

kept separate books and accounts. The IRS ruled that the leasing subsidiary was a separate rental activity under I.R.C. § 469 but the activity could be grouped with the business activity of the other subsidiaries because the leasing activity was insubstantial compared to the activities of the other subsidiaries. **Ltr. Rul. 200747018, Aug. 1, 2007.**

PENSION PLANS. For plans beginning in December 2007 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 4.52 percent, the corporate bond weighted average is 5.90 percent, and the 90 percent to 100 percent permissible range is 5.31 percent to 5.90 percent. **Notice 2007-101, I.R.B. 2007-52.**

REAL ESTATE MORTGAGE INVESTMENT CONDUITS. The IRS has issued guidance allowing certain asset securitization vehicles to avoid a challenge to their tax status in the event disqualifying modifications are made to subprime mortgage loans held by the vehicle. Aimed at aiding current attempts to curtail the economic fallout of the subprime mortgage crisis, the revenue procedure's emphasis is on Real Estate Mortgage Investment Conduits which are widely used as securitization vehicles for mortgages. The guidance relies on the recent publication by the American Securitization Forum entitled, "Statement of Principles, Recommendations and Guidelines for a Streamlined Foreclosure and Loss Avoidance Framework for Securitized Subprime Adjustable Rate Mortgage Loans." The publication provides a fast track mechanism whereby certain adjustable rate mortgages will be modified so that the interest on the loan will remain fixed for a period of time. **Rev. Proc. 2007-72, I.R.B. 2007-52.**

SALE OF TIMBER. The IRS has issued proposed regulations governing the information reporting requirements for sales or exchanges of standing timber for lump-sum payments. Currently, I.R.C. § 6045(e) requires a "real estate reporting person," as

defined in I.R.C. § 6045(e)(2), to make an information return and furnish a statement to the transferor with respect to a real estate transaction that consists in whole or in part of the sale or exchange of "reportable real estate." Treas. Reg. § 1.6045-4(b)(2) defines "reportable real estate" as, among other things, any present or future ownership interest in land. Treas. Reg. § 1.6045-4(c)(2)(i) provides that no return of information is required with respect to a sale or exchange of an interest in timber, provided that the sale or exchange of such property is not related to the sale or exchange of reportable real estate. The proposed regulations provide that sales or exchanges of standing timber for lump-sum payments are "reportable real estate" transactions under Treas. Reg. § 1.6045-4(b)(2) and, thus, are to be reported as provided in I.R.C. § 6045(e) and the regulations. **72 Fed. Reg. 67589 (Nov. 29, 2007).**

SELF-EMPLOYMENT INCOME. The taxpayer claimed an exemption from self-employment taxes under I.R.C. § 1402(e) as a minister of a church which opposes acceptance of public retirement insurance. The taxpayer claimed to have filed a Form 4361 in 1980 which granted the taxpayer an irrevocable exemption. The court found no evidence of any timely filed Form 4361 and held that no timely filed Form 4361 was filed; therefore, no exemption was available. **Bennett v. Comm'r, T.C. Memo. 2007-355.**

TAX SHELTERS. The taxpayer had invested in a jojoba partnership which was later determined to not be a valid business. The taxpayer was assessed tax deficiencies based on disallowance of deductions by the partnership. In addition the taxpayer was assessed a penalty for negligence. The taxpayer provided oral testimony as to the amount of care taken to determine whether the partnership business was viable or merely set up to claim tax deductions. The court found that the taxpayer had not done enough investigation as to the legitimacy of the partnership and allowed the assessment of the negligence penalty. **Bass v. Comm'r, T.C. Memo. 2007-361.**

Index to Volume 18, Nos. 1-23

Adverse Possession

Driveway **75**
Fence **50, 114**
Permissive use **11**
Practical location **155**
Survey **58**

Animals

Bull **51, 139**
Cattle **106**
Cows **27**
Horses **66**

Bankruptcy

General
Attorney fees **115**
Automatic stay **171**
Discharge **83**
Eligibility **19, 42, 83**
Plan **43, 51, 67**
Exemptions
Lien avoidance **11**
Tax credits **19**
Involuntary petition **27**
Chapter 12
Conversion **178**
Discharge **83**
Eligibility **19**
Liens **115**

Plan **7, 19, 91, 163**
Setoff **163**
Federal Tax
Administrative expenses **91**
Article by Harl **121**
Discharge **19, 35, 43, 59, 75, 147, 155, 179**
Setoff **139**
Sale of Chapter 12 property **163**
Tax return **51**

