

Guide To Taxation For Thoroughbred Racehorse Owners & Breeders



2011/2012



BloodStock - South Africa

Tel: +27 (0) 11 323 5700
Fax: +27 (0) 11 323 5788/99
Email: enquiries@tba.co.za
Website: www.tba.co.za

Physical address

TBA Sales Complex,
Corner Rand Airport Road and Van Riebeeck Road,
Gosforth Park, Germiston

Postal address

P 0 Box 827,
Germiston,
Gauteng,
1400,
South Africa

Horwath Leveton Boner

Tel: +27 (0) 11 217 8000
Fax: +27 (0) 11 217 8001
Email: info@crowehorwath.co.za
Website: www.crowehorwath.co.za

Physical address

3 Sandown Valley Crescent,
Sandown,
2196

Postal address

P 0 Box 652550,
Benmore,
2010,
South Africa

Horwath Tax Consulting (Gauteng) (Pty) Ltd

Director: Dr. Robin Beale
BA LLB (UCT), LL.M in Taxation (Unisa),
PhD in Tax Law (Wits)

Manager: Reinette Theart
CA(SA)

Date of issue: November 2011

Horwath Leveton Boner is a member of Crowe Horwath International, a Swiss verein (Crowe Horwath). Each member firm of Crowe Horwath is a separate and independent legal entity. Horwath Leveton Boner and its affiliates are not responsible or liable for any acts or omissions of Crowe Horwath or any other member of Crowe Horwath and specifically disclaim any and all responsibility or liability for acts or omissions of Crowe Horwath or any other Crowe Horwath member. This material is for information purposes only and should not be construed as financial or legal advice. Please seek guidance specific to your organisation from qualified advisers in your jurisdiction.

© 2011 Horwath Leveton Boner

BASIC PRINCIPLES

- The general provisions of the Income Tax Act apply to thoroughbred racehorse owners (owners) and thoroughbred racehorse breeders (breeders) whether they operate as individuals, partnerships, companies, or close corporations. Breeders are treated as farmers for tax purposes. All taxpayers are taxed on income after the deduction of expenses and allowances.
- Companies and close corporations are subject to normal tax on their taxable income, as well as a secondary tax (STC) on dividends declared. Currently STC is paid by the entity declaring the dividend. STC is to be replaced with a new Dividends Tax on 1 April 2012. The rate of the new Dividends Tax will be the same as the current STC rate, but will be payable by the shareholder instead of the company / close corporation.
- In the event that horseracing and breeding operations are carried out simultaneously by the same person separate financial accounting records would be required, as the tax treatment for racing and breeding operations are different.
- Non South African residents are liable for tax in South Africa (SA) on income earned from a South African source. Therefore winning stakes earned on races that took place in SA, or breeding income earned in SA is taxable in SA.
- **Gambling taxes**
The Minister of Finance announced in his budget speech on 23 February 2011 that a 15% withholding tax on winnings above R25 000 will come into effect on 1 April 2012.

OWNERS

- Horseracing activities undertaken for gain are taxed according to the normal provisions of the Income Tax Act.
- Racing stakes earned by owners are included in the owners' taxable income from racing activities.
- Regular betting transactions by owners and racehorse trainers are regarded as part of racing activities for taxation purposes. Therefore bets placed by them or on their behalf are deductible expenses and winnings are taxed as income.
- Racehorses are capital assets of the owner.
- Wear and tear allowances may be claimed on the cost of racehorses as a deduction from income. The write off period is four years. If the acquisition is made during the financial year the allowance is apportioned.

- A racehorse sold for a price higher than its tax value at the date of sale will result in a recoupment of wear and tear allowances previously claimed. Such a recoupment is included in taxable income.
- If a racehorse is sold for a price lower than its tax value the loss can be claimed as an allowance against taxable income.
- Losses on horses due to illness or death may be claimed as an allowance against taxable income (also referred to as a scrapping allowance).
- Other expenses incurred during the year that relate to the racing activities are allowed as deductions from taxable income, in so far as the expense is not of a capital nature. Examples are:
 - Grooms' wages
 - Stabling costs
 - Trainers' fees
 - Veterinary fees
 - Insurance
 - Transportation of racehorses
 - Interest on borrowings
 - Traveling and entertainment
 - Wear and tear of fixed assets
- Net income or losses from racing activities are added to or deducted from other income of the taxpayer, unless the ring fencing rules apply. (See page 5)

BREEDERS

- Breeders are regarded as farmers for tax purposes. The tax provisions for farmers are contained in the First Schedule of the Income Tax Act.
- The principles below apply equally to full-time and part-time breeders. There is no requirement to own a minimum number of horses or to own a horse farm for the farming tax principles to apply. It would therefore apply even if a person owns only one horse.
- If a person breeds horses they are livestock; sales of livestock form part of normal trading operations for breeders and the proceeds from such sales are included in taxable income.

