

CASES, REGULATIONS AND STATUTES

by Robert P. Achenbach, Jr

FEDERAL FARM PROGRAMS

CONSERVATION PROGRAMS. The Natural Resources Conservation Service (NRCS) and CCC have adopted as final regulations to comply with changes made by the Agricultural Act of 2014 (the 2014 Act) which made several, nondiscretionary changes to the NRCS conservation programs. These conservation programs have existing regulations that require adjustments, including addressing the required review of operating procedures of the State Technical Committee, adding reference of the Regional Conservation Partnership Program (RCPP) to the Watershed Protection and Flood Prevention Act program regulations, adding reference of the RCPP to, and expanding the definition of, “acreage owned by Indian Tribes” under the Healthy Forests Reserve Program (HFRP), revising and simplifying the Regional Equity provision, and adjusting the Agricultural Management Assistance (AMA) program to correspond with changes to payment provisions under the Environmental Quality Incentives Program (EQIP). The Secretary of Agriculture has delegated to NRCS administrative responsibility for implementation of the Voluntary Public Access and Habitat Incentive Program (VPA-HIP) and internal NRCS administrative changes warrant updating the designation of the appropriate delegated official in the technical service provider provision. The final rule implements changes to these NRCS conservation program regulations that are either necessitated by enactment of the 2014 Act or are required to implement administrative streamlining improvements and clarifications. **80 Fed. Reg. 19007 (April 9, 2015).**

FEDERAL ESTATE AND GIFT TAXATION

GENERATION SKIPPING TRANSFER TAX. Two irrevocable trusts were formed by a husband and wife prior to September 25, 1985 and each trust owned a parcel of contiguous farmland. The current beneficiaries were descendants of the grantors of the trusts. The two parcels were acquired at different times and one was landlocked by the other parcel. The trustees of the two trusts decided to sell the two parcels as one unit to avoid having to sell one parcel as land locked. The land was purchased by a limited partnership owned by a lineal descendant of the original grantors. The lineal descendant was trustee of one of the trusts and a contingent beneficiary of the other trust. The sale was negotiated by attorneys for the trusts and the buyer. The IRS ruled that the sale of the farmland did not subject the trusts to GSTT because the sale did not change any of the beneficial interests in the trust and the sale was made at

arm’s length. **Ltr. Rul. 201515002, Oct. 16, 2014.**

GIFTS. The taxpayers, husband and wife, created an irrevocable trust with 60 beneficiaries, their children, lineal descendants and their spouses. The trust was funded by four separate real estate properties including the taxpayers’ residence for a total value of \$3,262,000. The trust granted each beneficiary the power, during the year in which the trust was created and during any subsequent year when property was added, “to withdraw property from the Trust including the property transferred.” The amount “subject to a power of withdrawal by each beneficiary” was limited annually to the lesser of a formula-derived amount and “[t]he maximum federal gift tax exclusion under section 2503(b) * * * in effect at the time of the transfer.” If any beneficiary had a disagreement with the trustee as to any requested distribution, the trust required the dispute “shall be submitted to arbitration before a panel consisting of three persons of the Orthodox Jewish faith.” The taxpayers claimed annual gifts of \$720,000 by allocating \$24,000 to each beneficiary. In addition, the trust document had an *in terrorem* clause which revoked a beneficiary’s rights “in the event a beneficiary of the Trust shall directly or indirectly institute, conduct or in any manner whatever take part in or aid in any proceeding to oppose the distribution of the Trust Estate, or files any action in a court of law, or challenges any distribution set forth in this Trust in any court, arbitration panel or any other manner. . .” The IRS disallowed the gift tax exclusions based on the argument that the beneficiaries were never intended to receive the annual distributions and, under the *in terrorem* clause would be reluctant to pursue enforcement of the distribution right; therefore, they did not receive an enforceable present interest in the trust. However, the court pointed out that the *in terrorem* clause did not apply to the annual distribution rights and that beneficiaries did have the right to arbitration through the arbitration panel. Thus, the court held that the trust did create present interests in the trust for the beneficiaries and the gift tax exclusion applied. **Mikel v. Comm’r, T.C. Memo. 2015-64.**

