extension, or renewal of an agricultural contract; (b) alter the quality, and/or quantity of delivery times of contract inputs; (c) use the performance of any other contract grower as the basis of the termination, cancellation, or renewal of a production contract or to negatively affect the grower's compensation; or (d) require contract producers to make a capital investment in addition to the capital investment required by the Iowa producer's production contract with Smithfield, unless fair and equitable compensation is paid to the producer in a manner the producer agrees to in writing.

Iowa Producer's Ability to Organize. Smithfield has agreed that if its Iowa producers organize or adopt a collective bargaining unit, Smithfield will not retaliate against such growers. In addition, Smithfield will refrain from any anti-trust or restraint-of-trade litigation against such growers and Smithfield agrees to negotiate in good faith with any such grower organization.

Environmental Program. Smithfield has agreed to fund and participate in an environmental program at Iowa State University that will train Smithfield's Iowa Producer's in the best environmental practices. Funding levels are set at $ 100,000.00/ year.

Smithfield/Lueter Scholarship Fund at Iowa State University. Smithfield has agreed to continue to fund the above-referenced scholarship program for an additional four years at $60,000.00/ year.

Iowa Plants. Smithfield has agreed that it has every intention to keep its Iowa plants and its plant in Sioux Falls, south Dakota in operation. Should said intentions change, Smithfield will provide 90 days notice to the Iowa Attorney General's Office.

Market Access. Smithfield has agreed that for two years following the execution of this agreement 25 percent of the swine slaughtered at its Iowa facilities and in its plant in Sioux Falls, South Dakota will be purchased from non-Smithfield sellers. The Iowa Attorney General's Office has agreed that, given Smithfield's compliance with the terms of this Settlement Agreement, it will not pursue enforcement of Iowa Code § 202B.201 against Smithfield. The parties to the Settlement agreement have agreed that the agreement shall be in effect for 10 years from the date of execution.

CASES, REGULATIONS AND STATUTES

by Robert P. Achenbach, Jr

BANKRUPTCY

GENERAL

DISCHARGE. The debtor had a contract with a creditor to purchase weener pigs at monthly intervals. Two of the batches of pigs were infected with a virus and the debtor withheld payment of two subsequent batches in order to force the creditor to discuss the infected batches. The parties failed to agree on liability and the creditor filed suit for payment. An arbitrator ruled in the creditor's favor and the debtor filed for bankruptcy before the creditor could obtain a judgment on the arbitrator's decision. The creditor sought to have the arbitrator's award declared nondischargeable under Section 523(a)(6) for willful and malicious injury by the creditor of a creditor's interest. The creditor alleged that the debtor acted with fraudulent intent when the debtor accepted the second two batches with the intent not to pay for them. The court held that the debtor did not have the intent to defraud the creditor but was merely seeking a method of negotiating a settlement for the infected pigs. The court found that the parties did not engage in a series of separate purchases but had a long term, multi-delivery contract over which the debtor had made the required payments. **Gehl v. Land O'Lakes Feed, LLC, 325 B.R. 269 (Bankr. N.D. Iowa 2005)**.

EXEMPTIONS.

HOUSEHOLD GOODS. The Chapter 7 debtor claimed an exemption as household goods, under Section 523(d)(3), for a shotgun, pistol, rifles, and fishing equipment. The court rejected the test that firearms were per se not household goods. The court adopted the "functional-nexus" analysis for determining the nature of property in the hands of the debtor. Under this test, household goods included personal property used to support and facilitate daily life in the residence. Under this standard, the court held that the burden was on the objecting creditor to provide evidence that the claimed exempt property was not used by the debtor for daily life in the residence; therefore, the exemptions were allowed. ***In re* Andershonis, 324 B.R. 247 (Bankr. M.D. Penn. 2005)**.

FEDERAL TAX

AUTOMATIC STAY. The Chapter 13 debtor listed an unsecured priority claim for federal taxes and provided for payment of the taxes in the confirmed plan. The IRS filed a motion for relief from the automatic stay in order to offset a portion of its claim by retaining a tax refund due to the debtor. The court held that the IRS was not entitled to relief from the automatic stay merely because it had a right of setoff of the tax refund, but that relief required some proof of a cause which furthered the purposes of bankruptcy. Because the IRS provided no cause for relief from the automatic stay except its right of setoff, the court held that no relief would be granted in that the requested relief would put the IRS in a better position than other similar claims in the Chapter 13 plan. ***In re* Shultz, 325 B.R. 197 (Bankr. N.D. Ohio 2005)**.