- Breeding stock held at the end of the financial year (closing stock) is added to income at their standard values. The following standard values are fixed by regulation:

Stallions, over 4 years	R 40
Mares, over 4 years	R 30
Geldings, over 3 years	R 30
Colts and fillies, 3 years	R 10
Colts and fillies, 2 years	R 8
Colts and fillies, 1 year	R 6
Foals, under 1 year	R 2

- Breeding stock held at the beginning of the financial year (opening stock) is deducted from income. The value of opening stock is equal to the sum of:
 - Value of the previous year's closing stock; plus
 - The market value of breeding stock acquired during the year by donation, inheritance or in specie dividend; plus
 - The market value of livestock previously held for personal use brought into the breeding operations during the year.
- The purchase of breeding stock is an allowable deduction, but the deduction is limited to the breeders' income for the year. Any amount disallowed may be carried forward to the following financial year as a deduction against income from breeding.

If the market value of closing stock is lower than the amount disallowed the deduction may be increased. The additional deduction is then calculated as follows:

- Amount initially disallowed;
 - *Plus* opening livestock at standard value;
 - Less closing livestock at market value.
- Livestock that has been taken out of breeding operations and applied for private use during the year is included in income at cost price.
 - Livestock donated, distributed as an *in specie* dividend or otherwise disposed of other than in the ordinary cause of breeding activities is included in income at market value.
 - Natural increases in livestock during the financial year are accounted for on sale, or are included in closing stock at standard values at the end of the financial year.
 - Losses of breeding stock due to death during the financial

year are automatically allowed as a deduction as they are not included in the closing stock that is added to income.

- Livestock transferred from a taxpayer's breeding operations to another enterprise, e.g. a horse-racing enterprise, is included in income from breeding operations at market value. The result is that the stock is converted from trading stock to a capital asset.
- Taxable income on the cessation of operations or death of a breeder has to be determined for the period from the beginning of the year of assessment to cessation date. The value of livestock still on hand at cessation date will be included in income.
- In the determination of income, breeders are allowed to claim the following expenditure in the year it is incurred:
 - a. The eradication of innocuous plants.
 - b. The prevention of soil erosion.
 - c. Dipping tanks.
 - d. Dams, irrigation schemes, boreholes and pumping plants.
 - e. Fences.
 - f. The erection of or extensions, additions or improvements (not repairs) to buildings used in connection with breeding operations (excludes buildings used for domestic purposes).
 - g. The planting of trees, shrubs or perennial plants for the production of grapes or other fruit, nuts, tea, coffee, hops, sugar, vegetable oils or fibres and establishment costs.
 - h. The building of roads and bridges used in connection with breeding operations.
 - i. The carrying of electric power from the main transmission lines to the breeding farm apparatus.

Items (c) to (i) may not exceed taxable income from breeding operations during the year and any excess may be carried forward into the following financial year.

Expenditure incurred for the erection of housing for employees is no longer deductible.

- Machinery, implements, utensils or articles brought into use for breeding purposes qualify for a wear and tear allowance on the cash cost of the asset as follows:

1st year	-	50%
2nd year	-	30%
3rd year	-	20%

There is no apportionment necessary if the asset is brought into use during the financial year. This allowance does not extend to passenger vehicles or furniture and office equipment. These are subject to normal wear and tear allowances.

- Other expenditure incurred that relate to the taxpayer's breeding operations may be deducted subject to the normal provisions of the Income Tax Act. The following are examples of allowable deductions attributable to breeding operations:
 - Wages for farm employees
 - Veterinary fees
 - Animal feed
 - Medicine for animals
 - Medical services for employees
 - Commission paid at auction sales
 - Wear and tear of fixed assets
 - Interest on borrowings used for farming purposes
 - Insurance related to the farming operations
 - Rentals for hire of farm land
 - Rates & taxes on farm land
- The net profit or losses from breeding will be added to or set off against income from other sources earned by the taxpayer, unless the ring fencing rules apply. (See below)

RATING FORMULA FOR FARMERS

- A farmer can elect to be taxed at a reduced rate. The reduced rate is calculated by applying a rating formula. This applies to individuals only as companies, trusts and close corporations are taxed at a flat rate.
- By using the rating formula the rate of tax is based on the farmer's average taxable income from farming over a 5 year period, except in a year in which his actual taxable income from farming is equal to or less than the average.
- If it is the farmer's first year of trading and he elects to be taxed using the average method his taxable income from farming will be 2 /3rds of such taxable income.
- If a farmer elects to use the rating formula he must do so by notifying SARS within 3 months after the end of the year of assessment.

