



NZTBA & NZSBA Joint Bloodstock Taxation Policy

New Zealand Thoroughbred Breeders' Association Inc. (NZTBA) and N.Z. Standardbred Breeders' Inc. (NZSBA) have agreed this joint policy statement on the principles to bring stability to the treatment of bloodstock for taxation and GST purposes. We ask the New Zealand political parties involved in the 2020 General Election to endorse this statement.

Bloodstock Taxation Policy (Issues and Proposed Solutions)

- 1 Investment in the ownership and breeding of racehorses is not only critical to the success of the New Zealand racing industry, it also has a pronounced impact on economic activity and tax receipts in our regional communities.
- 2 The current administration of the Income Tax and Goods and Services Tax Acts by the Inland Revenue Department (IRD) is producing inconsistent and illogical outcomes, and subsequently creating significant barriers to investment in the bloodstock sector.
- 3 This paper sets out the nature of these issues alongside proposed solutions. This paper seeks no special privileges for the equine industry - it simply sets out to put genuine breeding/racing investments on equal footing with any other businesses.

Equine Breeding Industry

- 4 NZTBA and NZSBA represents and advocates for New Zealand breeders of thoroughbred and standardbred horses. The associations have a combined Membership base of over 2000 breeding entities.
- 5 An Equine Breeding Snapshot

RACING
\$1.14B

Direct contribution to the NZ economy and has
13,500 employees (fulltime)



BREEDING
\$380 million

The economic contribution of \$380m comes in the form of spend on stallion services fees, feed, vets, agistment, farriers, staff costs and other expenses.

6,500
breeders

4,400
employed

6,700
volunteers



Current Taxation Issues for the Racing Industry

- 6 There are two key issues the industry is currently facing: Income Tax issues; and GST issues.

Income Tax Issues

- 7 Currently, investors who are purchasing a share in bloodstock with an intention of breeding for profit are having problems claiming a write-down for their share of the cost of the bloodstock. These problems are arising for new or early stage investors. While welcomed by the industry, the recent stud-founding bloodstock policy has only partially addressed the problem (for example, the investment threshold is set too high for thoroughbreds).
- 8 Under recent IRD interpretation proposals, similar problems will also arise for established breeders, for investors through multiple syndicates/partnerships, and even where the established breeder or one of the syndicates or partnerships is accepted by IRD as carrying on an existing breeding business.

GST Issues

- 9 Inland Revenue is now on audit pursuing a variety of technical GST issues and appears to suggest that input credit claims for bloodstock acquired through for-profit breeding syndicates/partnerships should be made at the syndicate/partnership level. Many GST input claims have been made historically by investors at their individual level. This also raises increased GST risks for established breeders.

Key Principles

- 10 The proposals in this paper have been developed by industry taxation experts and are based on the following five key principles or objectives:
- a. Returning to the certainty for the racing and breeding industry on income tax and GST that existed for over 40 years;
 - b. Removing the arbitrary distinctions that have been legislated and introduced operationally by IRD in the last decade;
 - c. Adopting well-established, applied and tested legislative tax principles for all businesses in the country, including an intention to make a profit.
 - d. Being easy to administer; and
 - e. Including arrangements for the IRD to monitor and audit returns, and report on the revenue implications.
- 11 For the avoidance of doubt, these changes do not propose that not-for-profit or hobby investments would qualify for income tax written-downs or GST input credits in relation to bloodstock cost.

Detail of Proposed Bloodstock Taxation Policy

- 12 Legislative amendments of the type suggested below would resolve these issues. They would remove the arbitrary distinctions that have been drawn and produce clear and logical outcomes that Inland Revenue will need to respect on audit. The legislation should ensure that genuine breeding/racing investments with the intention of making a profit are treated fairly and in a similar manner as other businesses.

Proposed income tax solution: Deductions for an investor's proportionate share of the cost of bloodstock acquired with the intention of breeding for profit.

- 13 We propose as policy a simple amendment to section EC 39 of the Income Tax Act that goes back to first principles. The amendment would clarify that;



- a. A breeding business would commence and a deduction would be available when a person acquires bloodstock/share in bloodstock with the intention of making a profit from breeding the bloodstock in the future (i.e. issues as to the precise timing of commencing a breeding business would be eliminated and such a business would not have to be pre-existing before purchase). Profit-making intention is the standard tax test for distinguishing between businesses and hobbies. It is a well-understood concept supported by a substantial body of case law.
- b. The profit-making intention test would be determined either:
 - i. at the investor level, or
 - ii. at the entity level (irrespective of it being a syndicate/partnership).
- c. Investor level elections, in lieu of entity level, would protect existing breeders. Coordination between the syndicate/partnership and investors would be required and must ensure there would be no “double-dipping” of deductions.

14 The current Stallion and Broodmare deductions would remain.

15 The current stud-founding bloodstock provisions would be repealed.

Proposed GST solution: Input credit claims at syndicate/partnership level or investor level by election

16 We suggest amending the GST Act so that:

- a. In relation to breeding/racing, the taxable activity/hobby test would be determined either:
 1. at the investor level; or
 2. at the entity level (irrespective of whether a syndicate/partnership).
- b. This amendment would eliminate the significant compliance cost that Inland Revenue seem likely to create with its new GST audit approach. Similar to the proposed income tax solution, coordination between the syndicate/partnership and investors would be required and will ensure there would be no “double-dipping” of input credits.
- c. Individual investors who make the election to have the taxable activity/hobby test determined at their level and satisfy the requirements to claim an input tax credit for their proportionate share of the bloodstock can make the claim on their own GST return (and will be required to account for output tax on their proportionate share when the bloodstock is sold).
- d. Investors/syndicates who claim GST input credits would be required to make the election in their GST returns.
- e. The existing GST test of whether an activity is a taxable activity or a hobby (which is substantially aligned with the proposed new income tax test of profit-making intention) would be retained.

17 The GST legislation to be amended to ensure that bloodstock breeding is not treated as a “financial service”.

Conclusion

18 We believe these simple changes will resolve many issues currently facing the sector, and help restore the certainty for the racing and breeding industry on income tax and GST that existed for over 40 years.

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