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Just in time for Election Day, not to mention some major Standardbred sales, Congress has passed a massive piece of legislation targeted at providing tax relief to struggling small businesses. If you own a horse, this means you! For present and would-be harness owners and breeders, this new law resurrects one and improves another very important tax incentive. If you're wondering whether to bring an extra lead shank along to the auction, consider that Uncle Sam is going to be a little easier on you this year.

First, here's a brief primer explaining some relevant tax terms:

**What is "depreciation?"** Depreciation is a type of tax deduction that allows the purchaser of an asset to recover (get back) its cost, also known as its "basis," over the asset's "useful life." The three basic rules for depreciation are that the taxpayer must own the asset, the asset must have a useful life in excess of one year, and the asset must be used in an income-producing activity. Whether you pick up lots of checks or not, Standardbreds used in racing (and breeding) are obviously being used in an attempt to make income. Once the horse is placed into service, the deduction becomes an annual allowance until the cost is recovered or the horse is no longer used in business. Over the last several years, the Thoroughbred industry successfully lobbied Congress to provide for an accelerated depreciation schedule for horses by explaining that most Flat horses are retired by age five. Through the IRS's General Depreciation System, most racehorses are presently depreciated over a four tax year ("3-year depreciation") period, instead of a previously imposed seven-year (8 tax year) schedule. A highly beneficial enhancement of this tax break, first-year "**bonus depreciation**" legislation, expired at the end of 2009.

**What is an "Expensing Allowance?"** Depreciation aside, tax law provides that in some circumstances the cost of certain business property can be deducted as an expense in the year the property is first placed in service. Known as "Section 179 expensing," the value of this tax tool was expected to diminish, as the \$250,000 maximum for tax year 2010 was to drop to \$25,000 in 2011 and beyond.

Anything that allows a business taxpayer to reduce tax liability creates an obvious benefit to the bottom line. Anything that hastens the time to take legitimate deductions is even more beneficial. Either of the just mentioned concepts would achieve such a goal. Together, these provisions would provide a powerful incentive for businesses to purchase assets to be employed in the furtherance of profit.

Recognizing the current crisis in the national economy, as well as in the national political realm, the 2010 session of Congress took up many legislative introductions targeted at helping the country's countless small and medium size businesses. A final piece of legislation passed the U.S. Senate on September 16; the U.S. House of Representatives voted for the Senate's version on September 23, and President Obama signed the bill into law on September 27. With the President's signature, the bill, H.R.5297, became the **Small Business Jobs Act of 2010**. For racing industry participants, the tax benefits contained in the Act provide a favorable window of opportunity to increase the size of one's stable. The most important points are:

- While regular depreciation rules remain unchanged, the Act brings back to life a lucrative 50% first-year bonus depreciation for those horses and qualified business equipment that are both purchased and placed into service in calendar year 2010. This is referred to as an “extension,” as the period is retroactive to January 1. The trick is that the horse must not have been used for any purpose before it is purchased. On this score, the terms “Yearling” and “Unraced two-year-old” come to mind. Traditionally, “placed into service” means that the horse is placed into racing training; something that commercial breeders and consigners generally do not do. Equipment, like jog carts, tack trunks or horse vans, must be new, and have a depreciable life of 20 years or less. Simply, whether equipment or an equine, the original use must commence with the purchaser.

- Rather than diminish the Section 179 expensing allowance, the Act makes it an even better benefit. The law increases the maximum deduction to \$500,000 for tax years 2010 and 2011 for horses and equipment first placed into service by the purchaser in either of those years. The only limitation involves yearly investments that exceed \$2 million; in which case there is a dollar for dollar reduction of the half-million dollar benefit for every dollar expended above the \$2 million ceiling.

- Of tremendous significance, the taxpayer can take both the \$500,000 limit expensing allowance and 50% bonus depreciation, so long as it is done in 2010.

How does this all play out? Consider the purchase of a \$1,000,000 worth of yearlings and equipment at the Harrisburg sale. The new owner would be able to expense \$500,000 in this tax year, deduct another \$250,000 (bonus depreciation of 50% of what’s left after expensing) and take traditional depreciation on the \$250,000 balance on a 3-year schedule. Compare this to a previously contemplated tax year 2010. Without bonus depreciation and with a limited \$250,000 expensing allowance containing a previously-imposed \$800,000 dollar for dollar reduction over that ceiling in 2010, the purchaser would have ended up with only \$50,000 in Section 179 relief up-front ( $\$1,000,000 - \$800,000 = \$200,000$ ;  $250,000 - \$200,000 = \$50,000$ ), and would have been relegated to traditional depreciation for the remaining 95% of the horse’s cost basis. Clearly, the enticement to purchase young, unraced horses before the year is out is remarkable.

As with the general discussion of any laws, especially tax laws, the foregoing is not legal advice. Advice specific to a particular taxpayer’s circumstances can only be provided by a tax professional with full knowledge of all facts the taxpayer possesses. Fortunately, you don’t need to understand every nuance of the tax law, but you need an attorney or accountant that does. Still, the time to ask those questions is now, before hotel reservations are made and credit approval at the sale is secured.

This could be the year you hit a home run... and Uncle Sam wants to help you pay for the bat!

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