset VAT charged to them against the VAT they have charged to their customers. If a business has been charged more VAT than it has charged its customers then the balance will be repaid by HMRC.

The VAT system requires businesses whose sales exceed the VAT registration threshold (£90,000 per annum with effect from 1 April 2024) to register for VAT. It should be noted that there is no threshold for businesses not established in the UK. Any such business making supplies in the UK will be required to register. Once registered for VAT a business is required to make returns, normally on a quarterly basis, to HMRC detailing the amount of VAT charged to its customers (output tax) and the amount of VAT charged to it by its suppliers (input tax). The value of sales (outputs) and purchases (inputs) made by the business is also recorded on the return.

A business is required to apply for VAT registration when its taxable turnover in the twelve months then ending has exceeded the threshold, or if it is anticipated that the taxable turnover will exceed the threshold in the 30 days then beginning. It should be noted that taxable turnover includes the value of any zero- rated supplies i.e. supplies that are charged at a zero-rate (such as animal feed) and any reduced-rated supplies. However, where wholly or mainly zero-rated supplies are made, HMRC has the discretion to grant exemption from registration. Similarly, where there is a temporary breach in the registration threshold, HMRC has the discretion to grant exception from registration for that breach. In this case future breaches must be dealt with separately.

Once a liability to register has been notified to HMRC it will then take the necessary action to allocate a VAT registration number. This registration number forms the basis of the control mechanisms exercised by HMRC.

Although it is a requirement to notify HMRC that the threshold has been, or will be exceeded, it is also possible to apply for voluntary registration when there is no requirement for a compulsory registration e.g. where a business is incurring costs in advance of making taxable supplies or is trading below the threshold but would like to register in order to recover VAT on costs. This is particularly relevant where the customers would themselves be VAT registered and would therefore be able to recover any VAT charged. Both of these situations often occur in the bloodstock industry.

If the turnover falls below, and is likely to remain below, the de-registration threshold (£88,000 per annum with effect from 1 April 2024) a business can de-register. De-registration is not mandatory unless the business has actually ceased making taxable supplies, but is available if a business so wishes – normally this is beneficial when customers cannot recover VAT charged to them.

1.2 VAT partnerships

From a VAT perspective, it can be difficult to identify whether there is a registration requirement as a VAT partnership or as individuals. The fact that a partnership VAT registration is obtained does not automatically mean that a legal partnership has been created. The existence or otherwise of a legal partnership will be determined by the arrangements between the parties. However for VAT purposes all partners in a VAT partnership are jointly and severally liable for the VAT debts of the partnership.

As a general rule, there will be a VAT partnership where the following conditions are met:

- There is a business – from a VAT perspective this requires a regular level of expectation of economic activity. There need not be a business for direct tax purposes, nor commerciality;
- The business must be carried on by two or more persons in common with a "view to profit". The
- parties must share any profit or losses arising from the business activities
- The parties must have the ability to bind other members of the business in relation to transactions with third parties.

Where these conditions are met, HMRC would expect a VAT partnership to be registered, rather than the individuals in their own right. This would apply for shared ownership of breeding stock, nominations or race horses, subject to the rules of the Owners Scheme.

It is important to recognise the distinction when collectives such as syndicates set up for multi ownership breeding or racing activities, receive a capital contribution from a partner in the business from when they are receiving a subscription from a member of a club, who receives benefits in return without being a partner in the venture. Generally, the capital contribution would be outside the scope of VAT and create a partnership which should be registered for VAT. The subscription would not create a VAT partnership and may give rise to a VAT charge on the contribution depending on the benefits members receive. Further advice should be obtained where there is any uncertainty, as HMRC is likely to consider both the legal form (ie terms and conditions) and the substance of the relationship.

2 VAT in general

There are a number of basic rules that apply to all business sectors. In order to avoid mistakes being made these basic rules should be understood. Some of the more important rules are set out below.

2.1 Business or non-business

Only transactions undertaken in the course of business are subject to VAT. As such, it is important to identify whether a transaction is made in the course or furtherance of business or not.

Historically, HMRC has derived six tests, known as the business test, from case law to identify whether a transaction is made in business or not.

These tests are:

- is the activity a serious undertaking earnestly pursued
- is the activity an occupation or function that is actively pursued with reasonable or recognisable continuity
- does the activity have a certain measure of substance in terms of the quarterly or annual value of taxable supplies made
- is the activity conducted in a regular manner and on sound and recognised business principles
- is the activity predominately concerned with the making of taxable supplies for a consideration
- are the taxable supplies that are being made of a kind which, subject to differences of detail, are commonly made by those who seek to profit from them

However, as a result of further case law decisions, HMRC updated its guidance in June 2022 to apply a revised two stage test, as follows:

Stage 1: The activity results in a supply of goods or services for consideration

This requires the existence of a legal relationship between the supplier and the recipient. The first step is to consider whether the supply is made for a consideration. An activity that does not involve the making of supplies for consideration cannot be business activity for VAT purposes.

The Court of Appeal in Wakefield College (2018) emphasised that a 'supply for consideration' is a necessary condition but not a sufficient condition for an 'economic activity'.

Stage 2: The supply is made for the purpose of obtaining income therefrom (remuneration)

Where there is a direct or sufficient 'link' between the supplies made and the payments given, the activity is regarded as economic. The Court in Wakefield made a distinction between consideration and remuneration. Simply because a payment is received for a service provided does not itself mean that the activity is economic. For an activity to be regarded as economic it must be carried out for the purpose of obtaining income (remuneration) even if the charge is below cost.

These tests are different from those set out in the Direct Tax section when identifying whether there is a trade or not.

HMRC will consider these factors when considering an application for registration (or if an existing registration is valid).

2.2 Goods or services

The distinction between whether a supply is one of goods or services is important in a number of areas, particularly when determining the liability and place of the supply.

Any transfer of the whole property in goods is a supply of goods. The transfer of possession of goods under an agreement for the sale of those goods which expressly contemplates that the property will pass at some time in the future but in any event not later than the date when the goods are fully paid for is also treated as a supply of goods. A typical example of this type of transaction is an HP sale.

It should be noted that the grant of a major interest in land (i.e. a freehold interest or lease over 21 years) is also treated as a supply of goods as is the supply of any form of power, heat, refrigeration or ventilation.

All other supplies are supplies of services.

The distinction between a supply of goods and a supply of services is particularly important in the bloodstock industry as, for example, the supply of a part share in a horse is regarded as a supply of a service, whereas a supply of a whole horse is regarded as a supply of goods.

2.3 Place of supply of goods

It is always important to determine where a supply is deemed to take place under the VAT legislation, as that will determine who has to account for any VAT due on that sale and where that VAT is due. Generally speaking, if a supply of goods does not involve their removal from or to the United Kingdom it will be treated as supplied in the UK if the goods are in the UK and otherwise will be treated as supplied outside the UK. There are a number of more complicated rules relating to the place of supply of goods moved between the UK and other countries and these will be dealt with later in the section relating to supply and acquisition.

2.4 Place of supply of services

The rule for determining the place of supply of services varies according to whether the supply is business to business (B2B) or business to consumer (B2C).

It should be noted that it is the supplier's responsibility to determine whether or not his customer is in business. A VAT number is a clear indication but a customer could be in business even if they are not VAT registered e.g. they are trading below the VAT threshold or they are a flat-rate farmer.

The basic rule for determining the place of supply of B2B services is that it takes place where the customer belongs. A business shall be treated as belonging in a country if it has a business establishment or some other fixed establishment in that country. Therefore, if the recipient of the service belongs in the UK then that service is deemed to be supplied in the UK. There are some exceptions to this rule e.g. services relating to land and transportation.