FEDERAL INCOME TAXATION

CAPITAL EXPENSES. The taxpayer was a limited partnership which planned to construct a 76 unit low-income residential building. The building site was zoned for commercial use and the taxpayer had to obtain a conditional use permit. The permit was granted subject to relocation of an easement on the property. The taxpayer paid the grantee of the easement an amount of money in exchange for the relocation of the easement to another property. The IRS ruled that the costs of the relocation of the easement were capitalized indirect costs of the construction of the building and were included in the taxpayer’s basis in the property built on the land subject to the easement prior to its relocation. **Ltr. Rul. 201515007, Nov. 4, 2014.**

CHARITABLE DEDUCTIONS. The taxpayer claimed non-cash charitable contributions made to two charities. The taxpayer provided evidence of the donations in the form of receipts but most of the receipts were missing one or more elements of identification of the donation. The donations were described as TVs, furniture, stereos, living room furniture, clothes and blankets, washer and dryer. The receipts did not provide any description of the condition of the items or any statement of the value of each item. Several receipts were missing any value amount and several receipts did not contain a signature of the charitable organization. The taxpayer also did not obtain any signed statement that the taxpayer did not receive anything in return for the donations. The court upheld the IRS denial of a charitable deduction for all the items because (1) for those items of \$250 to \$500 in value, the taxpayer failed to provide a specific description of each item donated sufficient to determine its value and (2) for donations above \$500 in value, the taxpayer failed to provide evidence of the acquisition date of the property, the acquisition cost or a statement of why such information was not available. In both cases, the taxpayer also failed to obtain a signed statement that the taxpayer did not receive anything in return for the donations. **Howe v. Comm’r, T.C. Summary Op. 2015-26.**

COOPERATIVES. The taxpayer was a taxable rural telephone cooperative. The taxpayer purchased cellular telephone spectrum for use in providing cell phone service to its customers. However, the taxpayer was forced to sell the spectrum because of unanticipated inadequacy of the spectrum, the onerous time constraints on the use of such spectrum, and the assessment that services provided over wireless spectrum require a much larger scale than what the taxpayer was capable of providing. Therefore, the taxpayer sold the spectrum to an unrelated third party. The IRS ruled that the gain from the resale of the spectrum was qualified patronage-sourced income. **Ltr. Rul. 201515012, Dec. 16, 2014.**

DISASTER LOSSES. On March 12, 2015, the President determined that certain areas in Maine are eligible for assistance from the government under the Disaster Relief and Emergency Assistance Act (42 U.S.C. § 5121) as a result of an severe winter storm which began on January 26, 2015. **FEMA-4208-DR.** On March 25, 2015, the President determined that certain areas in New Hampshire are eligible for assistance from the government under the Act as a result of a severe winter storm which began on January 26, 2015. **FEMA-4209-DR.** On March 31, 2015, the President determined that certain areas in West Virginia are eligible for assistance from the government under the Act as a result of a severe winter storm which began on March 3, 2015. **FEMA-4210-DR.** On April 2, 2015, the President determined that certain areas in Tennessee are eligible for assistance from the government under the Act as a result of a severe winter storm which began on February 15, 2015. **FEMA-4211-DR.** On April 3, 2015, the President determined that certain areas in Rhode Island are eligible for assistance from the government under the Act as a result of a severe winter storm which began on January 26, 2015. **FEMA-4212-DR.** Accordingly, taxpayers in the areas may deduct the losses on their 2014 federal income tax returns. See I.R.C. § 165(i).

