

1. The different statuses of the owner

Being a racehorse owner is an exceptional hobby which, because it generates income and can be qualified as a professional activity depending on the conditions under which it is practiced, necessarily requires consideration of the tax system best suited to each individual case.

It is to answer this question that France Galop has published this tax section which, in addition to the main concepts to be retained, will give you an initial overview of the various tax situations you are likely to adopt.

Your attention is drawn to the fact that the information contained in this section of the guide is only a summary of the tax regime applicable to horse owners given for general information purposes and is not intended to constitute an exhaustive analysis of the tax consequences that may apply to them.

The tax information contained in this section is based on current French tax legislation and may be affected by changes in legislation and regulations (with retrospective effect where applicable) or by a change in the interpretation of such legislation by the tax authorities.

It is recommended that the owner seek advice from a qualified tax advisor on the tax treatment of his or her particular case.

3 profiles of owners :

THE NON-INTERVENING OWNER:

This category includes the vast majority of owners. This is the owner who simply entrusts his horses to a trainer without exercising any diligence.

THE PROFESSIONAL OWNER:

This is the one who carries out his activity on a regular and constant basis and for profit.

THE NON-PROFESSIONAL INTERVENING OWNER:

This is the person who entrusts his horses to a trainer while exercising due diligence on his training and/or racing career.

Here, only the status of the non-breeder, non-trainer owner is dealt with. For mixed situations, we invite you to contact the Syndicates concerned. France Galop can provide you with their contact details.

2. Non-intervening owner

Exemption of gains but taxation of capital gains on disposal.

- **Most important texts:**

- *Conseil d'Etat* ruling of 26 March 1953

- *Conseil d'Etat* Opinion of 26 July 1977

- *Conseil d'Etat* ruling of 7 May 1980

- The tax authorities' official guidelines BOI-BNC-SECT-60-10- n°1, 04/07/2018 [[link](#)].

- **Reminder of the characteristics**

The most frequent and simplest case. This is the case of the person who simply entrusts his horses to a trainer without exercising any diligence (initiatives or controls). An important indication is the standard contract signed with the trainer.

The French Supreme Court (*Conseil d'Etat*), in its decision of 7 May 1980, considered that an owner who, in the context of the management of his private assets, limits himself to ensuring the maintenance of one or more horses by paying a trainer the agreed boarding price cannot be deemed to be engaged in an exploitation or lucrative constituting a source normally producing income and that consequently he is not subject to Article 92 of the *Code Général des Impôts*, (CGI) ([click here](#)).

On the other hand, when the owner has material installations and personnel enabling him to participate in the preparation and training and to this end takes initiatives and carries out controls, he gives his activity the character of a lucrative occupation within the meaning of Article 92 of the CGI liable to income tax in the category of non-commercial profits (BNC) (Decision of the *Conseil d'Etat* of 7 May 1980). The same applies to the owner with a training permit.

The tax authorities consider that the *Conseil d'Etat* has not given a limitative list of cases of initiatives and controls and claims to be able to assess each case individually.

- **Tax regime of the non-intervening owner**

- (i) **The gains from races** that he makes as well as the premiums to which he is entitled by virtue of his status as owner do not fall within the scope of income tax and his losses cannot be set off against any income. As a result of this exemption, it is not possible to deduct expenses incurred and to set off losses incurred in the course of the business.
- (ii) **The capital gain from the sale of a horse, on the other hand, remains taxable** and is subject to the taxation regime for capital gains on movable property realised by private individuals (CGI art. 150 UA). As an exception, if the sale price is less than or equal to €5,000, any capital gain is exempt.
- (iii) **The owners' capital gain** is reduced by an allowance of 5% applicable for each year of ownership beyond the second.

The net capital gain after deduction is taxed at the overall rate of 36.2% (i.e. 19% plus social security contributions of 17.2%). It is the taxpayer's responsibility to declare the capital gain within one month of the sale, to the tax office of his residence with simultaneous payment of the tax.

- (iv) **In terms of VAT**, the non-intervening owner is deemed not to be liable to VAT in principle.

3. Professional owner

Professional B.N.C

- **Reminder of the characteristics**

This is the owner [who does not meet the conditions for exemption of gains from races and] who carries on his activity on a regular and constant basis and for profit (cumulative criteria). Important (but not sufficient) indication of professional character: the engagement of horses in races at the owner's instruction.

- **Tax regime of the professional owner**

(i) **B.N.C. tax declaration**

The owner who does not meet the conditions for the exemption of racing gains is taxable in the category of commercial profits.

He will have to file a B.N.C. declaration and we advise the controlled declaration Form 2035 ([click here](#)), to be validated by your usual adviser according to your situation.

The net operating profit is made up of the difference between the income received (essentially the racing gains won) and the expenses paid during the tax year (in particular the cost of boarding and depreciation of the horses).

The horses will be booked as fixed assets account as soon as they are acquired and the tax authorities accepts that racehorses can be depreciated over 3 years (i.e. at a rate of 33%) (BOI-BNC-SECT-60-10- § 140, Note).

It is compulsory to keep a register of fixed assets.

(ii) Capital gains tax regime

The owner declaring to the B.N.C. benefits from the regime of professional capital gains :

When the activity has been carried on for less than five years, capital gains on the sale of horses are taxed :

- According to the short-term capital gains regime if the disposal takes place before two years of registration in a fixed asset account, taxable at the income tax rate but with the possibility of spreading it over the current year and the two following years.
- If the disposal takes place after two years, the long-term capital gain will be taxed at the overall rate of 30% (12.8% income tax allowances plus social security contributions at the rate of 17.2%), although the amount of the capital gain corresponding to the depreciation allowances applied will be deemed to be short-term.).