In the bloodstock industry a UK customer may therefore be charged UK VAT on, for example, an Irish nomination fee if the seller belongs in the UK or may account for UK VAT themselves under the reverse charge procedure if the seller has no UK belonging.

For B2C supplies the basic rule is that the service is regarded as being supplied in the country where the supplier belongs. Here again there are a number of situations where that rule does not apply. The following are examples of services that when supplied to non-business customers belonging outside the UK will be treated as being supplied outside the UK and therefore outside the scope of UK VAT:

- services supplied by consultants, lawyers, accountants etc
- services of data processing, supplies of information
- financial services

Full details of the exceptions to the basic rules can be found in HMRC Notice 741A.

2.5 Time of supply (tax point)

The time at which a supply is treated as taking place is called the tax point. It is the tax point that determines the date on which VAT must be accounted for and the rate at which it is to be charged.

The basic tax point for a supply of goods is the date when the goods are removed, i.e. sent to or taken by the customer. If they are not removed it is the date they are made available for his use. The basic tax point for a supply of services is the date the services are performed. It is possible, however, in the case of both goods and services, that the tax point will be varied to take account of the issue of a VAT invoice and/or receipt of payment.

Where the invoice is raised or payment is received before the basic tax point then the earlier date becomes the tax point. However, where a VAT invoice is issued within fourteen days after the basic tax point it is permissible to use the later date as the tax point except to the extent that payment has already been received.

Where there is a continuous supply of services e.g. training or keep, the tax point is the earlier of the date the tax invoice is issued, or the date payment is received.

It should be noted that small businesses could in certain circumstances choose to account for VAT on the basis of cash paid and received. This scheme has the advantage of providing automatic VAT bad debt relief. The current (prospective) turnover limit for joining the cash accounting scheme is £1,350,000 as at 1 April 2023.

2.6 Value of supply

This is the value on which VAT is chargeable. In most cases the value will be the invoiced price.

In order to prevent abuse HMRC has the power, when a supply is between connected parties and the recipient cannot recover all the VAT charged, to direct an open market value if they feel the invoiced value has been artificially depressed.

3 VAT Accounting

3.1 Invoices

A VAT registered person is required to issue a VAT (tax) invoice for each taxable supply made to another VAT registered person. To qualify as a tax invoice the following information is required to be shown on the face of the invoice:

- An identifying number;
- The date point (time of supply);
- The date of issue of the document;
- The name and address and VAT registration number of the supplier;
- The customer's name and address;
- A description of the goods or services supplied and for each description, the quantity of the goods or the extent of the service, the rate of VAT and the amount payable, excluding VAT, expressed in any currency;
- The unit price;
- The gross amount payable, excluding VAT, expressed in any currency;
- The rate of any cash discount offered;
- The total amount of VAT charged in sterling. If the goods / services have been invoiced in a foreign currency it is sensible to show the rate of exchange used to convert the VAT figure to sterling.

Where the supply is exempt or zero-rated the invoice should contain a relevant reference or indication of why the supply is exempt or zero-rated as appropriate.

A copy of the tax invoice must be retained by the supplier for production to HMRC if required.

3.2 Records

As a minimum a simple record should be kept which will enable HMRC to verify the information submitted on the VAT return. A record of invoices issued and received, together with a summary of the details on those invoices will normally suffice. There should also be a form of VAT account showing the VAT calculations and the totals of input tax and output tax recorded on the VAT return.

These records are required to be kept for six years and must be made available to HMRC on request, together with any other information kept by the business which relates to the making of taxable supplies. Ordinarily this requirement will be met by software required to meet Making Tax Digital requirements as outlined below.

3.3 Bad debts

If a situation arises whereby a customer has not paid for a supply within six months from the date when a debt became due and payable, the debt may be written off in the normal VAT account and transferred to a separate bad debt relief account. This enables a taxpayer to take a VAT credit in respect of the VAT element of the unpaid amount. The claim must be made within four years and six months of the later of the date of the supply and the date when the amount became due and payable. If the customer subsequently pays his account then the VAT must be adjusted by an amount equal to the VAT element of the payment. In order to balance the VAT position it is a requirement that any VAT registered customer who does not pay a debt within six months of the supply or, if later, the payment due date, should adjust any VAT deducted on that supply to reflect the fact that payment has not been made i.e. to reverse the input VAT entry until such time as the account is paid.

3.4 VAT returns

VAT returns must now be submitted to HMRC under Making Tax Digital (MTD) regulations. MTD requires businesses to digitally upload their VAT returns to HMRC to mitigate the risk of manual errors in the VAT return submission process.

Furthermore, businesses are required to prepare their VAT returns using digital links between source documentation (ie invoices or daily gross takings) and the final VAT return for submission to mitigate the risk of manual errors in the VAT return workings documents.

It should be noted that businesses, typically those that normally receive a VAT repayment because the VAT on their inputs is greater than the VAT on their outputs, can elect to submit returns on a monthly basis. Any request for monthly returns should be submitted through the online portal. The portal can also be used to change other registration details such as a change of address etc.

3.5 Input tax recovery

VAT can be recovered on expenses incurred in connection with the making of taxable supplies in the course of or furtherance of the business. It is therefore important, particularly in the bloodstock industry, to establish exactly which activities are covered by the VAT registration.

Where an expense has been incurred partly for business and partly for non-business purposes the VAT must be apportioned.

There are certain items of expenditure on which, although they are incurred in connection with the business, the VAT cannot be deducted. These are expenses relating to the purchase of cars (where there is an element, however small, of availability for private use) and business entertainment. Similarly only 50% of the VAT incurred in connection with leasing a car can be recovered if there is any availability for private use of the car.

Where a business makes exempt supplies, (in the bloodstock industry this is likely to be supplies of rent or sales of property) there will need to be an apportionment of input tax as VAT in principle cannot be recovered if it relates to the making of exempt supplies, subject to a de minimis threshold. These apportionment rules are complex and specific advice should be taken to ensure maximum recovery is obtained.

A newly registered person can recover VAT on all goods on hand, providing they were purchased no more than four years previously, and VAT on all business related services received in the previous six months, provided that tax invoices are available and the VAT does not relate to exempt supplies.

3.6 VAT visits

HMRC is entitled to carry out visits to verify that VAT returns submitted are correct. The frequency of these visits varies according to the size of the business, the business sector and the business's previous revenue history. The visits vary in length but in general range from half a day for the smaller business to two to three days for the larger business. As indicated above, the purpose of the visit is to verify a selection of VAT returns and as such they do not follow a particular pattern. The visiting officer can request all records relating to the making of supplies. This can include copies of annual accounts, bank statements etc.

Typically an officer would examine the VAT account, the purchase and sales daybooks, and a selection of sales and purchase invoices. Where zero rating is claimed for exports or dispatches evidence of shipment will be examined and the inspector may also compare the bank statement with invoices and daybook entries. Another standard check is to compare the sales figures shown on the VAT returns with those declared in the annual accounts. Where this indicates a discrepancy, and this can be for quite legitimate reasons, an explanation will be requested.

It is worth making a note of the areas covered during the visit and retaining this for future reference.

HMRC is increasingly focusing its efforts based on data analytics. As such, it is now likely that an unexpected claim for repayment of VAT will trigger a remote pre-credibility check before the repayment is issued.

