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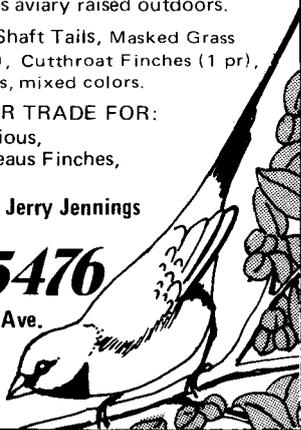
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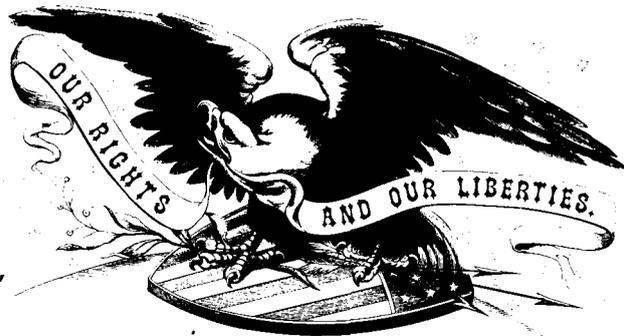
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Leges AVIS

"LAW FOR THE BIRDS"

by Edwin E. Lawrence
Attorney, Woodland Hills, Calif.



(This is the first in a series of columns dealing with various aspects of the law as it relates to aviculture. Future subjects covered in LEGES AVIS will include Smuggling, Zoning Restrictions, Interstate Shipment of Birds, Estate Planning, and such other matters as come to the attention of the contributor.)

YOUR INCOME TAXES AND YOUR BIRDS

The purpose of this article is to urge that every aviculturist give serious thought to setting up his bird-keeping as a business venture so he can benefit from the many tax advantages provided by Schedule C of Form 1040. Hard work is no substitute for being born rich. However, hard work, coupled with using a little creativity in planning your tax burden can make the difference between staying in the middle class or slipping into serfdom, particularly with feed and replacement costs for birds being what they are.

One should be realistic about this. If you maintain a canary in the kitchen and a parakeet in the den, you have a couple of pets, and at most, a hobby. A hobby is the lowliest of species recognized by the Internal Revenue Service, and no tax benefits flow from having one. On the other hand, if you have a business of bird-keeping (as any serious aviculturist should have), then the tax benefits will flow to you with the blessing of your friends down at the IRS.

A hobby is an activity which a person engages in for his own personal pleasure. It is a part-time interest, usually a pastime, not intended to be profit-making. A business is something you do for profit, and it may be full-time or part-time, but its main object is to make money.

The dominant factor in determining whether your avicultural interests are a business or a hobby is your intent. Trying to divine intent is something that has traditionally appealed to lawyers, theologians, and IRS agents. If you intend to make a profit, you are in a business. And

although your hopes of making a profit must be genuine and held in good faith (whatever that means), these hopes need never be realized in order to get the tax advantages of being in business. If you are forever losing money, and have been doing so for many years, don't despair; if you have some reasonable basis or expectation of making money in the future, you are in a business. And if the IRS calls you in on an audit of your "business" the IRS must presume that you are in business if you have had profits in at least two out of five consecutive years.

There are really only two general admonitions to observe if one is to accorded the title of businessman, with all the tax advantages that go with it. One, be businesslike; and two, keep damn good records. If you will but adhere to these simple precepts, then success must follow as night the day, or something to that effect.

1. Be Businesslike. You would think that a reasonably prudent businessman would make some investigation into the marketplace and the likelihood of a profit potential before going into his venture. Do ye likewise. Don't raise English sparrows if the market is dead. Try the ashy-headed phoenix bird, or some other rare species that is likely to turn a profit at sometime in the future. You should have some breeding plans and sales policy to show your businesslike ways.

When the operation shows a loss, analyze why, and do something about it. It is painfully obvious that you should make businesslike efforts to increase income and decrease expenses.

2. Keep damn good records. Get a separate bank account just for the avicultural business. The bank will even print an appropriate symbol, say your ashy-headed phoenix bird on your checks so all your creditors will be impressed. The IRS is also impressed by little things like this.

Then make those rare deposits of income from the business into the avicul-

tural account. And, most importantly, pay all your bills for avicultural expenses out of the avicultural account. If you are like many business people, you will find that you have to give the account periodic injections of cash from your other sources of income in order to keep the account from suffering fiscal debilitation.

At the end of the year you will probably find that you are in the hole to the avicultural account by mucho dollars. But that is to be expected, and that is where the benefits of being in business begin to be felt. Obviously, if you had not been set up as an avicultural business, you would still have had the same expenses, only you would not be able to get the benefits for tax-purposes. Now, at the end of the year you see that you have once again managed to spend a lot on your bird interests; your receipts, bills, invoices, cancelled checks, and account statement all say that very graphically. You obtain from your local IRS office a Form 1040 Schedule C and enter all the sad details of your losses, and then you get to deduct the losses from your other outside income. With this marvelous instrument for tax reduction (Schedule C of Form 1040) you can transform base losses into golden deductions. What the medieval alchemist could never achieve — you can do with mere paper (Schedule C

of Form 1040) and figures.

Now, by way of example, let us apply the foregoing to a hypothetical case.

Mr. and Mrs. A.V. Culture have been spending money on their avian projects for several years, all of which is becoming quite a drain on their finances. Mr. Culture is a police officer making \$18,000 annually and Mrs. Culture works for the local school district and brings in about \$12,000 a year. With three children, two cars, a house, two dogs, piano lessons, orthodontists, a leaky swimming pool, and miscellaneous expenses eating into the budget, Officer Culture has lately been thinking that he is going to have to write books like Joseph Wambaugh or start taking juice from a local bookmaker if he is going to make ends meet on what he once thought was a fairly substantial income. With retirement fund contributions and deductions for taxes, the Cultures are lucky to see \$18,000 a year go through their bank account as real spendable income.

Mr. and Mrs. A.V. Culture see their local accountant and decide to set up A.V. Culture Interests. They set up the bank account, and draw up an advertising budget. They keep meticulous records of all their deductible expenses for the business, which include: Utilities (portion of home utilities used in business), Tele-

phone (portion of home phone used in business), Advertising, Postage, Stationary and printing, Transportation expenses to Bird Club activities, AFA Convention in Long Beach, California, Convention in Mexico (all travel expenses, room, board — the convention just happened to be at a time when they were going to take a vacation anyway), Repairs such as electrical, plumbing, maintenance, Real estate taxes apportioned to that portion of their premises used in the business, Depreciation on aviaries, bird room, incubators, etc., Shipping expenses, Business licenses, permits from DFG, Bird Show entry fees, Dues to avicultural organizations, Medicines and feed supplements, Bird seed, Occasional labor expenses (when they were on vacation), Aviary materials and supplies, Cost of birds sold.

The records of A.V. Culture Interests show a loss of \$4,000 for the year. This \$4,000 deduction is used by Mr. and Mrs. A.V. Culture to reduce their income taxes on their other income by use of Schedule C of Form 1040. It is a deduction they would not have had without a little planning. Using it they will never get rich, but as I said in the beginning, hard work and Schedule C can keep you out of serfdom. Or off of juice.

Try it. ■

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