CASES, REGULATIONS AND STATUTES

by Robert P. Achenbach, Jr

ADVERSE POSSESSION

EJECTMENT. The plaintiffs and defendants owned neighboring ranch land. Both parties had purchased their properties from the same previous owner. The plaintiffs purchased their land first but their use of the land extended beyond their legal boundary. To prevent an adverse possession claim, the owner of the neighboring land sold the plaintiff title to the disputed area. However, the plaintiffs' use of the land still extended beyond the new legal boundary. The defendants then purchased the neighboring land and attempted to build a fence on the actual boundary seven years later but were prevented by the plaintiffs. The plaintiffs brought a suit to quiet title and the defendants counterclaimed for quiet title and ejectment. The trial and appellate courts held that the plaintiffs did not acquire title to the disputed land by adverse possession because the plaintiffs did not claim a right to the disputed land until after they purchased the land in the prior dispute with the former owner, which occurred less than 10 years before they brought suit to quiet title by adverse possession. The courts also held that the plaintiffs were entitled to an order to eject the defendants from the disputed land because the evidence showed that the defendants had tried to prevent the plaintiffs from erecting a fence on the actual boundary. The trial court had awarded the plaintiffs $1300 in actual damages from the defendants' preventing the plaintiffs from erecting their fence and $1500 in nominal damages to help defray the cost of the fence. The appellate court affirmed the first award as supported by evidence of the value of the work done before the defendants forced the plaintiffs off the land but reversed the second award because there was no evidence that the defendants had not agreed to pay their portion of the cost of the boundary fence. **Bellis v. Kersey, 2010 Wyo. LEXIS 147 (Wyo. 2010)**.

BANKRUPTCY

No items.

FEDERAL FARM PROGRAMS

GENETICALLY MODIFIED ORGANISMS. The APHIS has prepared a draft environmental assessment as part of its decisionmaking process to address a supplemental request for partial deregulation of sugar beets genetically engineered (GE) for tolerance to the herbicide glyphosate, or for similar administrative action to authorize the continued cultivation of the GE sugar beets subject to carefully tailored interim measures proposed by APHIS. This environmental assessment will be available for public comment for 30 days. Comments received by the end of the 30-day period will be analyzed and used to inform APHIS' decision on whether to grant the supplemental request for "partial deregulation" of the GE sugar beets or to grant some similar administrative action to authorize the continued cultivation of the GE sugar beets subject to carefully tailored interim measures proposed by APHIS. **75 Fed. Reg. 67945 (Nov. 4, 2010)**.

KARNAL BUNT. The APHIS has issued interim regulations amending the Karnal bunt regulations to make changes to the list of areas or fields regulated because of Karnal bunt, a fungal disease of wheat, by adding the Buckeye/Pretoria area of Maricopa County, AZ, to the list of regulated areas. The regulations also remove Throckmorton and Young Counties, TX, portions of Riverside County, CA, and certain areas in La Paz, Maricopa, and Pinal Counties, AZ, from the list of regulated areas. **75 Fed. Reg. 68942 (Nov. 10, 2010)**.

NATIONAL ORGANIC PROGRAM. The AMS has issued a proposed rule which would amend the USDA National List of Allowed and Prohibited Substances to reflect recommendations submitted to the Secretary of Agriculture by the National Organic Standards Board (NOSB) on May 22, 2008, November 19, 2008, and May 6, 2009. Consistent with the recommendations from the NOSB, the proposed rule would add the following four substances, along with any restrictive annotations, to the National List: Microcrystalline cheesewax; acidified sodium chlorite; dried orange pulp; and Pacific kombu seaweed. This proposed rule would also amend the annotation for lecithin-unbleached, and remove lecithin-bleached, from the National List. **75 Fed. Reg. 68505 (Nov. 8, 2010)**.

PERISHABLE AGRICULTURAL COMMODITIES ACT. The plaintiff was an onion grower which sold onions to the defendant, a licensed agricultural commodities dealer subject to the PACA. The defendant failed to pay for over $400,000 of onion shipments, all invoiced with the conditions "NET 30 DAYS 2% INTEREST ADDED AFTER 30 DAYS" and "The perishable agricultural commodities listed on this invoice are sold subject to the statutory trust authorized by section 5(c) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499e(c)). The seller of these commodities retains a trust claim over these commodities, all inventories, and any receivables or proceeds from the sale of these commodities until full payment is received." The plaintiff sought a preliminary injunction against the defendant and all persons possessing the defendant's property from dissipating PACA trust assets. The court noted that the defendant had already dissipated assets and that such action had already irreparably harmed the plaintiff; therefore, the court issued the requested preliminary injunction. **A. Ferlito Farms, Inc. v. Empire Fresh Cuts, LLC, 2010 U.S. Dist. LEXIS 104648 (N.D. N.Y. 2010)**.