DISCHARGE. The debtor sought a ruling that taxes due more than six years before the filing of the Chapter 7 petition were dischargeable. The court granted dismissal for the IRS for failure of the debtor to state a claim for which relief may be granted, because the debtor failed to provide any allegations of material elements of a cause of action. ***In re* Rowe, 2005-2 U.S. Tax Cas. (CCH) ¶ 50,551 (Bankr. N.D. Ohio 2005)**.

The debtor was a lawyer and owed back taxes, interest and penalties when the debtor filed for Chapter 7. The debtor had correctly filed all income tax returns and made substantial payments on the taxes owed. At the time the taxes were owed, the debtor made loans to the debtor's spouse's business, made mortgage payments on an expensive house, paid for entertainments expenses at a country club, paid for elective cosmetic surgery for the debtor's spouse, donated to charities, and made gifts to the debtor's children. The court held that the evidence was insufficient to demonstrate that the debtor willfully attempted to evade payment of the taxes and held that the taxes were dischargeable. The court noted that there was no evidence of any attempt by the debtor to hide assets or transfer assets in an attempt to remove them from access by the IRS. ***In re* Jacobs, 324 B.R. 376 (Bankr. M.D. Fla. 2005)**.

FEDERAL AGRICULTURAL PROGRAMS

ORGANIC FOOD. The AMS has issued a notice to inform certified organic producers and handlers that the AMS will release the names and addresses of certified operations to the general public. AMS has determined that the Organic Foods Production Act of 1990, as amended, 7 U.S.C. 6501 *et seq*., authorizes the release of the names and addresses of certified organic producers and handlers under the broad category of information characterized by the 1990 Act as "certification documents." **70 Fed. Reg. 53617 (Sept. 9, 2005)**.

POULTRY INSPECTION. The FSIS has issued proposed regulations which amend the federal poultry products inspection regulations to provide that turkey slaughter establishments that open turkey carcasses with Bar-type cuts may operate at the maximum line speeds established for J-type cuts, if the establishment uses the specific type of shackle described in the proposed rule. Under the proposed regulation, as under current regulations, the inspector in charge will reduce line speeds when, in his or her judgment, the prescribed inspection procedure cannot be adequately performed within the time available because of the health conditions of a particular flock or because of other factors, including the manner in which birds are being presented to the inspector for inspection and the level of contamination among the birds on the line. **70 Fed. Reg. 53582 (Sept. 9, 2005)**.

SUGAR. The CCC has issued proposed regulations to provide for an orderly and transparent method of distributing the allocation of marketing allotments to successor mills after growers have petitioned the Executive Vice President, CCC, to transfer their allocation when their mill closes. The proposed regulations use a formula to distribute the closed mill's allocation that will calculate grower shares based on the grower's contribution to the mill's allocation. The proposed regulations also formalize the due date, on the 20th of each month, for the reporting to the CCC on their sugar production. The CCC noted that willful failure to timely file the reports can make a reporter subject to a maximum civil penalty of $10,000. The proposed regulations also require each reporting entity to have an independent third party verify each company's data submitted to the CCC. **70 Fed. Reg. 53103 (Sept. 7, 2005)**.

FEDERAL ESTATE AND GIFT TAXATION

ANNUITY. The decedent had been divorced and a portion of the divorce decree provided for monthly payments by the decedent to the former spouse, with the obligation for the payments to survive the death of the decedent. At the death of the decedent, the decedent's will provided for the continuation of the payments. The decedent's estate purchased an annuity which would make the required payments. The estate then distributed the annuity to the former spouse in exchange for a release of any claim against the estate. The IRS ruled that the distribution of the annuity did not qualify for a deduction under I.R.C. § 661 because the distribution was not made in satisfaction of a bequest but in satisfaction of a debt. The IRS also ruled that the former spouse's basis in the annuity was the value of the remaining payments at the time of the distribution. **Ltr. Rul. 200536014, June 2, 2005**.

DISCLAIMER. The written disclaimer of contingent remainder interests in four trusts created before January 1, 1977 was valid where the disclaimer was made within nine months after the disclaimant reached age 18. **Ltr. Rul. 200535012, May 9, 2005**.

FAMILY-OWNED BUSINESS DEDUCTION. The decedent's estate included a majority interest in two closely-held businesses. When the estate filed its estate tax return, the executor did not believe the estate qualified for the FOBD. An audit of the estate demonstrated that the estate was eligible for the FOBD and the estate sought an extension of time to make the election. The election was granted. **Ltr. Rul. 200536016, June 6, 2005**.