RING FENCING OF ASSESSED LOSSES

- For individuals carrying on a racing or breeding trade an assessed loss incurred during a year will be ring-fenced and not allowed to be set off against income from other trades in the following situations:

- If the taxpayer has incurred an assessed loss in a horse racing or breeding trade for at least 3 out of the last 5 consecutive years. The current year is included in the 5 consecutive years; OR
- If the trade in which the assessed loss is incurred is any of the suspect trades listed in the Income Tax Act, including:
 - Part time farming or animal breeding
 - Gambling or betting
- The owning of racehorses is not included in the list of suspect trades, therefore an assessed loss from horseracing or full time horse breeding operations will only be ring-fenced if the 3 out of 5 year rule apply.
- The ring-fencing provisions will not apply to owners or breeders if the owner or breeder carries on a business in respect of which there is a reasonable prospect of earning taxable income within a reasonable period.
- If an individual carries on more than one farming operation all farming activities are deemed to be one trade when applying the ring-fencing provisions. Note that breeders are treated as farmers for tax purposes.
- The ring-fencing provisions only apply to individuals whose taxable income for the year (before setting off any current or preceding assessed loss from any trade) is higher than the level at which the maximum tax rate applies, currently R580 000 (2011 - R552 000).

CAPITAL GAINS TAX (CGT)

- Gains or losses made on the disposal of capital assets on or after 1 October 2001 will be subject to CGT.
- CGT will apply to the disposal of racehorses if sold in excess of cost.
- Breeding horses are not capital assets of the breeder and is therefore not subject to CGT. The sale of horses by breeders is subject to normal income tax.
- Horses transferred from a taxpayer's racing operations to a breeding enterprise will be a deemed disposal for CGT purposes. The result is that the capital asset of the racing enterprise is converted to trading stock of the breeding enterprise.

- An annual exclusion of R20 000 (2011 - R17 500) applies to capital gains and losses made by natural persons during their lifetime. In the year that person dies the exclusion is increased to R200 000 (2011 - R120 000).
- A percentage of the net capital gain (after deducting the annual exclusion) is included in the taxpayer's taxable income. Capital losses are carried forward to be set off against future capital profits.
- Effective rate of tax:

Taxpayer	Capital Gain Included	Tax Rate	Effective Rate
Individual	25 %	0 – 40 %	0 – 10 %
Company / CC	50 %	28 %	14 %
Trusts (other than special trusts)	50 %	40 %	20 %

- If an individual's primary residence is situated on a farm that is sold, the portion of the capital gain attributable to the residence will be exempt from CGT, up to a maximum of R1.5 million.
- Gains or losses from betting and gambling activities will be regarded as capital gains or losses if the taxpayer does not engage in betting activities on a regular basis, but rather as a hobby. It may be difficult for a horse breeder or race-horse owner to prove that betting is carried on as a hobby and is not a regular practice.
- Companies, close corporations and other legal entities must disregard any capital loss incurred from gambling on horse racing, but capital gains will be subject to CGT.
- Individuals must disregard capital gains and losses from gambling on horse races.

COMPANIES AND CLOSE CORPORATIONS

Normal tax

Rates for years of assessment commencing after 31 March

	2012	2011
Companies and close corporations	28 %	28%
Employment companies	33 %	33%
Foreign companies with South African activities	33 %	33%
South African branches of foreign companies	33 %	33%

Small business corporations

Years of assessment commencing after 31 March 2011

R0 - R59 750	0%
R59 750 - R300 000	10%
Thereafter	28%

Years of assessment commencing after 31 March 2010

R0 - R57 000	0%
R57 000 - R300 000	10%
Thereafter	28%

Secondary Tax on Companies (STC)

On dividends declared on or after 1 October 2007	10%
Distributions after 14 March 1996 to 30 September 2007	12.5%

TRUSTS

(other than special trusts)

	2012	2011
Normal tax rate	40 %	40%

INDIVIDUALS

TAX TABLES

For the year ended 29 February 2012

Taxable income	Tax payable
R	R
0 - 150 000	18% of income
150 001 - 235 000	27 000 + 25% of income above 150 000
235 001 - 325 000	48 250 + 30% of income above 235 000
325 001 - 455 000	75 250 + 35% of income above 325 000
455 001 - 580 000	120 750 + 38% of income above 455 000
580 001 and above	168 250 + 40% of income above 580 000