WETLANDS. The plaintiff was a grain farming operation which leased land containing a two acre strip of wetland. In 2008, the Natural Resource Conservation Service (NCRS) inspected the land and determined that a portion of the wetlands was converted to non-wetlands by filling with dirt. The plaintiff did not contest the finding that the wetlands had been filled but claimed that the filling occurred in October 1985 when the plaintiff installed a tile drain across the property. The NCRS presented evidence of soil borings and aerial photographs that showed that the fill occurred as late as 2007. The NCRS found that undecomposed vegetable matter, mostly cornstalks, was found in the fill dirt but not in the residual soil near the surface in the fill area; thus, it concluded that the fill dirt had been recently placed on the wetland. The plaintiff claimed that the stalks were there because of the tilling method used by the plaintiff. The court held that the NRCS evidence was sufficient to support a finding of post-1985 converted wetland because the plaintiff's explanation for the undecomposed vegetation did not account for the lack of corn stalks in the shallow residual soil. The court also rejected the plaintiff's claims that the aerial photographs failed to show any filling in 2007, because the court deferred to the NCRS experts in interpreting the photographs. The plaintiff also argued that the NCRS failed to account for the source, cost and volume of fill required to fill the wetland. The plaintiff claimed that it would have taken over 300 dump trucks to haul all the dirt, creating a great deal of noise for the neighbors, and the cost would have been prohibitive. The court noted that the NCRS should have produced evidence to rebut the plaintiff's claims but held that the failure to prove the source of the fill dirt was not essential to the finding that the fill had occurred in 2007. Thus, the court upheld the NCRS determination and National Appeals Division holding that the plaintiff had converted the wetland in 2007. **David Stock Farm Services, Inc. v. Natural Resources Conservation Service, 2010 U.S Dist. LEXIS 101174 (D. Minn. 2010)**.

FEDERAL ESTATE AND GIFT TAXATION

No items.

FEDERAL INCOME TAXATION

ACCOUNTING METHOD. The IRS has published a revenue procedure providing that certain motor vehicle dealerships may use either or both of the safe harbor methods of accounting provided by the revenue procedure to (1) treat certain sales facilities as retail sales facilities for purposes of I.R.C. § 263A, and (2) be treated as resellers without production activities for purposes of I.R.C. § 263A. The revenue procedure also provides procedures for obtaining automatic consent to make accounting method changes to use the safe harbor methods. **Rev. Proc. 2010-44, I.R.B. 2010-44**.

CARBON DIOXIDE SEQUESTRATION CREDIT. The IRS has published the inflation adjustment factor of 1.0118 for the credit for carbon dioxide (CO2) sequestration under I.R.C. § 45Q for calendar year 2010. The calendar year 2010 inflation-adjusted credit applies to the amount of qualified CO2 captured by a taxpayer at a qualified facility and disposed of in secure geological storage. **Notice 2010-75, I.R.B. 2010-48**.

CHARITABLE DEDUCTION. The taxpayers purchased a residential property which was in habitable condition but in need of repairs. The taxpayers decided to replace the house and donated the house to the local fire department for burning in a training exercise. The taxpayer claimed a charitable deduction for the appraised value of the house. The IRS argued that the taxpayers actually received more in value for the demolition services than the house was worth as donated. The transfer of the house was solely for the purpose of burning and the fire department was not allowed to use or otherwise transfer the property. The court upheld the IRS disallowance but refused to assess an accuracy-related penalty because the taxpayers acted reasonably and in good faith, maintained adequate records and complied with all reporting requirements. **Rolfs v. Comm'r, 135 T.C. No. 24 (2010)**.

CORPORATIONS.