FEDERAL INCOME TAXATION

CORPORATIONS

CONTRIBUTIONS. Under I.R.C. § 362(e), if the aggregate basis of property transferred to a corporation as a capital contribution (or in an exchange to which I.R.C. § 351 applies) exceeds its aggregate value immediately after the transaction, then the transferee corporation's basis in the property should not exceed the property's fair market value. However, a transferor and transferee can make a joint election to reduce the transferor's basis in the property to its fair market value and, therefore, the transferee will not be required to reduce its basis in the property. Under I.R.C. § 362(e)(2)(C), the election to reduce stock basis must be filed with the income tax return for the tax year in which the transaction occurred and, once made, is irrevocable.

The IRS has issued guidance for making the election under I.R.C. § 362(e)(2)(C). Such elections made be made by a transferor, other than a controlled foreign corporation (CFC), by including the certification on or with a timely filed tax return for the year of the transaction. The certification must include the names and identification numbers or the taxpayer filing the return, the transferror and the transferee and the date of the transaction. It must also certify that the transferor and the transferee are making election under I.R.C. § 362(e)(2)(C) with regard to the property transfer. If the transferor is a CFC, its controlling U.S. shareholders may make a valid election for the CFC by including the certification on or with a timely filed tax return for the tax year in which the transaction occurred. In that certification, the taxpayer filing the return must certify that the CFC, its controlling shareholders and the transferee are making election under I.R.C. § 362(e)(2)(C) with regard to the property transfer. **Notice 2005-70, I.R.B. 2005-38**.

REORGANIZATIONS. The IRS has issued a revenue procedure which amends Section 7.02(4) of *Rev. Proc. 2005-1* to provide expedited treatment for letter rulings on transactions intended to meet the requirements of either I.R.C. §§ 368, 355, subject to the restrictions of Section 3.01(31) of *Rev. Proc. 2005-3*. Instead of the typical processing period, the IRS will endeavor to complete and issue letter rulings on these transactions within 10 weeks from receipt of the request. The IRS stated that its intention is to process on an expedited basis all letter ruling requests on these transactions, provided the requirements of this revenue procedure are met. If these requirements are not met, the IRS will process the letter ruling request in the usual manner. If the transaction involves an issue or issues not entirely within the jurisdiction of the Associate Chief Counsel (Corporate), the ruling request will be processed in the usual manner unless each Associate Chief Counsel having jurisdiction over the transaction agrees to process the ruling request on the expedited basis. Section 8.05(1) of *Rev. Proc. 2005-1* was also amplified to provide that if an expedited ruling request lacks essential information, the branch representative will tell the taxpayer that the information must be submitted within 10 calendar days from the date of the request for additional information, unless an extension of time is granted. If the information is not submitted within 10 calendar days (with any extension) but is submitted within 21 calendar days (with any extension), the ruling request will be processed in the usual manner. **Rev. Proc. 2005-68, I.R.B. 2005-41**.

DISASTER LOSSES. On August 29, 2005, the President determined that certain areas in Arkansas, Texas, Tennessee, Georgia, Oklahoma, Florida, West Virginia, North Carolina, Utah, Colorado, Mississippi, and Louisiana were eligible for assistance under the Disaster Relief and Emergency Assistance Act (42 U.S.C. § 5121) as a result of Hurricane Katrina which began on August 28, 2005. **FEMA-3212 through 3224-EM, FEMA-1602 through 1604-DR.** On August 22, 2005, the President determined that certain areas in Wyoming are eligible for assistance under the Act as a result of a tornado which began on August 12, 2005. **FEMA-1599-DR**. On August 23, 2005, the President determined that certain areas in Kansas are eligible for assistance under the Act as a result of severe storms and flooding which began on June 30, 2005. **FEMA-1600-DR**. On August 23, 2005, the President determined that certain areas in Louisiana are eligible for assistance under the Act as a result of tropical storm Cindy which began on July 5, 2005. **FEMA-1601-DR**. Accordingly, taxpayers in the affected areas who sustained losses may deduct them on their 2004 federal income tax returns.