ELECTRICITY PRODUCTION CREDIT. The 2015 inflation-adjustment factors used in determining the availability of the credit for renewable electricity production, refined coal production, and Indian coal production under I.R.C. § 45 for qualified energy resources and refined coal is 1.5366. For calendar year 2015, the credit period for Indian coal production has expired. The credit for refined coal production is \$6.601 per ton of qualified refined coal sold in 2014. The 2015 reference price for fuel used as feedstock is \$57.64 per ton. The amount of the credit is 4.5 cents per kilowatt hour on sales of electricity produced from wind energy. Because the 2015 reference price for electricity produced from wind does not exceed eight cents multiplied by the inflation adjustment factor, the phaseout of the credit does not apply to such electricity sold during calendar year 2015. Because the 2015 reference price for fuel used as feedstock for refined coal does not exceed the \$31.90 reference price of such fuel in 2002 multiplied by the inflation adjustment factor plus 1.7, the phaseout of the credit does not apply to refined coal sold during calendar year 2015. The phaseout of the credit for electricity produced from closed-loop biomass, open-loop biomass, geothermal energy, solar energy, small irrigation power, municipal solid waste, qualified hydropower production, marine and hydrokinetic renewable energy does not apply to such electricity sold during calendar year 2015. The reference prices for facilities producing electricity from closed-loop biomass, open-loop biomass, geothermal energy, solar energy, small irrigation power, municipal solid waste, qualified hydropower production, marine and hydrokinetic renewable energy for 2015 have not yet been determined. **80 Fed. Reg. 20295 (April 15, 2015).**

FOREIGN HOUSING EXPENSES. I.R.C. § 911(a) allows a qualified individual to elect to exclude from gross income the foreign earned income and housing cost amount of such individual. I.R.C. § 911(c)(1) defines the term “housing cost amount” as an amount equal to the excess of (1) the housing expenses of an individual for the taxable year to the extent such expenses do not exceed the amount determined under I.R.C. § 911(c)(2), over (2) 16 percent of the exclusion amount (computed on a daily basis) in effect under I.R.C. § 911(b)(2)(D) for the calendar year in which such taxable year begins (\$276.16 per day for 2015, or \$100,800 for the full year), multiplied by the number of days of that taxable year within the applicable period described in I.R.C. § 911(d)(1). The applicable period is the period during which the individual meets the tax home requirement of I.R.C. § 911(d)(1) and either the bona fide residence requirement of I.R.C. § 911(d)(1)(A) or the physical presence requirement of I.R.C. § 911(d)(1)(B). Assuming that the entire taxable year of a qualified individual is within the applicable period, the I.R.C. § 911(c)(1)(B) amount for 2015 is \$16,128 (\$100,800 x .16). I.R.C. § 911(c)(2)(A) limits the housing expenses taken into account in I.R.C. § 911(c)(1)(A) to an amount equal to (1) 30 percent (adjusted as may be provided under the Secretary’s authority under I.R.C. § 911(c)(2)(B)) of the amount in effect under I.R.C. § 911(b)(2)(D) for the calendar year in which the taxable year of the individual begins, multiplied by (2) the number of days of that taxable year within the applicable period described in I.R.C. § 911(d)(1).

Thus, under this general limitation, a qualified individual whose entire taxable year is within the applicable period is limited to maximum housing expenses of \$30,240 (\$100,800 x .30) in 2015. **Notice 2015-33, I.R.B. 2015-18.**

HEALTH INSURANCE. The The IRS has provided answers to tax filing questions for individuals who have received incorrect Forms 1095-A, *Health Insurance Marketplace Statements*. If the taxpayer was enrolled in qualifying Marketplace coverage, filed a return using information from a Form 1095-A, and later learned that the information on that form was incorrect, the taxpayer does not need to file an amended return. This is true even if additional taxes would be owed based on the new information. Under the relief provided, the IRS will not pursue the collection of any additional taxes from taxpayers based on updated information in the corrected form. This relief applies to tax filers who enrolled through the federally-facilitated Marketplace or a state-based Marketplace. The following questions are answered on IRS.gov/aca on the Affordable Care Act Questions and Answers page with the title: "Incorrect Forms 1095-A and the Premium Tax Credit." (1) What relief was announced on March 20, 2015? (2) What additional relief is being announced? (3) How will I know if my Form 1095-A, *Health Insurance Marketplace Statement*, is wrong or delayed? In addition, the web page provides specific answers for individuals who have filed their 2014 income tax return and for those who have not yet filed. **Health Care Tax Tip 2015-25.**