3.7 Assessments

HMRC issue assessments for two reasons. If a business has not submitted a VAT return an estimated assessment is issued. This assessment should be treated as a reminder to complete the return; payment of the assessment when the true liability is higher would potentially lead to penalties.

The other occasion when an assessment would be issued is when errors are found. This type of assessment will detail the amount of tax under-declared / over-declared and the VAT period into which the errors fall. If a taxpayer wishes to challenge the amount he should write to the VAT Office that issued the assessment asking for an independent reconsideration stating the reason for the request. The taxpayer can also appeal to an independent tribunal – the First-tier Tribunal (Tax). The time limit for either remedy is 30 days from the date of the assessment.

Assessments of under-declared VAT by HMRC and claims for refunds of overpaid VAT by the taxpayer can normally only be made for the past four years. The main exceptions are where an assessment is made because a person has:

- deliberately done something leading to a loss of VAT; or
- participated in a transaction knowing that it was part of arrangements intended to bring about a loss of VAT; or
- failed to notify a liability to register for VAT.

In such cases the four-year time limit is extended to 20 years.

Where HMRC issues an assessment for VAT underpaid, either as identified by HMRC or disclosed by the taxpayer, penalties can be up to 100% of the tax due. However, in cases where the taxpayer has been deemed to have been "careless" penalties will be between 0% and 30% of the tax due with mitigation provided based on the behaviour of the taxpayer in identifying and disclosing the error to HMRC.

4 European Aspects

At 11pm on 31 December 2020, the UK left the EU Single Market and Customs Union. For that reason the section of this guide which previously referred to European Aspects have been removed. For European Aspects, these are now covered in the International Trade section which follows.

5 International Trade

5.1 Imports

Since 11pm on 31 December 2020, the term 'import', in a VAT context, applies to goods coming into the UK from another country. VAT is due on all imported goods and has to be paid at the time of importation, unless the importation is covered by one of the reliefs set out below. The value of the VAT should reflect the purchase price together with any commissions, transport and insurance costs etc.

If the goods are not purchased, i.e. a home bred horse is being imported, the value should generally reflect the market value of the horse (together with the related transport and insurance costs). However, valuation where there has not been a sale is a complex area and specific advice should be sought.

As indicated above, VAT generally has to be paid at importation. A VAT registered business can opt to use Postponed VAT Accounting to account for import VAT on the face of its VAT return as a payment to HMRC and recovering as normal, to give a nil net cashflow impact for a fully taxable business. Where VAT is paid at the time the goods enter the UK, a VAT registered business can recover this import VAT as input tax on their next VAT return providing the goods are being imported for the purpose of their business. A certificate, C79, will be issued to the VAT registered importer by the HMRC authorities at the point of importation and this provides the necessary evidence for recovery of the VAT. Alternative evidence will on occasions be accepted but you will almost certainly have to prove to HMRC that there is no possibility of a duplicate claim being made. The fact that you have paid the VAT will not in itself be sufficient evidence.

5.2 Temporary Admission

Temporary admission relief allows, in certain circumstances, horses to be temporarily imported into the UK without being subject to import duty or VAT. The relief is available for horses being imported for training, breeding, veterinary treatment, participation in a race, or grazing. The main condition for temporary admission is that a person established outside the Customs territory of the UK must own the horses and the horses must subsequently be re-exported. A maximum period of two years is normally allowed for temporary admissions. There is normally a requirement to lodge security in the form of a cash deposit or guarantee for the potential import VAT that would become payable if the horse is not re-exported.. It should be noted that gelding no longer jeopardises the Temporary Admission provisions.

Since 11 July 2022 the bloodstock industry and HMRC have also agreed Temporary Admissions procedures which are particularly useful for overseas mares visiting the UK to be covered or for racehorses coming into the UK for a particular race.

An importer can obtain full authorization and then enjoy full relief from customs duty and import VAT on goods temporarily imported into the UK. This procedure also removes the need for any potential VAT charge to be secured with a deposit or guarantee.

This represents an invaluable option for overseas owners for horses temporarily imported either by non-UK registered persons or where there is uncertainty regarding the availability of VAT recovery.

5.3 Returned Goods

VAT relief is allowable, in certain circumstances, for goods that have previously been exported from the UK:

- Goods which have been exported from the UK are eligible for VAT-free re-importation if they are returned within three years of the original export (although this period may be extended in special circumstances). The principal conditions for this relief are that
- the goods are re-imported by or on behalf of the person who exported them.
- the goods are in the same state as that in which they were exported.
- Relief will not be granted where HMRC feel the export and re-import was undertaken with a view to avoiding VAT.

5.4 Re-importation of goods exported for treatment or process

Where goods have been temporarily exported for a process (e.g. a mare being covered) VAT will only be due on the value of the process providing:

- at the time of exportation the goods were intended to be re-imported after the completion of the treatment or process, and
- the ownership of the goods was not transferred to any other person at exportation or during the time that they were abroad.

Therefore, where mares have been exported for covering import VAT need only be paid on the cost of the nomination and the related costs such as transport, insurance etc.

5.5 Exports

Where goods are exported outside the UK the supply can be zero-rated. This zero rating will always be contingent upon the necessary proof of export being produced to HMRC. This will normally take the form of official evidence or commercial evidence e.g. a certificate of shipment, bill of lading, air way bill etc.

There are two different export procedures that provide for such supplies to be zero-rated; these are direct exports and indirect exports.

5.5.1 Direct Export

A direct export is where the supply is under the control of the UK owner or supplier. This means that the goods are sent directly to the port or airport for dispatch. They may of course be exported by a person acting on behalf of the UK owner or supplier, e.g. a shipping agent, but that person must be acting for the UK owner and not the purchaser. The goods must be exported within three months of the time of supply.

It is important to note that the goods must not be used in the UK in the period between the time of supply and the export. This means a racehorse, once it has been sold for export, cannot be raced in the UK. There are occasionally circumstances in which HMRC will allow a horse to race, e.g. where the supply takes place shortly before a race in which the horse has already been entered, but these are unusual and any concession should be specifically requested and not assumed. Once the goods have been exported, proof of export must be obtained within three months of the time of the original supply.

If the goods are not exported within the time limit or valid evidence of export has not been received, the supply cannot be zero rated and the VAT account must be adjusted accordingly. If the goods are subsequently exported and satisfactory evidence of export is obtained then the VAT account can be adjusted again and the supply zero rated.

5.5.2 Indirect exports

This applies where goods are supplied to and exported by an overseas person. However, someone acting on behalf of the overseas person can arrange the export. Zero rating is available only when the goods are exported within three months of the time of the supply and valid evidence of export is obtained within three months of the date of supply.

This relief allows possession of the goods to be taken by the overseas person, or the agent acting on his behalf, prior to export but use of those goods is not allowed. It should be noted that any failure to comply with the conditions e.g. the restriction on use, export time limits etc., could put the zero rating of the supply at risk. It is, therefore, essential that where goods are supplied to an overseas person, sufficient care be taken to ensure that that person will comply with the export conditions.

It is acceptable as far as HMRC is concerned for the exporter to secure the VAT by way of deposit etc. and to release the deposit to the customer when acceptable proof of export is obtained. Equally there will be no objection to the seller initially invoicing the sale with VAT and then issuing a VAT credit note to zero-rate the sale when adequate proof of export is obtained.

6 Bloodstock Applications – Breeders

6.1 VAT registration

Although bloodstock breeding for sale is a recognised business activity HMRC tend to look closely at any registration applications from bloodstock breeders, particularly for voluntary registrations, i.e. where the turnover has not exceeded the VAT threshold. It will be looking to see that the operation is being run on commercial lines and will be making taxable supplies with a significant degree of regularity.