TAX ASSISTANCE FOR HURRICANE KATRINA VICTIMS

AVIATION FUEL. The IRS will permit vehicles registered for highway use to remove aviation-grade kerosene from certain airports without violating the favorable excise tax treatment to which those airport fueling terminals are entitled. Specifically, the relief applies to Louis Armstrong New Orleans International Airport, Memphis International Airport, Dallas Love Field Airport, Dallas Fort Worth International Airport, and George Bush Intercontinental Airport, Houston. The relief begins on September 2, 2005, and remains in effect through November 1, 2005. **IR-2005-95.**

CHARITABLE CONTRIBUTIONS. The IRS has announced that employees can donate vacation, sick or personal leave so employers can make cash payments to qualified tax-exempt organizations that help hurricane victims. The employees do not have to include donated leave in their income, and employers will be permitted to deduct the cash contribution. Employer cash donations must be made before January 1, 2007. Employees participating in a leave-donation program may not claim a charitable contribution deduction with respect to the value of foregone leave excluded from wages. However, employers will be permitted to deduct cash payments made under such programs as a business expense under I.R.C. § 162 if the payment is: (1) made to a charitable organization for the relief of Hurricane Katrina victims; and (2) paid before January 1, 2007. **IR-2005-96**.

The IRS has announced that it will expedite its process for approving exemption applications for new organizations that seek to provide relief for the victims of Hurricane Katrina. Such organizations should apply for tax-exempt status by filing IRS Form 1023, Application for Exemption, which is available at www.irs.gov, and write at the top of the form "Disaster Relief, Hurricane Katrina." Organizations applying for exempt status should also refer to Publication 3833, Disaster Relief: Providing Assistance Through Charitable Organizations. **IR-2005-93**.

DIESEL FUEL. Due to continued shortages of diesel fuel caused by Hurricane Katrina, the IRS has extended through October 5 the diesel fuel penalty relief it announced on September 2, *IR-2005-89*. The penalty relief, which was to expire after September 15, now applies throughout the United States to dyed diesel fuel sold for use or used on the highway. Thus, the IRS will not impose the I.R.C. § 6715 penalty if dyed diesel fuel was sold for highway use during the covered period, provided that tax is paid on the fuel. In addition, the IRS will not assert penalties for failure to make semimonthly deposits of this tax. The IRS also announced that, to the extent permitted by Environmental Protection Agency (EPA) rules, the IRS will waive penalties for highway use of dyed high sulfur fuel received by retailers even after October 5, but only if the dye is added at the refinery, and not if dye is added at the terminal to meet IRS standards. Position holders are reminded, however, that they must pay tax on any high sulfur diesel fuel that has not been dyed at the terminal to meet IRS standards. Finally, the additional relief announced in *IR-2005-89,* that the IRS will not impose the recently enacted I.R.C. § 6720A penalty for sales of diesel fuel that does not meet applicable EPA regulations if the EPA has waived those requirements, will remain in effect until the EPA waiver or any extension of the waiver expires. **IR-2005-104.**

PENSION PLANS. The IRS has announced that I.R.C § 401(k) and similar retirement plans can make loans and hardship distributions to victims of Hurricane Katrina and members of their families. The relief applies to persons whose principal residence or place of employment was, as of August 29, 2005, located in one of the counties or parishes of Mississippi, Alabama or Louisiana designated as disaster areas eligible for Individual Assistance by the Federal Emergency Management Agency. The relief is also extended to persons whose lineal ascendants, lineal descendants, dependant or spouse had a principal residence or place of employment in those areas on that date. **Ann. 2005-70, I.R.B. 2005-38**.

RETURNS. The deadline for filing tax returns and paying any taxes due has been extended to January 3, 2006 for Hurricane Katrina relief workers. This extension applies to workers assisting in the disaster area, and includes persons affiliated with recognized government or philanthropic organizations. Relief workers should write in red ink on the top of the appropriate forms "Hurricane Katrina." Relief workers may also alert the IRS by calling the toll-free disaster hotline at 1-866-562-5227. The extension includes: (1) the September 15 due date for estimated taxes and for calendar-year corporate returns with automatic extensions; (2) the October 17 deadline for individuals who received a second extension for filing their individual income tax returns; and (3) the October 31 deadline for filing quarterly federal employment and excise tax returns. The IRS will abate interest and any late filing, late payment or failure to deposit penalties that would otherwise apply. **IR-2005-103**.