ACCOUNTING PERIOD. The taxpayer was a corporation which failed to file a Form 1128, Application To Adopt, Change, or Retain a Tax Year, by the due date of the return for the short period required to effect such change and did not request an extension of time to file its return. However, the taxpayer filed its Form 1128 under Treas. Reg. § 301.9100-3 soon thereafter. *Rev. Proc. 2006-45, 2006-2 C.B. 851, as modified and clarified by Rev. Proc. 2007-64, 2007-2 C.B. 818*, provides procedures for certain corporations to obtain automatic approval to change their annual accounting period under I.R.C. § 442. A corporation complying with all the applicable provisions of the revenue procedure will be deemed to have obtained the approval of the Commissioner of the Internal Revenue Service to change its annual accounting period. Section 7.01(2) of *Rev. Proc. 2006-45* provides that a Form 1128 filed pursuant to the revenue procedure will be considered timely filed for purposes of Treas. Reg. § 1.442-1(b)(1) only if it is filed on or before the time (including extensions) for filing the return for the short period required to effect such change. The IRS granted the taxpayer an extension of time to file the form such that the untimely filing was deemed timely filed. **Ltr. Rul. 201043025, July 21, 2010**.

DISASTER LOSSES. On October 21, 2010, the President determined that certain areas in Wisconsin are eligible for assistance from the government under the Disaster Relief and

Emergency Assistance Act (42 U.S.C. § 5121) as a result of severe storms and flooding, which began on September 22, 2010. **FEMA-1944-DR.** On October 21, 2010, the President determined that certain areas in Nebraska are eligible for assistance from the government under the Act as a result of severe storms, flooding and tornadoes, which began on September 13, 2010. **FEMA-1945-DR.** On October 26, 2010, the President determined that certain areas in Puerto Rico are eligible for assistance from the government under the Act as a result of Tropical Storm Otto, which began on October 4, 2010. **FEMA-1946-DR.** Accordingly, taxpayers in the areas may deduct the losses on their 2009 federal income tax returns. See I.R.C. § 165(i).

DOMESTIC PRODUCTION DEDUCTION. The taxpayer was a non-exempt farmer's marketing and purchasing agricultural cooperative. The cooperative paid market price for member's commodities and paid patronage dividends to members based on the amount of commodities sold to the cooperative and the amount of purchases made from the cooperative. The IRS ruled that the cooperative payments to members were qualified per-unit retain allocations because they were (1) distributed with respect to the crops that the cooperative stored, processed and marketed for its patrons; (2) determined without reference to the cooperative's net earnings; and (3) paid pursuant to a contract with the patrons establishing the necessary pre-existing agreement and obligation, and within the payment period of I.R.C. § 1382(d). The IRS ruled that the cooperative was allowed to add back these amounts paid to members as net proceeds in calculating its qualified production activities income under I.R.C. § 199(d)(3)(C). **Ltr. Rul. 201043008, Aug. 4, 2010**.

ENERGY CREDIT. The taxpayer owned a commercial building and installed a photovoltaic curtain wall for the building to generate electricity for the building. Portions of the wall replaced windows on the building without obstructing the view of the occupants. The IRS ruled that the photovoltaic curtain wall was eligible energy property for the I.R.C. § 48(a) energy credit. The IRS noted that building structural components were generally not eligible for the credit but that *Rev. Rul. 79-193, 1979-1 C.B. 44* allowed structural components to qualify as "section 38 property" where they were so specifically engineered that the component was part of the machinery for the building. The IRS also noted that, under *Rev. Rul. 70-736, 1970-1 C.B. 8*, the cost of installation also qualified as "section 38 property" and for the energy credit. **Ltr. Rul. 201043023, Oct. 23, 2010**.

FUEL TAX CREDIT. In a Chief Counsel Advice letter, the IRS ruled that the I.R.C. § 6675 penalty cannot be assessed for excessive or false claims of the I.R.C. § 34 fuel tax credit. The short explanation is quoted in full: "Sections 6420, 6421 and 6427 allow for payments to eligible taxpayers. (See §§ 6420(a), 6421(a), 6427(a).) Payment generally is limited to (1) the United States or an agency or instrumentality thereof, or a state or political subdivision or agency or instrumentality thereof, (2) an organization exempt from tax under section 501(a), or (3) the taxpayers described in paragraph (2) of § 6421(d), and paragraphs (2), (3) and (4) of § 6427(i). Sections 6420, 6421 and 6427 direct taxpayers subject to income tax to § 34, for allowance of a credit against income tax. (See §§ 6420(g), 6421(i), 6427(k).) Section 34 states that, generally, there shall be allowed as a credit against the tax imposed by Subtitle A (Income Taxes) an amount equal to the sum of the amount payable to the taxpayer under §§ 6420, 6421, or 6427."