It should be possible for anyone breeding for sale to register for VAT irrespective of the number of mares. The real test is that the breeding is intended to be commercial i.e. there is an intention to sell the progeny.

National Hunt breeders in particular face a close examination of their circumstances before HMRC will grant a registration. The long term nature of National Hunt breeding and the likelihood that it may be several years before any taxable supplies are made are factors that make HMRC reluctant to allow the registration. Notwithstanding this, providing it can be demonstrated that the breeding is being entered into on a proper commercial basis, irrespective of scale, then registration should ultimately be granted.

The existence of the Racehorse Owner's Scheme does remove many of the risks perceived by HMRC. However it may wish to register a breeder under the Owner's Scheme rather than under normal rules. The Scheme is regarded by HMRC as being a concession and as such is under constant review. Care should be taken not to accept a registration under the Scheme if it is not appropriate. If the Scheme were ever withdrawn such a registration could well also be withdrawn, whereas a registration as a breeder for sale provides longer term security that registration will continue.

6.2 Supply of keep

A VAT registered breeder will be required to charge VAT on any supply of keep. The only exception to this will be when the keep is being supplied to either:

- a person who has either imported a mare into, or purchased a mare in, the UK with the express purpose of having it covered and subsequently re-exported; or
- a person belonging outside the UK who provides a valid VAT number or other proof of business status to the breeder

In both cases, the supply of keep and ancillary services is not subject to VAT.

Ancillary services include any services constituting direct work on the mare, or foal where appropriate including veterinary services, blacksmith services, dentistry and worming.

6.3 Keep of stallion

The keep of stallions will be subject to the same rules as the keep of any other stock. However it is not unusual for stallion studs to provide their services in exchange for cash plus nominations (so called 'free' nominations) or for nominations only. However VAT must still be accounted for on the full value of the supply of the keep of the stallion (and any other services e.g. advertising) supplied to the stallion owner.

The value for VAT is the figure which, with the addition of VAT, is equal to the value of the consideration received. To simplify matters a formula has been agreed with HMRC to value the supply of the nominations received in full or part consideration.

It should be noted that where the stallion owner is VAT registered VAT invoices should be exchanged for the supplies made by the parties to the transaction, thereby ensuring that there will be no loss of VAT as each party should be able to recover the VAT charged by the other. The stallion owner has to provide a VAT invoice because he is also involved in a barter transaction by virtue of the supply of the nominations.

6.4 Supply of stallion nominations

The supply of a stallion nomination is regarded in the UK as a supply of a service of work on goods. Whether or not the supply of the nomination is subject to VAT will depend on the place where the mare owner is established and whether or not they are in business. If the mare owner is established in the UK then VAT will be chargeable. If the mare owner is in business outside the UK then no VAT will be charged.

UK VAT will be charged on any other sale of a nomination to a stallion based in the UK unless the mare to be covered has been imported into or purchased in the UK with a view to covering and export, in which case the supply of a nomination can be zero rated in the same way as the supply of the keep. The supplier of the nomination should ensure that appropriate evidence of export is obtained as they will be liable to account for VAT on the sale of the nomination unless that evidence is produced.

6.5 Sale of stallion shares

As indicated above, the sale of a stallion share is regarded as a supply of a service and will be subject to the normal B2B or B2C rules depending on the business status of the customer. Although it is likely that in most cases the supply will be a B2B supply, proof of business status will still be required. The place of supply rules follow those for a sale of a nomination although it should be noted that where a stallion share is sold to a non-business person outside the UK the sale will be subject to UK VAT, even though the stallion may never have come to the UK and no VAT has ever been recovered in relation to that share.

There is an exception to this rule. When all the shares in a particular horse are sold at the same time to a single person, this is a supply of goods. In these circumstances if any of the shareholders are registered and selling by way of business, this is a standard-rated supply, except where:

- the horse is located outside the UK at the time of sale, or
- is exported from the UK, in which case the supply may be zero rated.

However it should be noted that where the horse is located outside the UK at the time of sale there may be a liability to account for VAT elsewhere.

6.6 Sale of foals, yearlings, mares, etc.

The sale of stock by a UK VAT registered breeder will be liable to UK VAT if sold in the UK. The sale of stock outside the UK is outside the scope of UK VAT but may trigger a liability to register for VAT in the country in which the stock is sold. Where stock is sold for export the supply can be zero rated providing proof of evidence/dispatch is obtained.

The VAT treatment of sales of goods via agents means that when a horse is sold via an auctioneer or agent it will be treated for VAT purposes as being sold to the auctioneer/agent and by the auctioneer/agent.

The bloodstock auctioneer will issue a self-billed VAT invoice to the vendor. These are invoices prepared on behalf of the vendor and form the basis of the auctioneer’s claim for input tax on the deemed purchase. The self-billed invoice can only be issued with the agreement of the vendor and must contain the vendor’s VAT number and the statement ‘THE VAT SHOWN IS YOUR OUTPUT TAX DUE TO REVENUE & CUSTOMS’, as the self-billed invoice takes the place of the sales invoice that would normally be issued by the vendor.

The onward sale by the auctioneer has no consequence for the vendor, even if the horse is sold for export, as it will be the auctioneer who will be responsible for accounting for any VAT on the sale or to claim zero rating, if appropriate.

Please refer to earlier sections for more details concerning the zero rating of supplies to non-UK countries.

6.7 Foal sharing

This typically involves one party providing the nomination and the other providing the mare. Any resulting property is owned jointly by the two parties, normally 50:50. For VAT purposes, in the absence of any specific agreement to the contrary, the foal share is regarded as a joint venture with the only supply being made being the disposal of the resulting progeny. If the progeny is sold each party is required to account for VAT on its share of the progeny or to VAT register as a partnership.

6.8 Breeders owning racehorses

It is now possible for bloodstock breeders to treat their racing activities as an integral part of their VAT registered breeding business. The Memorandum of Understanding sets out the conditions for this treatment but broadly speaking any breeder who races his stock with a view to enhancing the value of that stock and/ or the overall standing of the business may treat the racing as part of the business activity. This will mean that virtually all home bred stock and most bought-in colts and fillies will be treated as part of the VAT 'business' and the breeder will be able to recover VAT on racing costs.

Generally speaking, however, this will not apply to purchased geldings.

Where, for whatever reason (e.g. a purchased gelding is put in training) stock is being raced that is not covered by the breeders section of the Memorandum of Understanding, the breeder may still be eligible for VAT recovery under the provisions of the Racehorse Owner's Scheme- the detail of which is discussed in section 10. Breeders should ensure that they understand which, if any, horses are covered by the Scheme and make sure that HMRC are also aware. Although unlikely, it is possible that a breeder may not wish to have his racing stock treated as part of his VAT business. In these circumstances the breeder must apply an output tax charge on the transfer from a business to a non-business use, (i.e. when a horse is transferred to training as racing would be deemed to be a non-business activity). This will also mean that there will be a restriction on the amount of VAT that can be recovered on the racing expenses. Further details of the output tax calculation and the input tax recovery position are set out in a Memorandum of Understanding. It should be noted that this Memorandum has hardly been used since the introduction of the Owner's Scheme and therefore some of the figures for keep, value of nomination etc. are out of date. If these arrangements are being contemplated updated information should be requested from the National Advice Centre.

6.9 Stallion Syndicates

We have set out issues in relation to whether there is a VAT partnership at the beginning of the VAT section of this report.

