

Creative Advertising and Promotion for Farmers, Ranchers and Horse Owners

by John Alan Cohan, Attorney at Law

Advertising and promotion are important for any ongoing business or service, even if you have significant good will and public recognition of your product or service. This is true for farmers, ranchers and horse owners just as in other businesses.

But advertising is expensive and requires repeated exposure in order to be effective. Only large farming concerns, such as Cargill, can afford a substantial advertising budget. The IRS has no concrete definition of what constitutes advertising in order to take deductions for the costs. Advertising includes any device that gets your business name before the public. Advertising consists of pretty much anything that provides a promotional linkage to your business. Advertising can consist of “word of mouth” interest generated on the internet, newsletters, social networking, traditional print ads or more creative modes of advertising.

Frequently, a farm, livestock or horse venture is a secondary activity to one’s main occupation, whether that is a physician, accountant, car dealer, restaurant owner, insurance agent, architect or other entrepreneur.

In one tax court case a dentist who also owned an apple farm tried to deduct some expenses of his farm as promotional costs for his dental practice. He argued that his apple farm was unified with his dental practice because patients got samples of his apples and were encouraged to eat them so that expenses of his dental practice included the costs of operating the farm but he lost. [Zdun v. Commissioner, T.C. Memo 1998-296.] He failed to prove that these efforts had a clear connection to promotion of his dental practice. In another case an attorney argued that his

law practice was closely associated with his polo activities because his clients consisted mainly of people met at the polo games and competing in the events enhanced his reputation among clientele. He also lost. [De Mendoza v. Commissioner, T.C. Memo 1994-314.]

In order to successfully deduct farm, ranching or horse related expenses as advertising for one’s principal occupation there should be some proof of an advertising benefit. Tracey Topping of Wellington, Florida, won a tax court case on this point. [Topping v. Commissioner, T.C. Memo 2007-92.] She argued that her equestrian related activities and her interior design business (for barns and second homes) were a single integrated business. She argued that her equine activities were necessary to her success as an interior designer. She deducted substantial horse activity costs against her income as an interior designer and the court ruled that these expenses were ordinary and necessary advertising-promotion expenses associated with her design business.

The court said that her competing at horse shows created goodwill that benefited her design business, that she marketed the business by competing in horse events and that her prominence as a competitor created goodwill that benefited her design business.

The court said that her equestrian activities “significantly benefit her design business and we find a significant business purpose for the combination of these undertakings. Her prominence as a competitor has gained respect among her peers and causes them to seek her out when they are in need of a designer for their horse barns and recreational homes.”

The court concluded that Ms. Topping’s design business materially benefits from her equestrian-related activities, whereas in the above-mentioned cases involving a dentist and a lawyer there was only an “incidental” benefit.

The point is that there can be advertising benefits to your principal occupation from promotional events that pertain to your farm, ranch or horse activities. For example, a client of mine who owns an organic farm is also owner of a restaurant. He promotes his organic products on his restaurant menu, displays his farm logo in the restaurant and has a display of awards, photos and memorabilia concerning the farm. He deducts part of his farm expenses as promotional costs in connection with the restaurant.

In order to deduct certain farm, ranching or horse expenses as advertising-promotion for your main occupation or profession it is important to show a reasonable connection between your promotional costs and the benefits to your main occupation.

The dentist in the above case should have shown a clear advertising benefit to his dental practice by the distribution of his apples to patients by providing more information about his farm and his products. If the dentist had obtained new patients as a result of these promotional efforts, he should have kept a file detailing these contacts as evidence that his efforts provided an advertising benefit to his dental practice.

[John Alan Cohan is a lawyer who has served the farming, ranching and horse industries since 1981. He can be reached at: (310) 278-0203, johnalancohan@aol.com, or you can see more at his website: www.johnalancohan.com.]