

FEATURE

Janet Pierce of Charter Tax competing Sysselt Finnadon at Murren Horse Trials

Charter Tax was founded in 2009 by Janet Pierce (née Paterson) and is now a full service accounting firm with over 30 staff. Charter Tax has a particular specialism in tax matters, including estate planning. Janet herself is a keen equestrian, with a small yard and seven horses of her own. Charter Tax are also proud sponsors of Francis Whittington Eventing.

Only Fools and Horses (work... and pay tax....)

Things are changing in the digital world and HMRC are able to track individual's buying and selling habits through the internet and social media, meaning there is nowhere to hide if you are dealing in cash over the legitimate threshold and not declaring it. In this article Janet Pierce of Charter Tax explains why a good accountant will be able to help you do things properly while also making sure the rules are used to your best advantage to keep taxable profits down.

Sometimes I think Del Boy had it right cash Rodders, cash. Indeed, horse trading – and a lot of horse activities generally – are one of the few places left in society where cash transactions are still pretty common.

Now, I like cash as much as the next person – as it fleetingly passes out of the cash machine, into my purse and from there on to pay for hay, feed, bedding and lessons, etc. However, unsurprisingly, the tax man has a significant distrust of cash transactions.

Not so many years ago, transactions were undertaken in cash, credit cards were for special occasions and social media didn't exist. Living off the grid really wasn't all that hard. These days, we buy most things on our credit/debit cards and any detail of our lives that we haven't already freely posted onto Facebook can anyway be found through a look at our computer browsing history. And the taxman knows it.

So, next time you sell some tack on-line, or you advertise a horse for sale – or even if you buy an expensive item on-line, you need to assume that the taxman knows about it. If you're a seller, well then should you declare the income? If you're a buyer, well then how did you manage to buy a £15k horse if you only declared to the taxman that you earn £15k a year?

With this in mind, I've set out below the key income tax issues likely to be of interest to the equestrian community:

Are You Selling Privately or as a Business?

This is the first big question. If you're selling a horse or other item privately then the sale won't be treated as business income for you and as such there's no income tax considerations. If you sell as a business, then the income will count towards your taxable profit.

So where do you draw the line between a private sale and a business sale, for tax purposes? This is a question that comes up a

lot and the answer can be found by analysing what HMRC call the "Badges of Trade". Basically, the "Badges of Trade" are a list of characteristics that can be said to indicate whether or not someone is regarded as trading for tax purposes. The more characteristics on the list that point towards trading rather than a private activity then the more chance that the taxman will regard the activity as a taxable trade. These Badges of Trade can be briefly summarised as follows:

- 1 **Profit Seeking Motive?** – Did you buy the horse with a view to then selling it at a profit?
- 2 **Number of Transactions** – Was this a one-off or do you regularly buy and sell horses?
- 3 **Nature of the Asset** – Are we talking about a horse that you took on virtually as a rescue case or did you deliberately buy a horse you thought you'd easily sell again?
- 4 **Existence of Similar Trading Transactions or Interests** – Are you in the horse industry? If you regularly give riding lessons and have a reputation for being able to improve a horse, it will be more likely that the taxman will think that a horse you bought and then sold was sold as part of a trade rather than as a private sale.
- 5 **Changes to the Asset** – so is this a horse that you deliberately trained up to sell? Did you buy a horse, put a good competition record on it for a season and now you're selling for a profit?
- 6 **The Way the Sale was Carried Out** – so did you deliberately advertise the horse for sale? Or was it really a coincidence that someone saw it at a show and made you an offer you couldn't refuse?
- 7 **The Source of Finance** – If you deliberately took out debt to buy a horse which you then sell, HMRC will often try to argue that this looks more as though you deliberately set out to sell at a profit.

Picture by Nigel Goodford

8 **Interval of Time Between Purchase and Sale** – was this a horse that you had for a long time and outgrew? Or did you buy and sell for a quick turnaround / profit?

9 **Method of Acquisition** – Was this a much loved family horse that your parents bought for you? Or did you deliberately go out and buy a horse to sell on?

