Tax Benefits for Angus Exports

by Robert Feinschreiber

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Because of increased interest in cattle and semen exports, Mr. Feinschreiber and his partner, Fred E. Glickman (also of Key Biscayne), thought the following information on related tax benefits would be of value to ANGUS JOURNAL readers.

Exports of Angus breeding cattle and semen can provide the rancher with substantial tax benefits through the Domestic International Sales Corporation (DISC) program. Angus breeders may able to qualify for these benefits even if they are not directly engaged in exporting.

DISC Background

Ten years ago, the DISC program was established to encourage U.S. exports. During the past decade, many thousands of individuals and companies have received billions of dollars of benefits from the DISC program. These benefits may be even larger during the years ahead.

The DISC benefit is a long-term tax deferral. The payment of taxes can be delayed for 5 years, 10 years, or even longer. Companies that have been in the DISC program since it began in 1972 may not have to pay their 1972 taxes on export income until 1993 or later.

DISC and Agriculture

The DISC program is generally considered an incentive for industrial exports, but is now widely used by agricultural businesses. Products grown in the U.S. as well as those manufactured in the U.S. can qualify for DISC benefits. Thus, Angus breeders can take full advantage of the DISC program, as can the companies that store and ship Angus semen.

In fact, agriculture is one of the primary beneficiaries of the program and giant multinational agribusiness companies all have DISCs. Farmers, ranchers, growers, and other agricultural businesses are using DISCs for billions of dollars of exports each year, saving hundreds of millions of dollars in taxes.

Medium sized agricultural businesses can reap extensive benefits from DISCs. There is no minimum size for setting up a DISC, but size and profitability affect possible benefits. Ranchers with total annual sales under \$100,000 may receive little benefit from DISC.

Qualification Requirements

To participate in the DISC program, an Angus breeder sets up a separate corporation. The DISC can be incorporated in any state.

A DISC must have at least \$2,500 in paid-in capital stock, and cannot have more than one class of stock. The corporation must also file an election to be treated as a DISC, and the shareholder or shareholders must consent to this election.

A DISC must also meet two ongoing requirements. Substantially all of its revenue must be derived from exports and substantially all of its assets must be devoted to exporting. Accounts receivable can qualify as export assets. Thus, if a breeder sells to a packer on credit, the receivable from the packer can qualify as a DISC asset if the produce is exported.

A DISC is normally a party to four agreements with its affiliates, including a supplier's franchise agreement, an expense apportionment agreement, an export promotion expense agreement and a receivables purchase agreement. The DISC is also required to file a tax return on a special form, which is due 8½ months after its year ends. This paperwork takes time and effort, but is important to the qualification of the DISC.

A DISC can be used to facilitate estate planning. The stock can be owned by the spouse, children, or other heirs. Often, stock in an agricultural DISC is owned by the family farming corporation.

How to Benefit

Many Angus breeders are unaware that they are eligible for the DISC program. They do not have to be involved in exporting in any way to get DISC benefits. All that is needed is for the Angus breeding cattle or semen to be sold overseas. The breeder making the sale should get an export certificate from any intermediaries who should get the certificate from the ultimate exporter.

Subsequent processing before export precludes benefit in most cases; usually a breeder gets no DISC benefit for slaughtered beef or offal products. However, an operation that does its own processing can receive DISC benefits.

Agricultural co-ops are eligible for DISC benefits, but nonexempt co-ops and their members receive greater tax savings than do exempt co-ops and their patrons. A co-op can form a DISC without impairing its co-op status.

Further Information

Information on the DISC program is difficult to obtain, but there are two good sources. A book on DISCs (entitled Domestic International Sales Corporations) was published by Practicing Law Institute, 810 Seventh Avenue, New York, N.Y. Also, a conference on DISC will be held this fall, to be sponsored by International Business Conferences, 26 Broadway, New York, N.Y.