The IRS has extended the deadlines for several actions that it could take with respect to taxpayers affected by Hurricane Katrina. If the last date for the IRS action is on or after September 6, 2005, and on or before January 3, 2006, the new deadline is January 3, 2006. The extended deadlines apply to the following federal actions: (1) making tax assessments; (2) issuing deficiency notices; (3) allowing tax credits or refunds; (4) collecting tax liabilities, by levy or otherwise; (5) bringing suit by the United States, or any office on its behalf, with respect to a tax liability; (6) returning property that was subject to a wrongful levy; and (7) discharging executors from personal liability for a decedent's taxes. The extended deadlines apply to affected taxpayers who live or work in the counties or parishes in Louisiana, Alabama, Mississippi and Florida that President Bush has designated as disaster areas. Affected taxpayers include: (1) individuals with a principal residence in a disaster area; (2) business entities with a principal place of business in a disaster area; (3) individual relief workers who are affiliated with recognized government and philanthropic organizations and are working in a disaster area; (4) individuals, business entities, estates and trusts that maintained records in a disaster area that are necessary for meeting tax deadlines; (5) spouses of affected taxpayers, but solely with regard to joint returns; (6) any other person that the IRS determines to be an affected taxpayer; and (7) taxpayers with respect to whom the IRS maintained records in a disaster area that may be lost, destroyed or otherwise inaccessible. **Notice 2005-66, I.R.B. 2005-38**.

The IRS announced that the American Institute of Certified Public Accountants (AICPA) will help provide assistance to taxpayers at local disaster recovery centers established by the FEMA. Under the terms of the agreement, the IRS and the AICPA will test the use of volunteer CPAs at FEMA's disaster recovery centers to facilitate service to those seeking aid. The IRS will request support from the accounting profession to supplement its staff on an as-needed basis. **IR-2005-94**.

The IRS has posted to its website, www.irs.ustreas.gov/formspubs/index.html, in the Forms & Pubs section: Publication 1244 (Rev. August 2005), Employee's Daily Record of Tips and Report to Employer; and Publication 2194 (Rev. 2004), 2004 Disaster Losses Kit for Individuals.

MILEAGE DEDUCTION. The IRS has announced an increase in the optional standard mileage rates used by employees, self-employed individuals, and other taxpayers for the last four months of 2005. The rate has been increased to 48.5 cents per mile for all business miles driven between September 1 and December 31, 2005. This represents an increase of eight cents from the 40.5-cent rate in effect for the first eight months of 2005, as provided under *Rev. Proc. 2004-64, I.R.B. 2004-49, 898*. The increased four-month rate used for computing deductible medical or moving expenses is 22 cents per mile. The 14 cents-per-mile rate used for providing services to charitable organizations is set by statute and did not change. **Ann. 2005-71, I.R.B. 2005-38**.

PENSION PLANS. The IRS has issued an updated list of entities that have been approved to serve as nonbank trustees and custodians for several types of tax-advantaged savings accounts. These accounts must be held by a bank or an approved nonbank trustee or custodian in order to be tax-exempt. The accounts include: (1) Archer medical savings accounts' (2) health savings accounts; (3) custodial accounts of retirement plans; (4) custodial accounts for stock in a regulated investment company; (5) trust or custodial accounts of traditional IRAs and Roth IRAs; (6) Coverdell education savings accounts; and (7) custodial accounts of eligible deferred compensation plans of state and local governments and exempt organizations. **Ann. 2005-59, I.R.B. 2005-37**.

The IRS has announced a clarification of the Form W-2 reporting requirements when an employer has amended a cafeteria plan document to provide a grace period for qualified dependent care assistance immediately following the end of a cafeteria plan year. The IRS recently issued *Notice 2005-42, I.R.B. 2005-23, 1204*, which provides that employers may now amend their flexible spending arrangements (FSAs) to extend the deadline for reimbursement of health and dependent care expenses up to 2-1/2 months after the close of the plan year. Qualified expenditures incurred during the grace period may be paid or reimbursed from benefits or contributions in an FSA that were unused at the close of the plan year. Under *Notice 89-111*, if an employer did not know the actual total amount of cash reimbursement at the time the Form W-2 was prepared, a reasonable estimate of the total amount on Form W-2 could have been reported. Under the new clarification, an employer that amends its cafeteria plan to provide a grace period for dependent care assistance may continue to rely on *Notice 89-111* by reporting in Box 10 of Form W-2 the salary reduction amount elected by the employee for the year for dependent care assistance (plus any employer matching contributions attributable thereto). **Notice 2005-61, I.R.B. 2005-37**.

