



# TAX CONSIDERATIONS BACKGROUNDER

## Know the Rules for Breeding Operations to Show an Intent to Make Profit.

### What you should know about horse breeding operations and federal taxation:

If you own horses and you use them for breeding, and you wish to claim related costs and expenses against your other ordinary income, it is important to establish that your horse activity is one engaged for the purpose of making a profit.

Provided your horse breeding activity is one which meets the IRS standard under Section 183, you are permitted to deduct your costs and expenses from the activity against the activity itself and your other ordinary income from separate activity. Treasury Regulations set forth factors that the IRS will consider when evaluating whether your breeding activity is engaged for profit. (Treas. Reg. 1.183-2(b).)

Some of the factors the IRS will consider in determining if the activity is engaged in for profit include the following:

- How does the taxpayer operate the horse breeding business?
- Is there an expectation that the business assets (including horses or land) are expected to appreciate?
- Is the taxpayer an expert with horse breeding or has the taxpayer employed experts?
- How much time does the taxpayer devote to the business?
- Does the taxpayer have similar activities which were profitable?
- How many years has the horse breeding activity lost money?
- And does the taxpayer derive a substantial income from other sources?

Sections 162 and 212 of the Internal Revenue Code allow for the deduction of costs and expenses related to business activity. This includes the business of breeding horses.



### **Tax benefits which are generally available to horse breeding operations include:**

\*100% of the horse's purchase price may be taken as Bonus Depreciation provided it is placed in service after September 27, 2017 and before January 1, 2023.

\*Bonus Depreciation is available regardless of when the breeding horse is purchased or placed in service during the year.

\*Section 179 expenses are now at \$1,040,000 (beginning in year 2020) subject to reduction for horses placed in service during the taxable year and which exceed \$2,500,000 (for most horse breeders the full amount of Section 179 expense allowance will be available).

\*Section 179 expenses are permitted in full regardless of when the horse is placed in service during the year.

\*Remember that the taxpayer must materially participate in the horse breeding business in order to claim current tax benefits against other ordinary income.

\*Broodmares and breeding stallions are eligible for the 7-year depreciation schedule found in Section 168.

Any person operating a horse breeding activity should be aware of the rules regarding profit and material participation in the activity.

## **IN CONCLUSION...**

If you want to deduct operating expenses and tax allowances which arise as part of your horse breeding operation, you must be mindful of the for profit and active participation hurdles which are part of the Internal Revenue Code. Failure to do so may result in disallowance of claimed activity expenses and tax allowances.

Authored by T. Randolph Catanese, Esq., Catanese & Wells, Los Angeles, California