

The Tax Laws Have Changed-How You Can Maximize Your Tax Deductions

Presented by:

Stephen M. Ruggiero &
Brenden M. Healy of
EquiTax, L.L.P.

The Tax Laws Have Changed-How You Can Maximize Your Tax Deductions

- **Discussion items to include the following:**
- IRS Audit Technique Guide
- Business Structure
- Tax Write-Offs
- Other tax considerations

New IRS Audit Technique Guide For The Horse & Cattle Farming Industry

- What does the IRS look for in a tax audit?
- What is Internal Revenue Code Section 183?
- How does the IRS make you pay more in taxes?
- What can you do to protect yourself?
- How to handle a tax audit.

Internal Revenue Code Section 183

- The horse industry is unique from many other types of businesses.
- Horse businesses are often examined by the IRS to determine that they are operating with the intention to be profitable.

Internal Revenue Code Section 183

- IRC section 183(d) addresses the presumption that, “Activities that pertain to the breeding, training, or showing of horses should observe a profit in 2 or more of the taxable years in a period of 7 consecutive taxable years.”
- Let’s discuss some tax planning tips!

Nine Factors- Engaged for Profit

- What happens if you do not have two profits years in the seven-year period?
- Regulations § 1.183-2(b), provide nine factors to determine whether the activity was engaged in for profit.

Nine Factors- Engaged for Profit

- **Factor 1: The Manner in Which the Taxpayer Carries on the Activity**
 - ✓ Books and Records Used in the Activity
 - ✓ Business Plan- forecast, implementation
 - ✓ Efficiency of Operation

Nine Factors- Engaged for Profit

- Business Plan Questions (from ATG)
 - Do you have a written business plan?
 - How was this business plan prepared?
 - When was this business plan formalized into writing?
 - Who assisted with the preparation of the business plan?

Nine Factors- Engaged for Profit

- Business Plan Questions (from ATG)
 - Does the business plan cover all years of the activity's history as well as forecasting into future years?
 - During what specific year does the economic forecast show the activity turn around and become profitable?

Nine Factors- Engaged for Profit

- Business Plan Questions (from ATG)
 - What events and circumstances will cause the activity to be profitable in that particular tax year?
 - What aspects of personal pleasure or recreation do you, or other related individuals, derive from the activity?

Nine Factors- Engaged for Profit

- **Factor 2: The Expertise of the Taxpayer or His or Her Advisors**
 - ✓ Establish and document the taxpayer's background in the activity and determine how long the taxpayer has been engaged in the activity.

Nine Factors- Engaged for Profit

- **Factor 3: The Time and Effort Expended by the Taxpayer in Carrying on the Activity**
 - ✓ Establishing a profit motive.
 - ✓ Passive activity treatment.

Nine Factors- Engaged for Profit

- **Factor 4: The Expectations That the Assets Used in the Activity May Appreciate in Value**
 - ✓ Taxpayer's Intent for Land

Nine Factors- Engaged for Profit

- **Factor 5: The Success of the Taxpayer in Carrying on Other Similar or Dissimilar Activities**

Nine Factors- Engaged for Profit

- **Factor 6: The Taxpayer's History of Income or Losses With Respect to the Activity**

Nine Factors- Engaged for Profit

- **Factor 7: The Amount of Occasional Profits, if Any, Which Are Earned**
 - ✓ Misplaced gross receipts

Nine Factors- Engaged for Profit

- **Factor 8: The Financial Status of the Taxpayer**
 - ✓ Financial wherewithal to sustain a history of losses

Nine Factors- Engaged for Profit

- **Factor 9: The Elements of Personal Pleasure or Recreation**

New Business – Should I Incorporate?

- Corporation
- Partnership
- Limited Liability Company (LLC)
- Sole Proprietorship

What types of things can I deduct?

- Equipment, trailers, etc
- Business not personal expenses
- Feed, hay, farrier, etc.
- Depreciation on property

Tax Write-offs

- **Section 179 Tax Write-Off**
- For 2005, you may expense up to \$105,000 of capital expenditures. For 2004, it was \$102,000.
- A dollar for dollar limitation is placed on the 179 for amounts purchased above \$420,000 for 2005 and \$410,000 for 2004.

Tax Write-offs

- **Section 179 Tax Write-Off**
- What items qualify?
- Generally, Section 1245 property includes tangible personal property including livestock.

Tax Write-offs

- **What is Cost segregation?**
- **Cost segregation** itemizes the hundreds or thousands of individual elements used in constructing a building and distinguish which elements may be considered to be section 1245 property and which elements are section 1250 property.

Tax Write-offs

- **What does Cost segregation accomplish?**
- By segregating “personal property” from “real property”, you take advantage of accelerated depreciation lives.
- For example, a seven-year asset distinguished from a 39-year building allows accelerated depreciation expense. And possible 179 benefit.

Other Considerations

- Amend prior year tax returns
- Property tax exemptions
- Put real estate in separate, legal entity such as a Limited Liability Company`
- Consider home office deduction
- Like-kind exchanges
- Other tax deductions

Disclaimer

- Pursuant to Circular 230 Governing practice before the Internal Revenue Service, we wish to advise you that this written or verbal tax advice is not intended or written to be used, and it cannot be used by any taxpayer, for the purpose of avoiding penalties that may be imposed.