"Under § 6675, if a claim is made under § 6420 (relating to gasoline used on farms), § 6421 (relating to gasoline used for certain nonhighway purposes or by local transit systems), or § 6427 (relating to fuels not used for taxable purposes) for an excessive amount, unless it is shown that the excessive claim is due to reasonable cause, the taxpayer who made the claim will be liable for the greater of (1) two times the excessive amount, or (2) $10."

"When a taxpayer makes an excessive or false claim for fuel tax credit on an income tax return, the taxpayer makes the claim under § 34. The taxpayer does not make the claim for a fuel tax credit against income tax under §§ 6420, 6421, or 6427. Thus, the Service can not apply the § 6675 penalty to such claims. See also *Rev. Rul. 79-298, 1979-2 C.B. 5*, which holds that the civil penalty under § 6675 of the Code for excessive excise tax claims filed does not apply to an excessive credit taken on an income tax return." **CCA 201043036, Aug. 11, 2010**.

FILING STATUS. The taxpayer's spouse was deceased and no executor or administrator was appointed. The taxpayer had not filed a return for the year of the decedent's death and the IRS constructed a substitute return, using the single filing status, and issued a deficiency notice. In a Chief Counsel Advice letter, the IRS noted that *Millsap v. Comm'r, 91 T.C. 926 (1998), acq. in result, AOD-1992-03,* held that a taxpayer was not foreclosed from electing joint status after the IRS has prepared a return under I.R.C. § 6020(b) because the return did not constitute a "separate return" filed by the individual for purposes of section 6013(b). I.R.C. § 6013(a)(2) states that "in the case of death of one spouse the joint return may be made by the surviving spouse … if no return for the taxable year has been made by the decedent, no executor or administrator has been appointed, and no executor or administrator is appointed before the last day prescribed by law for filing the return of the surviving spouse." The IRS ruled that the taxpayer was not precluded from filing a joint return with respect to the taxpayer and deceased spouse, because the taxpayer had not previously filed a separate return in this case and section 6013(b) did not apply. **CCA 201044011, Oct. 15, 2010**.

INNOCENT SPOUSE RELIEF. The taxpayer and former spouse were divorced in 2006. During the marriage and tax years 2002 and 2003, the former spouse operated a restaurant. The taxpayer was employed full time but helped work at the restaurant on off-work hours. The former spouse controlled the business records and hired a tax return preparer to prepare the couple's tax return using the business records. The taxpayer knew that the restaurant was not profitable because the former spouse had to pay some expenses from the couple's personal accounts. The IRS assessed tax deficiencies for both years based on disallowed, unsubstantiated business deductions. The taxpayer sought innocent spouse relief from payment of the tax deficiencies and the IRS conceded the issue in the Tax Court; however, the former spouse intervened and argued that the taxpayer was not entitled to innocent spouse relief because the taxpayer signed the tax returns. The court held that the taxpayer was entitled to innocent spouse relief because the former spouse had such control over the management of the restaurant and business records that the taxpayer had no knowledge that the claimed business deductions had no written receipts or other substantiation. **Knight v. Comm'r, T.C. Memo. 2010-242**.

PENALTIES. The taxpayer filed income tax returns on which the taxpayer overstated the amount of taxes withheld and included fictitious Forms W-2 to support the withholding claim. A fraud penalty was assessed against the taxpayer under Treas. Reg. 1.6664-2(c)(1) and the taxpayer argued that the regulation was invalid in that it allowed false withholding taxes to be included in determining underpayment of tax, whereas the statute did not. The court upheld the regulation as a reasonable interpretation of the statute. **Feller v. Comm'r, 135 T.C. No. 25 (2010)**.

PENSION PLANS. For plans beginning in November 2010 for purposes of determining the full funding limitation under I.R.C. § 412(c)(7), the 30-year Treasury securities annual interest rate for this period is 4.26 percent, the corporate bond weighted average is 6.17 percent, and the 90 percent to 100 percent permissible range is 5.55 percent to 6.17 percent. **Notice 2010-76, I.R.B. 2010-47**.