The IRS has issued a notice which provides penalty relief for taxpayers who received a Form 1095-A, *Health Insurance Marketplace Statement*, that was delayed or that the taxpayer believes to be incorrect and who timely filed their 2014 income tax return, including extensions. The notice provides relief from the penalty under I.R.C. § 6651(a)(2) for late payment of a balance due, the penalty under I.R.C. § 6651(a)(3) for failure to pay an amount due upon notice and demand, the penalty under I.R.C. § 6654(a) for underpayment of estimated tax, and the accuracy-related penalty under I.R.C. § 6662. This relief applies only for the 2014 taxable year. **Notice 2015-30, I.R.B. 2015-17.**

The IRS has issued a notice which reiterates the conclusion in previous guidance addressing employer payment plans, including *Notice 2013-54, 2013-2 C.B. 287*, that employer payment plans are group health plans that will fail to comply with the market reforms that apply to group health plans under the Affordable Care Act (ACA). For this purpose, an employer payment plan as described in *Notice 2013-54* refers to a group health plan under which an employer reimburses an employee for some or all of the premium expenses incurred for an individual health insurance policy or directly pays a premium for an individual health insurance policy covering the employee, such as arrangements described in *Rev. Rul. 61-146, 1961-2 C.B. 25*. The notice also provides transition relief from the assessment of excise tax under I.R.C. § 4980D for failure to satisfy market reforms in certain circumstances. The transition relief applies to employer healthcare arrangements that constitute (1) employer payment plans, as described in *Notice 2013-54*, if the plan is sponsored by an employer that is not an Applicable Large Employer under I.R.C. § 4980H(c)(2) and §§ 54.4980H-1(a)(4) and -2; (2) S corporation healthcare arrangements for 2-percent shareholder-

employees; (3) Medicare premium reimbursement arrangements; and (4) TRICARE- related health reimbursement arrangements (HRAs). **Notice 2015-17, 2015-1 C.B. 845.**

PARTNERSHIPS

ELECTION TO ADJUST BASIS. The taxpayer was an LLC which elected to be taxed as a partnership. During the tax year, a partner died and the decedent's partnership interest was transferred to another partner. The IRS granted an extension of time to file an amended return with the election. The ruling was contingent on the taxpayer adjusting the basis of its properties to reflect any I.R.C. § 734(b) or I.R.C. § 743(b) adjustments that would have been made if the I.R.C. § 754 election had been timely made. The basis adjustments must reflect any additional depreciation that would have been allowable if the I.R.C. § 754 election had been timely made, regardless of whether the statutory period of limitation on assessment or filing a claim for refund has expired for any year subject to this grant of late relief. Any depreciation deduction allowable for an open year is to be computed based upon the remaining useful life and using property basis as adjusted by the greater of any depreciation deduction allowed or allowable in any prior year had the I.R.C. § 754 election been timely made. The members of the taxpayer must adjust the basis of their interests in the taxpayer to reflect what that basis would be if the I.R.C. § 754 election had been timely made, regardless of whether the statutory period of limitation on assessment or filing a claim for refund has expired for any year subject to this grant of late relief. Specifically, the members of the taxpayer must reduce the basis of their interests in the taxpayer in the amount of any additional depreciation that would have been allowable if the I.R.C. § 754 election had been timely made **Ltr. Rul. 201514002, Dec. 4, 2014.**