For the year ended 28 February 2011

Taxable income	Tax payable
R	R
0 - 140 000	18% of income
140 001 - 221 000	25 200 + 25% of income above 140 000
221 001 - 305 000	45 450 + 30% of income above 221 000
305 001 - 431 000	70 650 + 35% of income above 305 000
431 001 - 552 000	114 750 + 38% of income above 431 000
552 001 and above	160 730 + 40% of income above 552 000

REBATES

	2012	2011
Primary	R10 755	R10 260
65 to 75	R6 012	R5675
75 and over	R2 000	N/A

TAX THRESHOLDS

	2012	2011
Below 65	R59 750	R57 000
65 to 75	R93 150	R88 528
75 and over	R104 261	N/A

WEAR & TEAR ALLOWANCES

- Wear & tear allowances may be claimed on a straight line basis for capital assets. Interpretation note 47 sets out write-off periods that are acceptable to SARS. Some of these are:

Item	No of years
Computers	3
Delivery vehicles	4
Furniture and fittings	6
Office equipment (electronic)	3
Office equipment (mechanical)	5
Passenger cars	5
Racehorses	4
Trucks	4
Trailers	5

- Assets costing R7 000 or less can be written off in full in the year of acquisition.

VALUE ADDED TAX (VAT)

- A person is obliged to register for VAT if turnover exceeds R1 million in any 12 month period. Voluntary registration is allowed if turnover exceeds R50 000 in any 12 month period. The term “person” includes individuals and legal entities. Persons that are registered for VAT are referred to as “vendors”.
- Sales and services rendered will be subject to output VAT at 14% and input VAT may be claimed on expenditure supported by a tax invoice.
- The following items / services are subject to output VAT at a rate of 0% (zero rated items):
 - Animal feed.
 - Animal remedy (This refers to substances used in respect of livestock for the diagnosis, prevention, treatment or cure of any disease or for the maintenance or improvement of health).
 - Services rendered to racing operators by racehorse owners receiving consideration. (This means that stakes earned by an owner from a race meeting is a zero rated supply rendered by the owner. The owner must declare the zero rated supply on his VAT 201 return).
 - Exported goods if the goods are consigned or delivered by a local vendor to a recipient at an address in an export country. (This will apply to horses that are exported).

- Transport services relating to the export or import of a horse. (If the same supplier also provides ancillary services that form part of the export or import these services may also be zero rated).
- A person may contract with an agent to supply goods or services on his behalf. In such instances the supply is deemed to be made by the person who contracted with the agent (i.e. the principal)
 - The agent may issue invoices on behalf of the principal. The agent's details (name, VAT number etc) may be reflected on such invoices.
 - The agent must retain details of the principal's name, address and VAT number.
 - The principal must account for the VAT on supplies made by the agent on his behalf.
 - If an agent exports goods on behalf of the principal, VAT may be charged at 0% if the agent consigns or delivers the goods to a recipient at an address in an export country.
- The following documentation should be obtained by the local vendor (or his agent) within 3 months after an export sale, otherwise VAT at 14% should be charged on the sale:
 - An order from the overseas customer.
 - Transport document and proof that the local vendor (or agent) paid for the transport costs.
 - Relevant customs documentation.
 - Proof of payment by the customer.
 - Proof that the goods were received by the customer in the export country.
- If an export of goods were treated as a zero rated sale for VAT purposes, and the above documentation has not been received within 3 months from the date of the sale, the local vendor should account for output VAT on the sale at the end of the 3 month period. A vendor may apply to SARS for an extension on the 3 month period. (This would for instance apply where the physical export of a race horse is delayed due to quarantine requirements or climatic conditions.)

However if the vendor subsequently receives the required documentation, but within 12 months from the date of the original invoice, the vendor may claim an input VAT deduction for the amount of output VAT that was previously paid.

TAWNY SYNDICATE

In terms of a dispensation granted by SARS certain Horse Racing Administrators, Tawny Syndicate being one, have been granted permission to manage and administer the VAT affairs of owners.

Tawny Syndicate can act as the Representative VAT Vendor for owners; be they individuals, partnerships or syndicates. The owner has to sign a declaration that it is not registered for VAT and will not register with any other administrator.

Tawny Syndicate will retain separate books of account for each owner or entity they represent, and also retain a consolidated account reconciled to the VAT return. Should the taxable supplies of the owner or entity exceed R 1,000,000 such entity would be required to register for VAT in their own name. Tawny Syndicate could however still act as a representative VAT vendor for the entity.



www.tawnysyndicate.co.za

