

Alert | Equine Industry Group



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Your Horse May Be Subject to IRS Seizure

The Internal Revenue Service (IRS) has broad powers to seize assets in payment of outstanding taxes including income tax, excise tax, employment tax, and estate and gift tax. Assets the IRS can seize in exercise of its levy power are those that constitute “property or rights to property” of the taxpayer as defined under local law. Equine industry assets that could be subject to seizure include real estate, equipment, and the horses themselves, although horses valued below \$10,090 are exempt from levy. For example, in 2012 the IRS seized hundreds of horses to collect a tax debt from a defendant convicted of stealing millions of dollars in city funds. The defendant used the funds to finance the breeding and showing of American quarter horses. The government auctioned off more than 400 of the seized horses to pay the defendant’s outstanding federal tax obligation.

But because animals require food and veterinary care and could die, the IRS has specific procedures relating to the seizure of livestock, such as horses. If the horses are considered “perishable goods,” section 6336 of the Internal Revenue Code (the Code), which provides the statutory requirements for disposing of perishable goods, will apply. Under section 6336, if it is determined that the seized property is liable to perish, the IRS must appraise the value of the property and either return it to the owner or put it up for immediate sale. The Internal Revenue Manual (IRM) provides further guidance on what constitutes perishable property. [IRM 5.10.1.7 \(12-20-2019\)](#) says that the property must be tangible personal property and have a short life expectancy or limited shelf life.

Prior to July 1, 2019, the definition of perishable goods included property that may “become greatly reduced in price or value by keeping, or that such property cannot be kept without great expense.” Horses

would seem to fit within either or both of these categories. Now, under the revised definition of perishable goods, a collection officer would have to show that the horse had a short life expectancy.

A revenue officer seeking to seize perishable property must determine that the property cannot be kept and sold at a public sale under normal sale time frames set forth in section 6335 of the Code. Despite the change in the definition of perishable goods in 2019, the IRM suggests that examples of property likely to perish “may be food, flowers, plants or **livestock** [emphasis added].” Once the revenue officer determines that the property is perishable, he must secure approval of this finding. The determination is subject to high-level IRS review and planning, including an estimate of the expected net sale proceeds to be received from a forced sale. If the revenue officer concludes that the property is not perishable, sale of the seized property must proceed under normal procedures and within the time frames set forth in the Code.

A recent Bloomberg news article reported that the U.S. government had seized a 15-year-old Holsteiner that had been purchased for \$750,000. The horse was a champion show jumper. As might be expected, the cost of maintaining the horse was high. IRS agents determined it would cost \$45,000-\$50,000 a year to feed the horse, not including the medical costs it might incur. The IRS also learned the value of the horse had dropped sharply from its \$750,000 purchase price. Thus, in an unusual deal, the government sold the horse to the taxpayer’s daughter (for whom it had been purchased originally) for \$25,000.

The considerations, planning, coordination, documentation, and approval of these types of sales may discourage a revenue officer from seizing perishable property like horses where other assets may be levied more easily. Nonetheless, sometimes the IRS will take action to seize a horse perceived to be valuable, like with the Holsteiner, even if it is not deemed perishable under the Code definition.

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