Special case of the professional declarant subject to B.N.C who has been in business for at least 5 years and whose average revenue, excluding tax, for the financial years ending during the 2 calendar years preceding the closing date of the financial year in which the capital gain is realised, is less than €90,000 excluding tax (HT): his capital gains realised during that year will be exempt from income tax. If the average revenue is between €90,000 and €126,000 excluding tax (HT), there is a partial exemption.

(iii) Tax Treatment of operating losses

The qualification of the activity as professional is of particular importance when it is loss-making as it determines the conditions for the offset of deficits.

Thus, when the activity is professional in nature, the deficit is deducted from the profit of the same nature during the tax year, and in the absence of such profit, the loss is offset against the overall income under the conditions of ordinary law.

The tax authorities specify in their guidelines the indications that allow to assume that the activity is carried out in a professional manner (BOFIP BOI-BNC-SEC-60-10 updated on 04/07/2018) (see [link](#)).

The Tax authorities now admits that the activity remains of a professional character even when the owner exercises another profession providing him with his main livelihood.

(iv) Tax Treatment of operating profits

After deduction of any potential losses, they are added to the year's income and are liable to the income taxation (I.R.P.P). For all questions relating to owner-breeders, you please contact the relevant unions.

(v) VAT

VAT taxation is compulsory above the turnover referred to under article 293 B of the CGI (36.800 € to 91.900 €) (excluding sales of fixed assets horses), and taxation is recommended (upon election to tax) below this threshold in order to recover the input VAT on the expenses of this activity.

(vi) Miscellaneous

- The territorial economic contribution and individual social charges are applicable.
- It is advantageous to join an approved association (*Association Agrée*).
- It is strongly recommended that all operations relating to this activity be carried out through a specific bank account and that all accounting documents be kept.

4. Non-Professional intervening owner (Propriétaire intervenant non-professionnel)

Non-professional B.N.C

- **Reminder of the characteristics**

A trainer is someone who entrusts his or her horses to a trainer while exercising due diligence with a view to obtaining a source of income, but who is not a professional (i.e. does not exercise his or her activity on a regular and constant basis and with a view to profit).

- **Tax regime of the professional owner**

- (i) **Gains and premiums** received by a non-professional intervening owner fall within the scope of income tax in the category of non-commercial profits (B.N.C).
- (ii) **As the activity is not professional**, the loss cannot be deducted from the overall income. The loss can only be deducted from income of the same kind for six years.
- (iii) **The regime of short and long term capital gains** is applicable to this category in the event of the sale of a fixed asset, i.e. a horse. Non-professional B.N.C can join an approved association (*Association Agrée*).
- (iv) **VAT**: the non-professional owner is deemed not to be subject to VAT in principle (BOI-TVA-SECT-80-10-30-10 §30, updated to 02/06/2021) [\[Link\]](#).

In conclusion

The representative owners' associations are at their disposal to provide new owners with any additional information, if necessary, in the day-to-day management of their tax affairs.

In parallel, we strongly recommend that you consult a qualified professional advisor who will be most competent to define with you which tax regime you are subject to and its particular modalities, in particular insofar as the professional regime is defined according to factual circumstances.

Tax official guidelines :

See [BNC](#)

See [TVA](#)

Guidelines available on www.france-galop.com

Glossary

CSG: Contribution Sociale Généralisée

CRDS: Contribution au Remboursement de la Dette Sociale

PS: Social Security Levy

BNC: Non-Commercial Profits

CGI: French Tax Code, *Code Général des Impôts*

5. Comparative table of taxation of the non-breeder owner / non trainer

	Non-intervening owner	Non-professional intervening owner	Professional owner
1 : Characteristics	Entrusting horses to a trainer without exercising any diligence	Entrusts his horses to a trainer while exercising diligence in order to develop a source of income.	Carries out its activity on a regular and constant basis and for profit, but not necessarily as its main activity.
2 : Indicative criteria	Standard contract between owner and trainer		Evidence of involvement in the management of the horse's career (" <i>activité libérale</i> ").
3 : Earnings and premiums	Exempt from income tax	IRPP — Non professional B.N.C	IRPP - professionnels B.N.C
4 : Contrib. Eco. Territorial	Non Taxable	Non Taxable	Taxable
5 : Depreciation of horses	Non applicable	Duration : 3 years	Duration : 3 years

6 : Social security contributions	Not taxable	Not taxable	Subject to tax
7 : loss	Non deductible / offsetable	Taxable on profits from activities of the same nature, within six years	Offsetable against on the overall income of the household
8 : Profit and CSG	Not taxable	Taxable for income tax and CSG (in the absence of tax loss carry-forwards).	Taxable for income tax and CSG.
9 : capital gains	Capital gains tax regime for individuals: Deductions: 5% for each year of ownership beyond the second (movable property). 36.2% tax rate (19% + 17.2% (CSG+CRDS+PS)).	Short-term and long-term professional capital gains regime.	Short-term and long-term professional capital gains regime. Tax exemption (after five years of activity) Average revenue (before tax) of the two previous years: - < 90 000 €: total exemption - between 90,000 and 126,000 €: partial exemption. Exemption from social security contributions: Only on long-term capital gains.
10 : VAT	Outside the scope of VAT	Outside the scope of TVA.	Possibility of election for VAT if turnover (excluding sale of horses) < 36.800 € for services or 91 900 € for sales. Compulsory above that amount (general regime).