When shares in a horse are sold as stallion shares for the first time VAT will be due only if the racing activity of the owner had been treated as a business for VAT purposes, or in a case where all or part of a horse has been purchased towards the end of the horse's racing career with the specific intention of standing it as a stallion and all or part of the interest is then resold, e.g. as part of a syndication.

Section 6.5 above deals with the VAT liability of sales of stallion shares.

As indicated above it is not unusual for the stud standing the stallion to be given a number of nominations by the syndicate in full or part payment for the supply of keep (and any other services). As most stallion keep and management agreements specify that the supply of nominations covers all expenses to be incurred by the stallion stud it is deemed to be VAT inclusive and, therefore, the stallion stud must absorb the VAT cost. Although in the past very few stallion syndicates were allowed to register for VAT, the change in the way in which stallions are managed has resulted in a shift in the VAT position. A syndicate can now register in respect of the sale of syndicate nominations and those it sells on behalf of shareholders. This registration can either be in the syndicate's name or the syndicate transactions can be reflected in the syndicate secretary's VAT return.

In the latter case the secretary is required to raise an invoice in his own name for the full value of the nomination plus VAT. Those members who are VAT registered are required to provide the secretary with VAT invoices for their share, which the secretary can use to recover the VAT element as input tax. The tax point for the supply by the member to the secretary is the same as that for the supply by the secretary to the purchaser of the nomination. The secretary may recover input tax on costs incurred on behalf of the syndicate subject to the normal rules. Stud costs must be charged on by the secretary to the members who, in turn, will be able to recover the VAT if they are registered.

In either case the syndicate will no longer suffer irrecoverable VAT on its costs, although it will no longer have a pool of ''non-VAT'' nominations available for sale.

7 Racehorse owners

It is possible for racehorse owners to register for VAT. This is further explained in the Memorandum of Understanding and HMRC Notice 700/67 – Registration Scheme for Racehorse Owners.

These set out the conditions and the VAT treatment as it applies to owner breeders, trainers and dealers racing their own horses, and "pure" racehorse owners.

7.1 VAT Registration

The BHA has published a Guide to the VAT Scheme for racehorse owners.

In addition to explaining the process for obtaining a registration the Guide also deals with a number of practical issues following on from the registration.

7.2 Other matters

Registration for VAT carries responsibilities as well as benefits. VAT must be accounted for on all sales of horses which are covered by the VAT registration unless VAT recovery on the purchase of the horse was denied. Where no VAT was charged on the purchase of the horse you are allowed to account for VAT on the increase in value as opposed to the full selling price. In these circumstances if the horse is sold for less than the purchase price you do not have to account for VAT on the sale.

Another aspect that is often overlooked is that for sole trader registrations any other self-employed income generated by the VAT registered racehorse owner will also be caught under the VAT registration.

De-registration from VAT, either voluntarily or on demand by HMRC, will result in the owner having to account for VAT on the current market value of any stock on hand at time of de-registration. It may be necessary in these circumstances to obtain an independent valuation of any horses on hand at the time of de-registration.

7.3 Company owners

Company owners have two possible avenues open to them if they wish to recover VAT on their racing expenses.

The most obvious method is to persuade HMRC that the expenses relating to the racehorse ownership are being incurred for the purpose of the business, i.e. that the horse ownership is being used as a method of advertising and promoting the company and/or its products.

HMRC will look critically at the circumstances and it will be necessary for a clear and a reasoned business case to be made. HMRC cannot disallow the input tax on the basis that the business case is not successful as it is the intention that is important. However, it has concerns that racehorse ownership by a company may mask a personal interest by the directors and that in reality it is a non-business activity. This is particularly relevant for owner managed businesses. It will be important that consideration of the business case is given, and recorded, before the purchase of the horse. A board minute, or similar note, detailing the reason why a horse is obtained would be helpful. The sorts of issues that HMRC will consider will be whether or not there is any relationship between the company and/or its products and the bloodstock industry, whether the racing career of the horse is shaped in any way to provide added value for the company, whether advantage is taken of the sponsorship advertising site opportunities on the jockey's colours etc., and whether the target market for the company and its products is linked in any way to people who may see the horse either at the racecourse or on television. When considering the business case, it should be remembered that any VAT incurred on business entertainment is not deductible and a business case that places reliance on the fact that owning a racehorse adds value to corporate hospitality at the racecourse is unlikely to find favour with HMRC.

The other option is to use the provisions of the Owner's Scheme. Given the requirement of the Scheme to generate business income, it will be necessary for the owning company to advertise another company's products. It could work with an associated company but in these circumstances great care must be taken to ensure that there is a genuine transaction between the two parties, i.e. invoices are raised and monies are paid and that thought is given to the VAT recovery position in the sponsoring company, i.e. the VAT being incurred on the sponsorship fee.

PART 3 – MULTI OWNERSHIP

Multi Ownership

Multi (or Micro) Ownership vehicles have become more popular in recent years and are expected to continue to expand.

Fundamentally these are aimed at making the pleasure of racehorse ownership affordable to the general public and to promote the ownership experience but are increasingly being used in breeding situations. These ownership vehicles come in many different styles.

The structure and terms and conditions of these multi ownership arrangements will determine their tax and VAT position and care is needed in several areas.

The nature of the BHA/ Weatherbys racehorse ownership registration is also important. The BHA introduced revised ownership requirements in 2024 and these should be reviewed to ensure the BHA registration takes the correct form.

Both racing and breeding multi ownership arrangements will also remain able to register their ownership via a partnership or limited company registration, but tax and VAT advice should be taken whatever form of ownership registration is implemented.

1.1 General taxation

While the ownership of racehorses is outside the scope of taxation, an entity promoting and managing a racing club for profit would be taxable on this business activity where income from members exceeds relevant expenditure.

Any multi ownership vehicle might also commence a breeding activity. If this has no trading motive and is only intended to produce racehorses for the entity to race itself, then there may be no taxable business activity.

However, if there is any intent to sell foals, yearlings or breeze up horses for profit, then this is a trade subject to general taxation, and professional advice should be taken on the appropriate tax declaration necessary.

1.2 VAT

As outlined, there are various ways to set up multi ownership vehicles and different options to register these ownerships with Weatherbys.

A multi ownership vehicle raising capital from its members to finance their ownership of racehorses and/or breeding stock, where the members share fully in prize money won and racehorse sales, should receive this capital outside the scope of VAT and be able to register for VAT under The Racehorse Owners Scheme to recover VAT on its racing costs or as a breeder for sale. It might register with Weatherbys as a syndicate, partnership or limited company.

A multi ownership vehicle taking subscriptions from its members who acquire no ownership rights and enjoy benefits and services in return for their payment of a fee or subscription may well be providing VATable services, and may have to account for VAT on its fee income.

This distinction should be fully considered and understood. The correct treatment will be determined by the entity terms and conditions in the first instance but the nature of the BHA/Weatherbys Ownership Registration and the terms of the Racehorse Owners Scheme relating to Multi Ownership and Clubs will also be relevant. Professional advice should be taken from the outset.

Any multi ownership vehicle carrying out breeding activities should be able to recover VAT on breeding costs either as a commercial breeding business or racehorse owner.

The tax and VAT treatment of multi ownership can be complex and appropriate advice should always be taken.

APPENDIX I

Taxation treatment as a trade rather than a hobby

HM Revenue & Customs' decision as to whether a business is classified as a bona fide trade or as a hobby is fundamental to the tax position of many in the bloodstock industry. If it is deemed that a hobby rather than a trade is being carried on, no relief for losses suffered will be available against other profits.