RESIDENTIAL ENERGY PROPERTY CREDITS. The IRS has published information about two home energy property credits availble for 2010. The American Recovery and Reinvestment Act of 2009 expanded two home energy tax credits: the nonbusiness energy property credit and the residential energy efficient property credit.

Nonbusiness Energy Property Credit. This credit equals 30 percent of what a homeowner spends on eligible energy-saving improvements, up to a maximum tax credit of $1,500 for the combined 2009 and 2010 tax years. The cost of certain high-efficiency heating and air conditioning systems, water heaters and stoves that burn biomass all qualify, along with labor costs for installing these items. In addition, the cost of energy-efficient windows and skylights, energy-efficient doors, qualifying insulation and certain roofs also qualify for the credit, though the cost of installing these items *does not count*. By spending as little as $5,000 before the end of the year on eligible energy-saving improvements, a homeowner can save as much as $1,500 on his or her 2010 federal income tax return. Due to limits based on tax liability, amounts spent on eligible energy-saving improvements in 2009, other credits claimed by a particular taxpayer and other factors, actual tax savings will vary.

Residential Energy Efficient Property Credit. The residential energy efficient property credit equals 30 percent of what a homeowner spends on qualifying property such as solar electric systems, solar hot water heaters, geothermal heat pumps, wind turbines, and fuel cell property. Generally, labor costs *are included* when figuring this credit. Also, except for fuel cell property, no cap exists on the amount of credit available. Not all energy-efficient improvements qualify for these tax credits. For that reason, homeowners should check the manufacturer's tax credit certification statement before purchasing or installing any of these improvements. Normally, a homeowner can rely on this certification. The IRS cautions that the manufacturer's certification is different from the Department of Energy's Energy Star label, and not all Energy Star labeled products qualify for the tax credits. **IR-2010-110**.

S CORPORATIONS

FILING OF ELECTION. The taxpayer was a sole-shareholder corporation which had intended to file Form 2553 to elect to be taxed as an S corporation but the form was not timely filed. The IRS granted an extension of time to file Form 2553. **Ltr. Rul. 201044002, July 27, 2010**.

SECOND CLASS OF STOCK. The taxpayer was an S corporation with Class A voting common stock and Class B nonvoting common stock. As part of a debt restructuring agreement with several lenders, the taxpayer issued warrants to the lenders. The warrants entitled the warrant holders to purchase, upon exercise, a specified amount of Class B common stock at an "exercise price." The warrant holders could exercise the warrants during a set period. The exercise price of the warrants was subject to reduction if the taxpayer distributed to its shareholders cash, evidence of indebtedness, or other property. The exercise price was reduced to the extent of the value distributed on a per share basis. If the exercise price was reduced to zero as a result of a distribution, any remaining portion of such distribution was distributable to the warrant holders. The taxpayer represented that it had made no distributions since the issuance of the warrants that would require such adjustment or distribution. The exercise price and the number of shares that could be purchased upon the exercise of the warrants were also subject to customary anti-dilution adjustments regarding stock distributions, stock splits, and other similar corporate events. The warrant agreement also provided for customary anti-dilution adjustments in the case of the merger, reorganization, or recapitalization of the taxpayer. The taxpayer represented that none of the foregoing events had occurred since the warrants were issued. The IRS ruled that the warrants did not constitute a second class of stock causing the termination of the S corporation. **Ltr. Rul. 201043015, July 29, 2010**.

TAX SHELTERS. The taxpayers, husband and wife, had invested in a jojoba partnership which was audited and denied research and development expense deductions. The taxpayers were then denied a pass-through deduction for their share of those expenses. This case involved assessment of the I.R.C. § 6653(a)(1) 5 percent addition to tax for underpayment of tax for negligence. The court held that the taxpayers had unreasonably relied on the partnership promoter for information about the tax benefits of the partnership. The court noted that the taxpayer was not an inexperienced investor and should have seen the need to seek expert advice about the tax and profit risks from the investment. The taxpayer's claim that they reasonably relied on the advice of a CPA was rejected because the CPA did not testify at trial and the reason for the absence was not known. The appellate court affirmed in a decision designated as not for publication. **Heller v. Comm'r, 2010-2 U.S. Tax Cas. (CCH) ¶ 50,693 (9th Cir. 2010), *aff'g*, T.C. Memo. 2008-232**.