SMALL PARTNERSHIP EXCEPTION. The taxpayers were husband and wife and owned 59.99 percent of a partnership. The rest of the partnership was owned 39.99 percent by another individual and 0.02 percent by a limited liability company, taxed as a partnership. The taxpayer originally claimed an interest deduction on their Schedule C but most of the deduction was disallowed in an IRS audit. The taxpayers then argued that the interest deduction should have been taken by the partnership which increased the amount of flow-through loss from the partnership. Neither the IRS nor the taxpayer commenced TEFRA administrative proceedings and, under TEFRA, the partnership items could no longer be changed. However, the taxpayers argued that the partnership qualified as a small partnership under I.R.C. § 6231(a)(1)(B)(i) such that TEFRA did not apply and the partnership items were subject to change. The court held that the partnership did not qualify for the small partnership exception because one member was a pass-through entity. The taxpayers argued that the partnership held such a small interest, it should be ignored. However, the court held that the small partnership exception did not provide a *de minimis* exception to its entity member rule. **Brumbaugh v. Comm'r, T.C. Memo. 2015-65.**

PASSIVE ACTIVITY LOSSES. The taxpayers, husband and wife, owned 12 residential rental properties. The wife performed most of the management and repair activities for the properties. The parties agreed that the wife materially participated in the rental activity. The wife maintained a detailed log of work in the

real estate activity but the log did not include the travel from their residence to the properties and back. Without the travel time, the wife spent 632.5 hours on the activity. The wife attempted to amend the log to include the travel times, based on the location of the property worked on each day, which increased the time to over 750 hours, but the amended time was rejected by the IRS. The court held that the taxpayer had adequately shown that the wife had spent more than 750 hours on the activity because the log books had sufficient information to corroborate the claimed travel times. **Leyh v. Comm'r, T.C. Summary Op. 2015-27.**

The taxpayers, husband and wife, owned an S corporation which operated a real estate company and a C corporation which operated a medical clinic. The husband worked full time for the medical clinic and materially participated in its operation. Neither taxpayer materially participated in the real estate activity and were not engaged in a "real property trade or business" as described in I.R.C. § 469(c)(7)(B), (C). The real estate company leased real property to the C corporation and the taxpayer reported the rental income as passive income on Schedule E. Treas. Reg. § 1.469-2(f)(6) generally recharacterizes as nonpassive the net rental activity income from an item of property if the property is rented for use in a trade or business activity in which the taxpayer materially participates. The taxpayers raised two arguments that the "self-rental" rule did not apply in this case. First, the taxpayer argued that I.R.C. § 469 did not apply to S corporations. The court disagreed, noting that the case law was well settled that I.R.C. § 469 passive loss rules apply to pass-through entity income. The taxpayers also argued that the "self rental" is inapplicable because S corporation, as the lessor, did not participate in the trade or business of the C corporation as lessee. The court held that the application of the rule as to the taxpayers was valid in that the taxpayers received the income from the rental activity and the application of the rule affected the character of that income. **Williams v. Comm'r, T.C. Memo. 2015-76.**

PENALTIES. The IRS has published information about untimely filing and paying of taxes. If a taxpayer is due a refund there is no penalty for a late filed tax return. But if the taxpayer owes tax and failed to file and pay on time, the taxpayer will usually owe interest and penalties on the tax paid late. Taxpayers should file their tax returns and pay the tax as soon as possible to stop the increase of the penalties. (1) *Two penalties may apply.* If a taxpayer files a federal tax return late and owes tax with the return, two penalties may apply. The first is a failure-to-file penalty for late filing. The second is a failure-to-pay penalty for paying late. (2) *Penalty for late filing.* The failure-to-file penalty is normally 5 percent of the unpaid taxes for each month or part of a month that a tax return is late. It will not exceed 25 percent of the unpaid taxes. (3) *Minimum late filing penalty.* If a taxpayer files a return more than 60 days after the due date or extended due date, the minimum penalty for late filing is the smaller of \$135 or 100 percent of the unpaid tax. (4) *Penalty for late payment.* The failure-to-pay penalty is generally 0.5 percent per month of the unpaid taxes. It applies for each month or part of a month the taxes remain unpaid and starts accruing the day after taxes are due. It can build up to as much as 25 percent of the unpaid taxes. (5) *Combined penalty per month.* If the failure-to-file penalty and