Contracts

Acceptance of goods **43**
Barter provision **122**
Damages **163**
Hog ledger contracts **83**
Liability **11**
Option **83**
Terminations **35**
Unjust enrichment **43**

Corporations

Ownership of farmland **7**

Criminal Law

Searches **115**

Environmental Law

Clean Air Act **131**
Clean Water Act **43, 92, 99, 131**
Private right of action **67**

Federal Agricultural Programs

Animal identification system **27**
APHIS **115**
Beans **67**
BSE **115**
Brucellosis **51, 115**
Check-off **27**
Cotton **139**
Crop insurance **7, 51, 75, 91, 99, 131, 155, 171**
Dairy Product Reporting Program **107**
Disaster programs **11, 35**
Emergency conservation program **131**
Exports **11**
Farm Credit System **155**
Farm leases **155**
Farm labor **84**
Farm loans **59, 147, 155**
Farm program payments **122**
Food safety **20, 27, 91, 139**
Genetically-modified organisms **35, 59, 123**
Grading **51**
Guaranteed farm loans **67, 115**
Horses **7, 171**
Horse Protection Act **43**
Imports **147**
Karnal bunt **44**
Livestock **163**
Livestock mandatory reporting **123**

- National Organic Program **44**
- Meat and poultry products **8**
- Organic food **20, 84, 123, 163**
- PACA **59, 171**
- Peanuts **155**
- Packers and Stockyards Act **67, 123, 131**
- Peas **67**
- Pine shoot beetle **20**
- Production flexibility program **12**
- Shared appreciation agreements **36**
- Soybeans **75**
- Sugar **8**
- Tuberculosis **12**
- Veterinarians **44**
- Virus-Serum-Toxin Act **59**
- Wetlands **116, 131**
- Federal Estate and Gift Taxation**
 - Administrative expenses **116**
 - Alternate valuation date **164**
 - Appraisals **179**
 - Charitable deduction **99, 107, 179**
 - Claims **44, 156**
 - Article by Harl 73**
 - Disclaimers **8**
 - Donee liability **67**
 - FOBD **8, 60**
 - GSTT **8, 20, 67, 75, 107, 116, 123, 147, 156, 164, 171, 179**
 - Article by Harl 129**
 - Gift **52, 147**
 - IRA **8, 12, 36, 107**
 - Income in respect of decedent **20, 172**
 - Installment payment of estate tax **68, 92, 172**
 - Legal expenses **132**
 - Loans **107**
 - Marital deduction **117, 164, 172**
 - Marital deduction **20**
 - Power of appointment **60**
 - Prepaid expenses
 - Article by Harl 9**
 - Qualified tuition program accounts **172**
 - Refunds **36**
 - Return **12, 117, 156**
 - Special use valuation **108**
 - Transfers with retained interests **8, 75, 108, 147**
 - Trusts **68, 117, 123, 156, 179**
 - Valuation **99, 108, 132, 139**
 - Valuation of stock **9**
 - Article by Harl 177**
- Federal Income Taxation**
 - Legislation
 - Article by McEowen 5**
 - Article by Harl 89**
 - Accountants **140**
 - Accounting method **9, 76, 108, 164, 172**
 - Alimony **156, 164**
 - Alternative fuel credit **179**
 - Alternative fuel vehicle refueling property credit **76**
 - Alternative minimum tax **36, 44, 52, 108, 117, 132, 172**
 - Advanced coal project credit **99**
 - Annuity **76**
 - Archer Medical savings accounts **36, 68**
 - Asset purchase agreement **132**
 - Auctions **156**
 - Bad debts **36, 68, 84**
 - Basis **28**
 - Business expenses **9, 76, 84, 92, 99, 108, 117, 164, 180**
 - Capital assets **52, 60, 117**
 - Capital gains **68, 100**
 - Casualty losses **68, 124**
 - Charities **84**
 - Charitable deduction **100, 124, 148, 157, 172, 180**
 - Commodity certificate gains
 - Article by Harl 113**
 - Community property income **132**
 - Conservation easements **9**
 - Cooperatives **12, 37, 76, 92, 108, 124, 148, 172**
 - Corporations
 - Account method **44, 157**
 - Constructive dividends **148**
 - Corporations
 - Built-in gains **100**
 - Compensation **165**
 - Estimated taxes **124**
 - Formation
 - Article by Harl 25**
 - Liens **157**
 - Personal service corporation **44, 85, 100**
 - Article by Harl 41**
 - Reorganizations **20, 45, 52, 124, 165**
 - Repurchase of stock **140**
 - Returns **180**
 - Suspense accounts **68**