Remember, by the way, that if you have a business then as well as registering for (and paying) income tax, you'll need to pay National Insurance. Fortunately, the threshold above which you'd need to register for VAT is a lot higher (£85,000 of turnover) – I'll talk about VAT in my next article.

But Did You Make Any Profit Anyway?

Some people will tell you there's a particular cut-off, such as being able to sell two or three horses a year and that's not a business, but more than that and it is. The reality is that the taxman doesn't have such a cut-off. However, an honest analysis of the above questions will normally point you in the right direction for whether or not you are really trading / in business for tax purposes.

But of course, knowing whether or not you're trading / in business for tax purposes is only the first question. The next question is whether or not you actually made any money doing so! Let's face it, unless you are Carl Hester or Michael Whitaker and able to train and sell horses at a handsome price, it's otherwise pretty tricky to make serious money out of horses. If you're doing it the hard way, trying to buy, bring on and sell horses to finance your riding career, while yes you may sell some horses for a decent price, how much has that horse cost you in the meantime in terms of keep, entry fees and vets fees, etc? Or if you breed, then while again you may sell some foals at a good price, what about the cost of keeping the broodmare, the vets fees to get her in foal, any extra vets fees should the foaling be difficult, etc? And if you thought that livery yards always do very well (after all, livery is expensive, isn't it?), think again – by the time the yard itself is paid for, margins are pretty tight.

So, if you do a proper job of adding up all of the costs, then if truth be told there may not be much left on which to pay tax anyway.

Indeed, often it will be in the taxman's interests to argue that a horse "business" isn't a business at all, it is a hobby, so that the taxman can say that the losses from the business are not deductible against profits from other (non-horse related) activities.

For example, you've done well with a City job and you decide that you want to take a chance while you still can and use your City money to buy a livery / competition yard and run your own horsey business, go out and get competing yourself, so that you can get a chance at Badminton while you still can. But you know how much these things cost so you kept a hand in doing some City Consultancy work in addition to having the livery / competition yard. Losses from the livery / competition yard could then be offset against profits from the City Consultancy work, so at least there's less tax to pay on the City Consultancy work. The taxman, though, may not like that idea and could try to argue that the running of the yard is a hobby rather than a business and so the losses cannot be used to offset the City Consultancy income. A good accountant will, though, have a good argument with the taxman about this on your behalf, because if the business is properly run then just because there are losses doesn't necessarily mean the taxman gets to say that it's a hobby!

Exemption For Income Under £1,000

Technically speaking, if you provide a service and get paid for it, most likely that's income for you. So, if you work on a Saturday morning at a local yard or you do a few teaching hours, you'll end up with income. Likewise, if you have a day job elsewhere but do a bit of buying and selling on the side (e.g. of tack, horse equipment, etc) then again you could end up with income to declare.

However, in recognition of the fact that basically a lot of people are in the situation of doing a "little bit on the side" a new exemption was brought in whereby for trading income under £1,000 you can legitimately not declare this on your tax return. The £1,000 limit is for the gross income (i.e. without taking expenses into account) so not much good if you're selling horses, but just for getting paid for doing a few bits here and there it's useful.

The £1,000 trading income allowance is of course in addition to the "personal allowance" of (currently) £11,500 under which you don't need to pay any tax or national insurance.

What The Future Holds?

As every year passes, it seems the tax rules get tougher, the penalties for non-compliance go up and the information available to the taxman about your activities gets bigger and bigger. Indeed, there are plans afoot for taxpayers to have their own personal portal with HMRC that will be pre-populated with your data, that HMRC collect from banks, your employers, etc. Couple that with bank notes being upgraded so that old bank notes cease to be legal tender and that wad of cash you had in the draw, undeclared to the tax man, starts to become less easy to use. HMRC do have in place various disclosure schemes for you to fess up to your undeclared earnings but there are of course complications to going through these and suitable advice will be needed.

It all sounds a lot to deal with, but a good accountant will be able to help you do things properly while also making sure the rules are used to your best advantage to keep taxable profits down, use any losses and use the relevant exemptions as far as possible.

If you have found this article of interest and would like to find out more about tax planning, then contact Janet Pierce at Charter Tax.



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