RETURNS. Commerce Clearing House has calculated the expected inflation-adjusted amounts for various tax exemptions and credits for 2006, including the gift tax exemption at $12,000; the expense method depreciation limit of $108,000, with a phaseout at $432,000; and the personal exemption at $3,300. The Digest will report the officially reported figures when they are published by the IRS.

S CORPORATIONS

REORGANIZATION. The IRS has adopted as final regulations governing the requirements for meeting the requirement of continuity of interest (COI) for purposes of the nonrecognition of gain or loss in a corporate reorganization. The regulations provide that in determining whether the COI requirement is satisfied, the consideration to be exchanged for the proprietary interests in the target corporation is valued as of the end of the last business day before the first date there is a binding contract to effect the potential reorganization, provided the consideration to be provided to the target corporation shareholders is fixed in such contract and includes only stock of the issuing corporation and money. For this purpose, a binding contract is an instrument enforceable under applicable law against the parties to the instrument. Because the terms of a tender offer that is subject to Section 14(d) of the Securities and Exchange Act of 1934 and the regulations promulgated thereunder are fixed in a manner similar to those of a binding contract, the proposed regulations provide that such a tender offer, even if not pursuant to a binding contract, will be treated as a binding contract for purposes of these regulations. The regulations provide that the presence of a condition outside the control of the parties shall not prevent an instrument from being a binding contract. Finally, the regulations provide that consideration is fixed if the contract states the exact number of shares of the issuing corporation and the exact amount of money, if any, to be exchanged for the proprietary interests in the target corporation. **70 Fed. Reg. 54631 (Sept. 16, 2005)**.

TERMINATION. The taxpayer was an S corporation which was dissolved by the state administratively. The taxpayer was sued about a lease and the taxpayer was reinstated by the state after payment of fees and filing of documents. The taxpayer had deductible expenses from the lawsuit and applied for a new federal employer identification number from the IRS. The IRS ruled that the administrative dissolution did not terminate the taxpayer's S corporation status; however, because the taxpayer applied for and received a new FEIN, the taxpayer was required to file a new Form 2553, Election by a Small Business Corporation. **Ltr. Rul. 200535017, May 26, 2005**.

SAFE HARBOR INTEREST RATES

October 2005

	Annual	Semi-annual	Quarterly	Monthly
Short-term				
AFR	3.89	3.85	3.83	3.82
110 percent AFR	4.28	4.24	4.22	4.20
120 percent AFR	4.67	4.62	4.59	4.58
Mid-term				
AFR	4.08	4.04	4.02	4.01
110 percent AFR	4.49	4.44	4.42	4.40
120 percent AFR	4.91	4.85	4.82	4.80
Long-term				
AFR	4.40	4.35	4.33	4.31
110 percent AFR	4.85	4.79	4.76	4.74
120 percent AFR	5.29	5.22	5.19	5.16

Rev. Rul. 2005-66, I.R.B. 2005-41.

SECURED TRANSACTIONS

COURT AWARDS AND SETTLEMENTS. The debtor owned and operated a dairy farm and had sued an electrical contractor for faulty electrical work which caused damage to the debtor's dairy cows. The suit was pending when the debtor filed for bankruptcy in 2002. In April 1998, the debtor granted a bank a security interest in "Inventory ... Accounts and Contract Rights ... General Intangibles ... Livestock ... Milk Products Quota ... [and] Monies, Deposits or Accounts in Possession." In January 2001, the debtor granted a security interest to another creditor in any proceeds of the lawsuit. The bank claimed a priority security interest in the lawsuit proceeds as a general intangible. The debtor argued that the lawsuit involved a "commercial tort" and was excluded form the definition of general intangible under Idaho Code § 28-9-102(42) (Revised U.C.C. § 9-102(42)). The court held that the lawsuit did not arise from a commercial tort because the initial transaction was a contract for electrical repair services. In addition, the court held that the proceeds of the lawsuit would be proceeds of other collateral, the dairy cows, because most of the damage claimed in the lawsuit was to the cows and expenses related to the cows. ***In re* Wiersma, 283 B.R. 294 (Bankr. D. Idaho 2002), *aff'd*, 324 B.R. 92 (Bankr. 9th Cir. 2005)**.

CITATION UPDATES

***In re* Lowrance, 324 B.R. 358 (Bank. N.D. Okla. 2005)** (bankruptcy discharge) see p. 85 *supra*.

***In re* Schaefer, 324 B.R. 738 (Bankr. N.D. Iowa 2005)** (substituted contract) see p. 80 *supra*.

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