

# Crackdown on the ‘hobby businesses’ of the rich...

**AccountingNorth**  
PROACTIVE. PROGRESSIVE. PROFESSIONAL.

A lot of successful businesses have meagre origins evolving out of the home or a personal interest. For many, these businesses are able to survive because the owners already have alternative forms of income; full time jobs, or other unrelated businesses. Even the great champagne house Veuve Clicquot evolved out of a passion for and a belief in the potential of champagne (the family were successful textile manufacturers). Prior to their success however, there were many years of experimentation and losses not helped by an uncertain political and economic environment.

Until recently, taxpayers were able to offset losses incurred in the hobby business against their other tax liabilities if certain tests were passed.

Last month, the Government moved to prevent individuals with an adjusted taxable income above \$250,000 from offsetting tax losses incurred in the hobby business (non-commercial losses), unless they can prove to the Tax Office that the business is a genuine commercial activity.

The change was announced in the 2009/2010 Federal Budget as part of the Government’s integrity measures. Legislation was introduced into Parliament last month to effect the changes which apply from 1 July 2009.

In a recent statement, the Government labelled the change a crackdown on a “\$700 million hobby farm tax loophole” but the changes can apply to any type of business that fits the characteristics. The examples in the explanatory memoranda to the amending legislation explores party planners, vineyards, and a business which bred and sold cattle.

Under the non-commercial losses rules, you can generally apply losses against other income if you pass one of four tests:

- assessable income test — the assessable income generated from the activity must be at least \$20,000;
- profits tests — the activity must have produced a profit in three of the last five income years;
- real property test — the reduced cost base value of real property or interests in real property used on a continuing basis to carry out the activity is at least \$500,000; and
- other assets test — the reduced cost base of any other assets used on a continuing basis to carry on the activity is at least \$100,000.

Genuine business activities are typically those that have an expectation of becoming commercially viable in the near future. For those seeking the Commissioner’s discretion in order to deduct the losses, they will need to detail the business itself, the nature of the losses and the reason for failing the tests, and provide objective and independent evidence that even though the business is producing losses now, the business will pass one of the four tests within a period of time that is considered commercially viable for the industry concerned.

While there is no doubt that the Clicquot champagne house would pass the non-commercial losses tests, even they may have struggled in the first few years to prove that they were a commercial operation rather than just simply a passion. As with many tax issues, the devil is in the detail.

*If you are uncertain of your position, want to start up a business, or simply want to review your options, call us today on **07 5443 4988**.*



NUMBER ONE IN NUMBERS