



The ATO now seems to acknowledge that legitimate racing and breeding businesses can incur losses. Photo: JESSICA SHAPIRO

# ATO reins in its hobby-horse

## Patrick Durkin

Horse breeders, owners and trainers have won a major reprieve from a planned Australian Taxation Office crackdown on expenses such as fees, vet bills, floats and race-day costs.

The ATO's first ruling on the horse industry in 15 years, released yesterday, accepts that horse breeders and racers can qualify as a business and are not just a hobby, and waters down key provisions that would have restricted tax deductions.

"We now have some current guidance that finally acknowledges that the horse industry is not simply a pleasure dome for the rich," tax specialist Adam Tims said.

A tax lawyer at Mills Oakley, John Storey, said breeders and thoroughbred racers — who can rack up large losses and not make a profit for years — had "consistently been unfairly treated" by the tax system.

"Genuine horse businesses exist in many varieties, albeit they

can take some time to be profitable," Mr Storey said.

"In the new ruling the ATO appears to be taking a more reasonable stance... they seem to acknowledge that legitimate racing and breeding businesses can incur losses."

The ATO had planned to curb tax deductions by those who claim to engage in horse racing as

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a business, rather than a hobby for which expenses are not deductible.

But the reversal of an earlier draft ruling followed a court decision in a case in which the ATO had disallowed the expenses of a 310-hectare thoroughbred breeding farm at Cheverell Park, 45 kilometres north-east of Perth, which marketed horses to sell in the Magic Millions and other sales.

The ATO said the farm, which had not made a profit since 2001, could not claim its losses because it was run as a hobby. However the Administrative Appeals Tribunal disagreed, ruling the farm was clearly a business.

"They say timing is everything, for the horse industry we should be grateful for the favourable decision handed down by the AAT," Mr Tims said.

"The decision... has firmly placed the ATO on the ropes."

The main difference between last year's draft ruling and the final version is specific references to the AAT case.

The language has also been watered down, from statements such as "it would be a rare case indeed" and "anti-business" to "it is possible for the racing of horses to be a stand-alone business".

Tax specialist Paul Carrazzo also welcomed the ruling.

The decision confirmed horse activities conducted via an eligible "small business entity" could now claim service fees paid in advance.