 - Telephone excise tax refund **52**
 - Court awards and settlements **45, 60, 76, 85, 92, 108, 117, 132, 148, 157**
 - Deductions **77**
 - Deferred compensation **124**
 - Dependents **13, 77, 133, 149**
 - Depreciation **9, 60, 69, 109, 140, 149, 173**
 - Article by Harl 57, 161**
 - Disaster losses **13, 21, 28, 37, 45, 52, 60, 69, 77, 85, 93, 100, 109, 118, 124, 133, 140, 149, 157, 165, 173**
 - Disabled access credit **21**
 - Disability payments **92, 109, 149, 165**
 - Discharge of indebtedness **10, 13, 28, 37, 61, 149, 173**
 - Article by Harl 145**
 - Domestic production deduction **52, 77, 85**
 - Earned income credit **37**
 - Electricity production credit **61, 93**
 - Employees **53, 133**
 - Employee benefits **10, 13, 45, 101, 157**
 - Article by Harl 105**
 - Employee expenses **157, 180**
 - Employer identification number **158**
 - Employment taxes **93**
 - Entertainment and travel expenses **28**
 - Environmental remediation costs **125**
 - Estimated taxes **45**
 - Evidence **158**
 - Expense method depreciation **118**
 - Farm income and expenses **101**
 - Foreign income **21, 118, 125, 133, 141, 149, 158, 165, 173, 180**
 - Fuel credit **61**
 - Gambling income **165**
 - Gambling losses **149, 180**
 - Gasoline excise tax **180**
 - Gasification project credit **101**
 - Health savings accounts **37, 86**
 - Heavy-duty hybrid vehicle tax credit **86**
 - Hobby losses **69, 109, 180**
 - Hybrid vehicle tax credit **14, 29, 37, 53, 77, 93, 110, 125, 133, 141, 165, 173, 181**
 - Indians **118**
 - IRA **10, 69, 77, 86, 93, 118, 125, 158, 165**
 - Innocent spouse **21, 125, 133**
 - Installment reporting **10, 93, 133, 181**
 - Insurance expense **110**
 - Interest rate **10, 53, 110, 141**
 - Interest **149**
 - Involuntary conversions **158**
 - Article by Harl 81**
 - Jurisdiction **110**
 - Legal Fees **77**
 - Letter rulings **14**
 - Levy **11**
 - Lien against IRS **101**
 - Life insurance **110, 149**
 - Like-kind exchanges **11, 46, 61, 93, 118, 125**
 - Article by Harl 33, 97**
 - Limited liability company **93, 101, 158**
 - Lodging **61, 93**
 - Losses **29, 53, 125**
 - Lottery winnings **46**
 - Low sulfur diesel fuel **181**
 - Medical expenses **118, 134**
 - Medical savings accounts **77**
 - Mortgage expenses **94, 110**
 - Nonconventional fuel source credit **86**
 - Offers in compromise **29**
 - Partnerships
 - Article by Harl 65**
 - Administrative adjustments **69, 125**
 - Basis adjustment **11, 29, 101, 118**
 - Basis adjustment election **94, 126**
 - Check-the-box election **70**
 - Contributions **14, 141**
 - Distributive share **94**
 - Election to adjust basis **70**
 - Family limited partnerships **29**
 - Gambling losses **110**
 - Guaranteed payments **101**
 - Liquidation **11**
 - Passive activity losses **110, 118**
 - Reorganization **134, 141**
 - Returns **14, 46**
 - Wind energy production credit **165**
 - Passive activity losses **61, 134, 173, 181**
 - Article by Harl 137**
 - Penalties **29, 181**
 - Pension plans **11, 14, 30, 46, 70, 77, 94, 102, 110, 119, 141, 150, 158, 165, 173, 182**
 - Personal service corporation **62**
 - Practice before the IRS **174**
 - Article by Harl 169**
 - Preproductive period expenses **62**
 - Property taxes **94, 126**
 - Qualified alternative fuel motor vehicle credit **174**
 - Qualified debt instruments **14**
 - Qualified fuel cell credit **119**
 - Refunds **14, 134**
 - Renewable diesel fuel credit **62**
 - Rent **37**
 - Repairs **70**
 - Article by Harl 153**
 - Returns **11, 21, 30, 37, 46, 53, 62, 70, 94, 102, 111, 119, 126, 141, 150, 166, 174, 182**
 - Safe harbor interest rates
 - January 2007 **11**
 - February 2007 **22**
 - March 2007 **38**
 - April 2007 **53**
 - May 2007 **70**
 - June 2007 **86**
 - July 2007 **102**
 - August 2007 **119**
 - September 2007 **134**
 - October 2007 **150**
 - November 2007 **167**