The decision as to whether a trade is being carried on will be based on whether the enterprise bears the "badges of trade", as discussed below. If a trade is being carried on then, as above, s64(2)(a) ITA 2007 will restrict loss relief where it is not conducted on a commercial basis.

Badges of Trade

The issue of badges of trade was addressed by the Royal Commission on Taxation of Profits and Income in its report in 1955 and, although bloodstock breeding and racing is a somewhat specialised industry, the general principles are worth bearing in mind should you need to convince the Inspector of Taxes that the activity should be treated as a taxable trade. In the report the major relevant factors which have a bearing on the "badges of trade" are as follows:

- *The subject matter of the realisation.* While any form of tangible property can be traded, certain items are only rarely held as an investment. Property which does not produce income or personal enjoyment is more likely to be (but not necessarily) traded property. As the stallion or share in a syndicated stallion can be a good income-producing asset, HMRC could argue that it is being held as an investment and not trading stock. As the owner of a racehorse is likely to derive personal enjoyment from the activity, but is unlikely to realise profits, HMRC have traditionally argued that racing is a hobby and not a taxable trade. However, breeders who sell foals and yearlings on a regular basis are more likely to be considered as trading.

- *The length of the period of ownership.* Normally property which is traded will be held short- term whereas an investment is normally acquired for long term income and capital growth. It should be stressed to the Inspector of Taxes that bloodstock breeding is a high risk, long-term venture and cannot be assessed only on the results of the first year or so.

- *The frequency or number of similar transactions by the same person.* The larger the number of horses owned, the stronger the argument will be that a trade is being carried on. If only one broodmare is owned, then the Inspector is likely to argue that a hobby is being enjoyed, whereas if the investment encompasses a number of mares, stallions and stallion shares, then he is more likely to be persuaded that there is a bona fide trade.

- *Supplementary work undertaken in connection with the asset.* Generally where supplementary work is undertaken on an asset it will normally be regarded as a trading asset. For a genuine bloodstock breeder, the broodmare will need constant attention and the breeder will, where they own their own stud farm, normally (but not always) carry out work on those kept at the breeder's premises. The owner may not be involved in any supplementary work during its period of ownership although they may be liable for their share of its upkeep. However, if the share is being held to enable the breeder to send their broodmares to the stallion rather than for its income from nomination fees, it is more likely to be treated as trading stock, rather than as an investment:

- *The reason for the sale.* As mentioned above, the length of ownership of an asset is important in determining whether it is trading stock or an investment. However, an asset that was initially acquired for the long term as an investment may have to be sold at an earlier date due to the need for emergency finance. Similarly, an item acquired as stock may be held for longer than anticipated due to the trader being unable to sell it and hence may be treated as an investment. The reason for a sale should therefore be considered alongside the other factors. Please note broodmares are shown as 'stock' in the accounts even though they are the 'production line'.

- *Motive.* This is perhaps the most important factor. In certain cases, it will be clear that the motive of the owner was to trade or alternatively to hold the horse as an investment. However, there will be many times when the distinction is not so clear cut. In such cases, evidence supporting the motive of the owner when the horse was acquired will be extremely important. For example, if it can be shown that a share in a syndicated stallion was acquired with a view to covering a broodmare at the stud farm and that arrangements were made for the broodmare to visit the stallion, then HMRC should accept that the share is stock even though, for some reason, the broodmare was unable to visit the stallion. It is the purpose at the time of the transaction, e.g. the acquisition of the syndicate share, which is important.

APPENDIX II

Capital Allowances

The depreciation charged on a business's assets is not allowed as a deduction for tax purposes. However, the tax legislation does allow a similar deduction known as capital allowances, which are available to both breeders and trainers. Allowances are given on certain qualifying assets, with different rates of allowance applying to different classes of asset. The tax legislation covering capital allowances is set out in the Capital Allowances Act (CAA 2001), with important updates made to this legislation by the Finance Act 2008.

Agricultural Buildings Allowances

The breeder may have qualified for agricultural building allowances on expenditure on the land they own under Sections 361 CAA 2001 but these allowances were phased out and eventually abolished from 6 April 2011 or 1 April 2011 for companies (Section 84 Finance Act 2008). The expenditure which qualified for agricultural buildings allowances before 6 April 2011 included the construction of farmhouses, farm building cottages for the workforce, fences, boxes and other work such as drainage and sewage works, water and electricity installations on land reclamation. Relief is only given on up to a maximum of one-third of the expenditure on the farmhouse and where expenditure is incurred on an asset which is only partly used for the purposes of the stud farm, a just appointment will need to be made to arrive at the qualifying expenditure element.

Structures and Buildings Allowance

In 2018 the UK Government introduced the Structures and Buildings Allowance (SBA).

The purpose of this legislation is to stimulate investment in construction, development and improvement of commercial buildings and structures. This relief may be available in respect of both UK and overseas properties, where the business incurring the expenditure is within the charge to UK tax.

This relief is not available for expenditure incurred on buildings which are in 'residential use'.

Relief is available on a straight-line basis currently at 3% per annum, i.e. over 33⅓ years.

There are a number of rules around what qualifying SBA expenditure is, and these would need to be considered to establish if the allowance is available.

Plant and Machinery

Both breeders and trainers may qualify for capital allowances on items of plant and machinery used in their business.

The question of what constitutes "plant and machinery" is the subject of much debate between tax advisers and HMRC, in certain cases resulting in legal proceedings.

Consequently, the decision as to whether to claim capital allowances on an item is made after considering relevant case law and the particular circumstances of the item in question.

The 1993 case of Jarrold v John Good and Sons Ltd established that an item must be "part of the plant with which the business is carried on" rather than "part of the premises in which the business is carried on" in order to qualify for plant and machinery allowances. Items such as equine swimming pools, horse walkers, solariums and box heaters should be regarded as plant, however items such as ménages and gallops (see below) may be questioned by HMRC. The case also established that a moveable item would be regarded as plant and therefore portable schooling fences would also qualify for capital allowances.

All weather surfaces are increasingly important for training racehorses and many trainers have had such a surface laid. The case law in this area is not entirely clear and you should refer to CA21260 All-Weather and Artificial Surfaces for further guidance.

Annual Investment Allowance (AIA)

An AIA of 100% is available to all businesses for expenditure incurred on plant or machinery other than cars. From 1 January 2019 the maximum amount that can be claimed is £1,000,000. The AIA will be apportioned for any accounting periods straddling the above date and the limits are proportionately increased or decreased where the chargeable period is longer or shorter than a year. Expenditure in excess of the £1,000,000 cap will come within the standard rules for capital allowances. There is a general restriction in that a single AIA is available to each business for the year in question, and any unused AIA will be lost. Where there is a group of companies, they must share a single AIA between the UK members of that group. Additionally groups under common control where the groups are related to each other must share a single AIA. One point to note is that the AIA is available to individuals and companies carrying out a qualifying activity or a partnership consisting wholly of individuals, such that if a trust or company is a partner in the partnership then the AIA cannot be claimed. No relief is available under this section in relation to expenditure on cars.

First year allowances (FYAs) for plant and machinery

A 100% FYA is available in the accounting period in which expenditure is incurred in relation to certain types of plant and machinery. There are a large number of categories which are often time limited. The allowance does not apply to assets acquired second hand or where they have been previously used.

First year allowances (FYAs) for zero-emission cars

The Finance Act 2025 extends the 100% first-year allowance for zero-emission cars to 31 March 2026 for corporation tax and 5 April 2026.