the failure-to-pay penalty both apply in any month, the maximum amount charged for those two penalties that month is 5 percent. (6) *File even if the taxpayer can't pay.* In most cases, the failure-to-file penalty is 10 times more than the failure-to-pay penalty. So if a taxpayer cannot pay in full, the taxpayer should file the tax return and pay as much as the taxpayer can. Taxpayers may use IRS Direct Pay to pay the tax directly from a checking or savings account. Taxpayers should try other options to pay, such as getting a loan or paying by debit or credit card. The IRS will work with taxpayers to help resolve the tax debt. Most people can set up an installment agreement with the IRS using the Online Payment Agreement tool on IRS.gov. (7) *Late payment penalty may not apply.* If the taxpayer requested an extension of time to file the income tax return by the tax due date and paid at least 90 percent of the taxes owed, the taxpayer may not face a failure-to-pay penalty. However, the taxpayer must pay the remaining balance by the extended due date. The taxpayer will owe interest on any taxes paid after the April 15 due date. (8) *No penalty if reasonable cause.* Taxpayers will not have to pay a failure-to-file or failure-to-pay penalty if they can show reasonable cause for not filing or paying on time. **IRS Tax Tip 2015-63.**

PENSION PLANS. For plans beginning in April 2015 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 2.63 percent. The 30-year Treasury weighted average is 3.24 percent, and the 90 percent to 105 percent permissible range is 2.91 percent to 3.40 percent. The 24-month average corporate bond segment rates for April 2015, without adjustment by the 25-year average segment rates are: 1.26 percent for the first segment; 4.07 percent for the second segment; and 5.13 percent for the third segment. The 24-month average corporate bond segment rates for April 2015, taking into account the 25-year average segment rates, are: 4.72 percent for the first segment; 6.11 percent for the second segment; and 6.81 percent for the third segment. **Notice 2015-31, I.R.B. 2015-17.**

SAFE HARBOR INTEREST RATES

May 2015

	Annual	Semi-annual	Quarterly	Monthly
Short-term				
AFR	0.43	0.43	0.43	0.43
110 percent AFR	0.47	0.47	0.47	0.47
120 percent AFR	0.52	0.52	0.52	0.52
Mid-term				
AFR	1.53	1.52	1.52	1.52
110 percent AFR	1.68	1.67	1.67	1.66
120 percent AFR	1.83	1.82	1.82	1.81
Long-term				
AFR	2.30	2.29	2.28	2.28
110 percent AFR	2.54	2.52	2.51	2.51
120 percent AFR	2.77	2.75	2.74	2.73

Rev. Rul. 2015-8, I.R.B. 2015-18.

STATE TAXES. The taxpayer was a member of a professional limited liability company which was taxed as a partnership for federal income tax purposes. The LLC had offices in several states and the taxpayer paid nonresident income tax in those states, even though the taxpayer did not perform services in those states. The taxpayer reported the share of LLC income from Schedule

K-1 on Schedule E and claimed a deduction on Schedule E for the state nonresident income taxes paid as unreimbursed partnership expenses. The taxpayer argued that the state nonresident income taxes were constructively or actually imposed on the LLC because the taxpayer did not perform services in those states. The court held that the taxpayer, as a managing partner, had a sufficient nexus with each state for the state to impose the nonresident income taxes and that the taxes were imposed on the taxpayer and not the LLC. Therefore, the state nonresident income taxes were deductible only on Schedule A. **Cutler v. Comm'r, T.C. Memo. 2015-73.**