The taxpayer, a decedent's estate, had invested in a jojoba partnership which was audited and denied research and development expense deductions. The estate was assessed a negligence penalty and the estate appealed the Tax Court's upholding of the penalty. The estate argued that it was acting as a reasonable investor in that it had consulted a CPA. The court noted, however, that the estate did not present clear evidence of the advice received from the CPA. In addition, the court held that the promotional material for the partnership should have alerted the estate that the tax advantages were suspicious. The appellate court affirmed in a decision designated as not for publication. **Helbig v. Comm'r, 2010-2 U.S. Tax Cas. (CCH) ¶ 50,692 (9th Cir. 2010), *aff'g*, T.C. Memo. 2008-243**.

SECURED TRANSACTIONS

GOOD FAITH PURCHASER. The debtor purchased a harvester and corn head financed by the plaintiff creditor. The creditor perfected a purchase-money security interest in both pieces of equipment. The debtor traded the equipment in for new equipment from the defendant. The defendant asked the plaintiff whether it had any security interest in the traded-in equipment and relied on the word of the debtor and the debtor's bank that the loans for the equipment had been paid in full. The debtor defaulted on the loans for the equipment from the plaintiff and the plaintiff sued for replevin of the equipment. The trial court entered judgment for the defendant and allowed the defendant to sell the equipment. In an interlocutory appeal of that ruling, the court held that it was unreasonable for the defendant to rely only on the word of the debtor and the debtor's bank without contacting the known lien holder as to the existence of a prior secured lien. The court noted that it was sufficiently common for debtors to misrepresent the status of liens on trade-in equipment that the defendant should have contacted the known lien holder to verify the debtor's claims. Therefore, the court held that the trial court's award of the equipment to the defendant was improper and the appellate court awarded the equipment to the plaintiff. **Deere & Co. v. New Holland Rochester, Inc., 935 N.E.2d 267 (Ind. Ct. App. 2010)**.

IN THE NEWS

INFORMATION RETURNS. CNNMoney.com has reported that there is bipartisan support, including the President, for repealing the new information reporting requirements discussed in 21 *Agric. Law Dig*. 75 (2010): The Patient Protection and Affordable Care Act, Pub. L. No. 111-148, extended information reporting beginning in 2012. Section 9006 of Public Law 111-148 entitled, "Expansion of Information Reporting Requirements" amends I.R.C. § 6041(a) and adds I.R.C. §§ 6041(h) and 6041(i), all effective for payments made after December 31, 2011. Section 9006(a) extends the reporting requirements to all corporations except for corporations exempt from tax under I.R.C. § 501(a) which includes corporations organized and qualified under I.R.C. § 501(c) and I.R.C. § 501(d). The same subsection adds subsection (h) to I.R.C. § 6041 to make it clear that despite the regulations issued previously, the term "person" in Section 6041 includes all corporations not exempt under I.R.C. § 501(c) and I.R.C. § 501(d). This broadens the information reporting to include more corporations than previously. Section 9006(b) amends I.R.C. § 6041(a) for all taxpayers, corporate and non-corporate, in three ways — (1) Subsection 9006(b)(1) inserts "amounts in consideration for property" after "wages" in I.R.C. § 6041(a), (2) inserts "gross proceeds," after "emoluments, or other" and (3) inserts "gross proceeds," after "setting forth the amount of such" so that it reads— "All persons engaged in a trade or business, and making payment in the course of such trade or business to another person, of rent, salaries, wages, *amounts in consideration for property*, premiums, annuities, compensations, remunerations, emoluments, or other *gross proceeds*, fixed or determinable gains, profits, and income . . . of $600 or more in any taxable year . . . shall render a true and accurate return. . . setting forth the amount of such *gross proceeds*, gains, profits, and income and the name and address of the recipient of such payment." [Amendment italicized] The effect is to extend information reporting, usually on Form 1099, to *amounts in consideration for property* and *gross proceeds* above $600. Remember that this is limited by the Section 6041(a) passage that limits information reporting overall to ". . . persons engaged in a trade or business and making payment in the course of such trade or business to another person. . . ." The provision has not, however, been repealed or amended to date. **http://money.cnn.com/2010/11/12/smallbusiness/baucus_1099_repeal/index.htm?section=money_latest&utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+rss%2Fmoney_latest+%28Latest+News%29&utm_content=Google+Feedfetcher**

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