Writing down allowances (WDA)

Qualifying plant and machinery on which no AIA or FYA has been claimed must be pooled together each year adding the brought forward balance of unrelieved expenditure to the current year additions which do not qualify for the AIA or FYA (see above) and subtracting the proceeds of any items disposed of. A WDA of 18% is then available on the balance of expenditure in the pool at the year-end on a reducing balance basis. In some circumstances there is a special rate pool where the WDA is 6% (see below).

Cars

Expenditure incurred in relation to cars is subject to a separate set of more onerous rules. As a result, some costs incurred on cars (but not all) are included in the main WDA pool and are eligible for the full 18% rate. Cars that fail to qualify are only eligible for a reduced rate of 6%. In the main this depends upon the level of the car's carbon dioxide emissions. In order to qualify for the full rate the car must come within one of the following categories:

- have been registered before 1 March 2001;
- have 'low carbon dioxide emissions'; or
- be 'electrically propelled'.

The first category was introduced as a transitional provision. In relation to the second, a car has low carbon dioxide emissions if, when it is first registered, it had a qualifying emissions certificate which certified that the emissions figure did not exceed 50 g/km (110g/km for expenditure incurred before 6 April 2021 (income tax) or 1 April 2021 (corporation tax). The final category is intended to restrict relief to cars that are truly electric in all respects. Restrictions apply for private use.

Further information

The rules in relation to capital allowances are subject to regular change. If you require further information before taking professional advice please refer to HMRC's internal manual on Capital Allowances Manual.

APPENDIX III

Inheritance Tax

Scope of the charge to tax

Inheritance tax (IHT) is levied on gifts which are called 'transfers of value'. It is based on the extent that an individual's net worth is reduced by gifts or uncommercial transactions they undertake. IHT is an estate tax. The charge to tax is suffered most normally by the donor rather than by the recipient. IHT imposes a charge to tax on gifts made by donors who are long-term UK residents. They are subject to IHT on their worldwide estate. Donors who are not long-term UK residents are subject to IHT only in relation to assets treated as being located in the UK. As from 6 April 2025, an individual will be treated as being a long-term resident for at least 10 out of the last 20 tax years immediately prior to the date of death, or the time when a lifetime gift is made. The time someone remains subject to IHT on their worldwide estate will be shortened where they have only been resident in the UK for between 10 and 19 years. The individual will no longer be liable to the tax where a person is non-resident for 10 consecutive years.

Typically IHT will become relevant when a person dies and the property they own (their 'estate') passes to beneficiaries. An individual may also transfer their assets to others during their lifetime. This could be an outright gift of assets to another person or a gift into trust or to a company. Each of these transfers of value have their own special rules, and the provisions relating to trusts can be particularly complex.

The tax is subject to a large number of reliefs and exemptions, which operate to reduce the charge to tax. There are special rules that apply where gifts are made to trusts, and where property is held in this way. Similarly, there are other rules that can apply where gifts are made by companies. There are a limited number of double taxation agreements that deal with IHT. Where these do not apply, there are unilateral relief rules which permit foreign inheritances taxes to be offset against UK IHT.

Rates of tax

The IHT rate on death is 40%. This can be reduced to 36% where an individual leaves at least 10% of their net estate to a qualifying charity. After a period of transition, charity tax reliefs and exemptions are to be restricted to UK charities.

Nil Rate Band and Residence Nil Rate Band

Each individual benefits from an exempt threshold of £325,000 known as the Nil Rate Band (NRB). This renews every 7 years. Any balance not used on death can increase that available on the death of a surviving spouse. This is known as transferable nil rate band relief. An individual may also qualify for a further exemption threshold of up to £175,000 known as the Residence Nil Rate Band (RNRB).

Here there are a number of conditions that must be satisfied:

- At some stage the residence must have been in the deceased's estate.
- The property must be directly inherited by his or her descendants. This includes their children, grandchildren, and spouses, widows or widowers of such where they have not remarried.
- The definition of children includes adopted or foster children, stepchildren as well as any child where the deceased acted as their guardian at some stage.

The relief is restricted where the total value of the net estate before any reliefs are taken into account exceeds £2m.This is the value of the estate net of debts and includes the value of all assets held before the deduction of any agricultural property relief (APR) or business property relief (BPR).

RNRB relief is reduced by £1 for every £2 that the threshold limit is exceeded. This means that relief ceases to be applicable once the estate exceeds £2.35m. The RNRB rules have been extended to take into account that in later life people might downsize and move into smaller homes or into residential care. Relief is extended to such cases, so that the RNRB is still available by reference to the value of their former home provided that their estate is larger than the value of the property. These rules are very complicated and advice should be taken when considering whether they apply. As in the case of the NRB, the benefit of any unused RNRB can be transferred to a surviving spouse so that it is available on their death. In this case, the estate could be worth up to £2.7m before the relief is fully withdrawn.

Lifetime gifts

Ignoring exempt gifts, such as a gift to a qualifying charity or spouse, there are two main types of gifts that can be made by individuals. The first is potentially exempt transfers (PETs) where a gift is made to another individual. There will be no immediate IHT cost involved. In order to qualify the gift must increase the estate of the recipient. This means that some indirect gifts do not qualify for this treatment. The second category of gift is a chargeable lifetime transfer (CLT). Typically this includes transfers to trusts (excluding some trusts for disabled beneficiaries and charitable trusts) as well as gifts to companies other than those owned outright by the transferor. This can result in an immediate charge to IHT.

The IHT liability on a particular gift is based on the value of the chargeable transfer i.e. the amount by which the value of the donor's estate is reduced, after deducting any available exemptions and reliefs. IHT is levied on a chronological and cumulative basis subject to a seven-year time limit, i.e. after seven years a gift falls outside of IHT. The rules can be complex. In some circumstances the 'look back period' is 14 years and not 7 years. Gifts made within seven years of death are still chargeable in full, but, to the extent that they are not covered by the available NRB or reliefs, they are subject to lower rates of IHT, shown below.

Years between death and gift %	Rate of tax on the gift
0-3	40
3-4	32
4-5	24
5-6	16
6-7	8
7 or more	0

PETs escape IHT so long as the donor survives for seven years after having made the gift.

CLTS are subject to lifetime IHT at a rate of 20%, insofar as they exceed the NRB and available exemptions. If further tax is payable due to the donor's death within 7 years, it is not possible to obtain a refund where the amount of tax due after taper relief in respect of a CLT is less than the amount of tax paid when the gift was made.

Again, such transfers fall outside of the estate after seven years, and therefore it is possible to gift say £325,000 now, using the NRB, and transfer further funds to a new trust in seven years' time without incurring a tax charge. Essentially the NRB gets replenished after seven years. This involves cases where both PETs and CLTs were made and the order of these is important. Therefore, when looking to make such gifts it is important to seek advice to optimize the position.

Gift Exemptions

As far as chargeable lifetime gifts are concerned (i.e. gifts to some types of trusts and companies) the available exemptions are as follows:

- Annual exemption of £3,000.

This can be used to cover part, or all of a gift. If the exemption is unused, the unused part can be carried forward for one year only into the next year. The current year's exemption must be used in priority to any amount brought forward. You cannot combine this exemption with a £250 gift to the same person.

- Gifts up to £250 per annum to each individual.

There is no limit on the number of such gifts that could be made but the exemption cannot be used to exempt part of a larger gift.

- Gifts which are normal expenditure out of income are exempt as long as the donor can demonstrate that:

    - the gift was part of the normal expenditure, being regular or habitual, of the person making the gift.
    - it was made out of their income, taking one year with another.
    - after making the gifts they retain sufficient income to maintain the same standard of living as they previously enjoyed.