NUISANCE

RIGHT-TO-FARM. The plaintiffs were neighbors of the defendants' concentrated hog-raising operation and filed suit in nuisance because of odors from the on-site manure disposal system. The defendants argued that the Missouri right-to-farm statute, Rev. Stat. Mo. § 537.296, prevented the suit. The plaintiffs argued that the statute was unconstitutional because the statute: (1) violates article I, section 28 of the Missouri Constitution by authorizing a private taking; (2) violates article I, section 26 of the Missouri Constitution by authorizing a taking for public use without just compensation; (3) violates the equal protection clause of the state and federal constitutions; (4) denies substantive due process and violates article I, section 2 of the Missouri Constitution; (5) violates the separation of powers required by article II, section I of the Missouri Constitution by statutorily defining "standing;" (6) violates the open courts provision of article I, section 14 of the Missouri Constitution; and (7) violates the prohibition against special laws set forth in article III, section 40 of the Missouri Constitution. The trial court ruled for the defendants and the plaintiffs appealed on the constitutional issues. On appeal, the appellate court rejected the plaintiffs constitutional arguments, holding (1) the statute was not a private taking because the state had a public economic development purpose; (2) the public taking claim was not ripe for adjudication because a permanent injunction was not sought and the statute allowed for recovery of any diminished rental value; (3) the statute does not deny equal protection rights or due process because there is no basis for concluding that the statute creates a suspect classification requiring strict scrutiny or impinges a fundamental right; (4) the statute does not delegate the judicial determination of standing to the legislature; and (5) the statute does not create a facially unconstitutional closed-ended classification because providing some protection from nuisance lawsuits for those who devote their property primarily for agriculture creates an open-ended classification based on current land use. **Babrayere v. Bohr Farms, LLC, No. SC93816 (Mo. April 14, 2015).**

IN THE NEWS

REPEAL OF ESTATE TAX. H.R. 1105 would amend the Internal Revenue Code to repeal the estate tax for estates of individuals dying on or after the date of enactment. The bill would

also repeal the generation-skipping transfer tax for such transfers made on or after the date of enactment. In addition, H.R. 1105 would lower the top marginal gift tax rate from 40 percent to 35 percent. The staff of the Joint Committee on Taxation (JCT) estimates that enacting H.R. 1105 would reduce revenues, thus increasing federal deficits, by about \$269 billion over the 2015-2025 period. **2015ARD 069-3 (CCH) April 2, 2015.**

FARM ESTATE AND BUSINESS PLANNING

by Neil E. Harl

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The Agricultural Law Press is honored to publish the revised 18th Edition of Dr. Neil E. Harl's excellent guide for farmers and ranchers who want to make the most of the state and federal income and estate tax laws to assure the least expensive and most efficient transfer of their estates to their children and heirs. The 18th Edition includes all new income and estate tax developments from the 2012 tax legislation and Affordable Care Act.

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AGRICULTURAL TAX SEMINARS

by Neil E. Harl

See the back page for information about these seminars. Here are the cities and dates for the seminars this spring and summer 2015:

April 28-29, 2015 - Doubletree, Springfield, MO

May 4-5, 2015 - Quality Inn, Grand Island, NE

May 28-29, 2015 - Plaza Event Center, Longmont, CO

June 16-17, 2015 - Eastland Suites, Bloomington, IL

June 18-19, 2015 - Holiday Inn, Indianapolis, IN

August 24-25, 2015 - Holiday Inn, Council Bluffs, IA

August 27-28, 2015 - Quality Inn, Ames, IA

September 3 & 4, 2015 - Truman State University, Kirksville, MO

September 14 & 15, 2015 - Courtyard Hotel, Moorhead, MN

September 17 & 18, 2015 - Ramkota Hotel, Sioux Falls, SD

Each seminar will be structured the same as described on the back cover of this issue. More information will be posted on www.agrilawpress.com and in future issues of the *Digest*.