- December 2007 **182**
- S corporations**
- Classes of stock **46, 102**
- Depreciation **78**
- Election **167, 174**
- Number of shareholders **158**
- Passive investment income **159**
- Piercing the corporate veil **126**
- Reorganization
- Article by Harl **17**
- Second class of stock **126**
- Shareholder basis **70, 174**
- Transfer of stock **159**
- Trust **142, 158**
- Trust shareholders **14**
- Sale of property **11**
- Sale of residence **15, 22, 111, 142, 182**
- Sale of stock **150**
- Self-employment income **15, 30, 62, 70, 111, 126, 142, 175**
- Article by Harl **1, 49**
- Small tax case **150**
- Social security **167**
- Social security benefits **22, 126**
- Social security tax **182**
- Start-up expenses **22**
- State and local tax deduction **30**
- Stock options **38, 150**
- Stock trading expenses **142**
- Tax-advantaged accounts **86**
- Tax Court jurisdiction **38, 53**
- Tax practitioners **78**
- Tax protesters **87**
- Tax rates **167**
- Tax return preparers **102**
- Tax scams **38, 54, 63, 142**
- Tax shelters **30, 78, 111, 134**
- Telephone excise tax **11, 23, 31, 39, 47, 87, 102**
- Theft loss **12, 15, 39, 135**
- Tip income **47**
- Travel expenses **63, 78, 102, 150, 159**
- Trusts **12, 39, 71, 111, 119, 175**
- Veteran's benefits **175, 183**
- Wages **23, 31, 183**
- Withholding taxes **119, 135, 143, 167**
- Insurance Law**
- Coverage **103**
- Duty to defend **87**
- Exclusion **54**
- Labor**
- Agricultural labor **112**
- Migrant agricultural labor **127**
- Work **150**
- Landlord and Tenant**
- Damages **39**
- Oral lease **127**
- Pasture lease **12**
- Statute of limitations on rent **54**
- Negligence**
- Cut-your-own tree farm **175**
- Nuisance**
- Cattle confinement facility **47**
- Livestock confinement operation **103**
- Pigs **175**
- Probate**
- Life estate **78**
- Partnerships**
- Definition **183**
- Option to purchase partnership interest **103**
- Partnership property **103**
- Product Liability**
- Animal feed **54, 143**
- Combine **143**
- Herbicide **127**
- Tractor **47**
- Property**
- Boundary **151**
- Eminent domain **167**
- Private road **175**
- Public road **79**
- Railroad crossing **23**
- Road easement **183**
- Secured Transactions**
- Perfection **54, 143**
- Priority **63**
- Supplier's lien **135**
- State Regulation of Agriculture**
- Horses **159**
- Horse meat **31**
- State Taxation**
- Agricultural use **183**
- Horses **159**
- Grain bins **103**
- Personal property **112**
- Sales and use tax **151**
- Torts**
- Interference with business relations **151**
- Trespass**
- Damages **87**
- Water Rights**
- Ditch rights **135**
- Ownership **135**
- Workers' Compensation**
- Agricultural laborer **12**
- Injury during employment **55**
- Zoning**
- Spot zoning **87**

FARM INCOME TAX, ESTATE AND BUSINESS PLANNING SEMINARS

by Neil E. Harl

Outrigger Keauhou Beach Resort, Big
Island, Hawai'i. January 8-12, 2008

There is still room for you to spend a week in Hawai'i in January 2008! The seminar s are on January 8-12, 2008 at the spectacular ocean-front Outrigger Keauhou Beach Resort on Keauhou Bay, 12 miles south of the Kona International Airport on the Big Island, Hawai'i.

Seminar sessions run from 8:00 a.m. to 12:00 p.m. each day, Tuesday through Saturday, with a continental breakfast and break refreshments included in the registration fee. Each participant will receive a copy of Dr. Harl's 400+ page seminar manual *Farm Income Tax: Annotated Materials* and the 600+ page seminar manual, *Farm Estate and Business Planning: Annotated Materials*, both of which will be updated just prior to the seminar.

The Agricultural Law Press has made arrangements for substantial discounts on partial ocean view hotel rooms at the Outrigger Keauhou Beach Resort, the site of the seminar.

The seminar registration fee is \$645 for current subscribers to the *Agricultural Law Digest*, the *Agricultural Law Manual* or the *Principles of Agricultural Law*. The registration fee for nonsubscribers is \$695. For more information call Robert Achenbach at 541-466-5544 or e-mail at robert@agrilawpress.com.