- Gifts in consideration of marriage or registration of civil partnership:

    - up to £5,000 to a child.
    - up to £2,500 to a grandchild or great-grandchild.
    - up to £1,000 to any other person.

- Gifts between husband and wife or civil partners who are both long-term UK residents are exempt from IHT

There are special rules where the transferee spouse or civil partner is not a long-term UK resident for IHT purposes.

Here the exemption is restricted to a lifetime limit of £325,000. Where a gift exceeds this amount, the lifetime limit is first deducted, and the balance is a PET. Depending on whether the donor survives 7 years, the gift will be exempt or reduced by reference to the donor's available NRB of £325,000.

- Gifts to UK charities, listed non-profit making bodies, and certain gifts to political parties.

UK charity tax reliefs and exemptions are to be restricted to UK charities.

Gifts with Reservation of Benefit (GWRB)

The IHT rules are subject to an important limitation. This is where a donor makes a gift 'subject to strings' so that a gift is made to another person but the donor retains for themselves some or all of the benefits of owning the property.

The donor is treated as owning the property subject to the reservation at the time of their death. However, the tax due is paid by the person who holds the property at that time.

The purpose of the GWRB provisions is to prevent a taxpayer from reducing the value of their estate subject to IHT whilst at the same time continuing to benefit from the property given away.

Important IHT Reliefs

- Business Property Relief and Agricultural Property Relief are considered in some detail within the main body of this guide. Set out in this appendix is a brief snapshot of what these reliefs entail by way of a further guide based on information available at the time of writing.

Business Relief (BPR)

Business Relief (BPR) reduces the value of a gift, whether made during a person's life time or by their death. It can also apply where qualifying business property is held by trustees, partnerships and closely held companies. Where applicable it reduces the value of the property held by either 50% or 100%. The rate depends on a number of factors, such as the period of time the property has been held and the nature of the property owned. Replacement property purchased from the sale of the original BPR property held can sometimes qualify for immediate relief provided certain conditions are met.

In general terms, in order to qualify for the relief:

- The property must have been owned for 2 years continuously.
- The business activity undertaken by the person holding the property must be of a mainly trading nature.

The main types of business property that qualify for relief are outlined below:

- Property consisting of a business. This is aimed at businesses undertaken by sole traders. The value of the business is its net business value.
- Property consisting of an interest in a business. A partnership interest would come within this category.
- Unquoted shares in a company. Sometimes loan notes can qualify for relief where they are also held by a person who holds a majority of the shares in the company.
- Any land or buildings, machinery or plant used by a company where the company is controlled by the holder of the assets, and the assets are used for the purposes of the business.
- Any land or building, machinery or plant used by a partnership. Again, the asset must have been used for the purposes of the business of which the person was a partner.
- Any land or building, machinery or plant used wholly or mainly for the purposes of a business carried on by a qualifying settlement or, in some instances, a qualifying beneficiary.

The rate of relief varies according to the type of business property held. Property coming within categories 1-3 qualify for relief at 100%, and those in 4-6 qualify for relief at 50%.

There are a number of restrictions that apply to the operation of the relief, including provisions that deal with replacement property substituting new business assets for the qualifying assets sold.

Importantly there are rules that seek to restrict relief where the assets:

- have not been used wholly or mainly for the business activity undertaken throughout the period of two years prior to the transfer on death or lifetime gift concerned;
- are not required at the time of the transfer of the business property for the future use of the business undertaken.

There are also special rules concerned with the operation of the relief in the context of unquoted groups of companies which are not considered here.

Anti-avoidance rules apply to cases where there is a binding contract for sale of the property concerned at the time of the transfer or death. Advice should be sought to ensure arrangements are structured in a way that BPR, and APR, remain available.

Agricultural property

Agricultural Property Relief (APR) reduces the value of a gift, whether this is made during a person's lifetime or on their death. It can also apply where agricultural property is held by trustees, partnerships and closely held companies. Where it applies it reduces the value of the property held by either 50% or 100%. The rate depends on a number of factors, such as the period of time the property has been held and the nature of the property owned. Subject to various conditions the relief can also apply to qualifying replacement property in a similar manner to the BPR rules albeit the precise conditions differ.

S115(2) IHTA 1984 provides that "agricultural property" means:

- Agricultural land or pasture.
- Some types of woodland.
- Any building used in connection with the intensive rearing of livestock or fish.
- If the woodland or building is occupied with agricultural land or pasture and the occupation is ancillary to that of the agricultural land or pasture.
- Such cottages, farm buildings and farmhouses, together with the land occupied with them, as are of a character appropriate to the property.

HMRC provide specific guidance in relation to stud farms at (IHTM24068). S115 (4) IHTA 1984 provides that APR activity includes the breeding and rearing of horses on a stud farm. It also extends to property required for the grazing of horses in connection with those activities. Any buildings used in connection with those activities may be regarded as farm buildings. The guidance recognises that the legislation does not specifically define what a stud farm entails and as a result, insists that horse breeding must be carried on in a systematic manner, with proper record keeping, in order to qualify.

The guidance provides that any decision should be dependent on such factors as:

- the age of the deceased both at death and when the farm was acquired.
- the length of the period of ownership.
- the number of horses held at the date of death and the breeding record in recent years
- details of advertising and publicity for the stud, plus full particulars of sales.
- accounts of the enterprise, and details of the precise nature of the trading activity, including purchases and sales of horses.

It also states that in the case of any other horses there will need to be a link with agricultural use. This will also be the case where the horses being grazed are declared to be part of the food chain under the horse passport scheme. No relief will extend to the land used for the grazing of horses used for leisure pursuits: Hemens v Whitsbury Farm and Stud Ltd [1988] 2 WLR 72 and Wheatley's Executors v CIR (SpC 149) [1998] STI 559.

Overall a valuation cap is placed on the value of agricultural property. This value is restricted to what it would be the if the property were subject to a perpetual covenant prohibiting its use otherwise than as agricultural property. This has the effect of excluding development value from APR albeit relief may be available under the BPR rules considered previously. A further consequence is that the value of farmhouses located in popular areas can be heavily discounted for APR purposes.

The following types of agricultural property qualify for relief at 100%, provided that several further conditions are also satisfied:

- Where the holder has the right to vacant possession or can obtain this within in effect the next 24 months.
- The holder was entitled to that property interest before 10th March 1981 and the detailed conditions that would then have applied are satisfied.
- The property is let on a farming tenancy that began on or after 1 September 1995.

Relief at the rate of 50% may be available in respect of all other types of agricultural property, but again there are further conditions that have to be met.

Importantly not only must the type of property qualify as agricultural property (the applicable rate being determined as above) but further rules in respect of ownership and occupation must be satisfied. The two main rules are that the property was:

- occupied by the transferor for the purposes of agriculture throughout the period of two years ending with the date of the transfer, or
- owned by them throughout the period of seven years ending with that date and was throughout that period occupied (by them or another) for the purposes of agriculture.

There are special rules where trusts own the agricultural property and beneficiaries are involved in the occupation of this. Similarly there are rules that will extend relief to cases where closely held companies occupy the property provided certain conditions are met. As previously mentioned, APR may be denied where the holder has entered into a contract for sale of the property concerned at the time of the transfer or death and advice should be sought in such cases.

If you require further details before seeking professional advice please refer to the HMRC manual IHTM24000 which provides much detail on APR and HMRC manual IHTM25000 provides much detail on BPR and businesses.

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