AGRICULTURAL TAX SEMINARS

by Neil E. Harl

Join us for expert and practical seminars on the essential aspects of agricultural tax law. Gain insight and understanding from one of the country's foremost authorities on agricultural tax law. The seminars will be held on two days from 8:00 am to 5:00 pm. Registrants may attend one or both days. On the first day, Dr. Harl will speak about farm and ranch estate and business planning. On the second day, Dr. Harl will cover farm and ranch income tax. Your registration fee includes written comprehensive annotated seminar materials for the days attended and lunch. A discount (\$25/day) is offered for attendees who elect to receive the manuals in PDF format only (see registration form online for use restrictions on PDF files).

See Page 71 above for a list of cities and dates for Spring and Summer 2015

The topics include:

First day

FARM ESTATE AND BUSINESS PLANNING

New Legislation

Succession planning and the importance of fairness

The Liquidity Problem

Property Held in Co-ownership

- Federal estate tax treatment of joint tenancy
- Severing joint tenancies and resulting basis
- Joint tenancy and probate avoidance
- Joint tenancy ownership of personal property
- Other problems of property ownership

Federal Estate Tax

- The gross estate
- Special use valuation
- Property included in the gross estate
- Traps in use of successive life estates
- Basis calculations under uniform basis rules
- Valuing growing crops
- Claiming deductions from the gross estate
- Marital and charitable deductions
- Taxable estate
- The applicable exclusion amount
- Unified estate and gift tax rates
- Portability and the regulations
- Federal estate tax liens
- Undervaluations of property

Gifts

- Reunification of gift tax and estate tax
- Gifts of property when debt exceeds basis

Use of the Trust

The General Partnership

- Small partnership exception
- Eligibility for Section 754 elections

Limited Partnerships

Limited Liability Companies

- Developments with passive losses

Corporate-to-LLC conversions

New regulations for LLC and LLP losses

Closely Held Corporations

- State anti-corporate farming restrictions
- Developing the capitalization structure
- Tax-free exchanges
- Would incorporation trigger a gift because of severance of land held in joint tenancy?
- "Section 1244" stock
- Status of the corporation as a farmer
- The regular method of income taxation
- The Subchapter S method of taxation, including the "two-year" rule for trust ownership of stock
- Underpayment of wages and salaries
- Financing, Estate Planning Aspects and Dissolution of Corporations
- Corporate stock as a major estate asset
- Valuation discounts
- Dissolution and liquidation
- Reorganization
- Entity Sale
- Stock redemption
- Social Security
- In-kind wages paid to agricultural labor

Second day

FARM INCOME TAX

New Legislation

Reporting Farm Income

- Constructive receipt of income
- Deferred payment and installment payment arrangements for grain and livestock sales
- Using escrow accounts
- Payments from contract production
- Items purchased for resale
- Items raised for sale
- Leasing land to family entity
- Crop insurance proceeds

Weather-related livestock sales

Sales of diseased livestock

Reporting federal disaster assistance benefits

- Gains and losses from commodity futures, including consequences of exceeding the \$5 million limit

Claiming Farm Deductions

- Soil and water conservation expenditures
- Fertilizer deduction election
- Depreciating farm tile lines
- Farm lease deductions
- Prepaid expenses
- Preproductive period expense provisions
- Regular depreciation, expense method depreciation, bonus depreciation
- Repairs and Form 3115; changing from accrual to cash accounting
- Paying rental to a spouse
- Paying wages in kind
- Section 105 plans

Sale of Property

- Income in respect of decedent
- Sale of farm residence
- Installment sale including related party rules
- Private annuity
- Self-canceling installment notes
- Sale and gift combined.

Like-Kind Exchanges

- Requirements for like-kind exchanges
- "Reverse Starker" exchanges
- What is "like-kind" for realty
- Like-kind guidelines for personal property
- Partitioning property
- Exchanging partnership assets

Taxation of Debt

- Turnover of property to creditors
- Discharge of indebtedness
- Taxation in bankruptcy.

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