

from other sources which was offset by the net losses from the farm activity. **Whalley v. Comm'r, T.C. Memo. 1996-533.**

INTEREST RATE. The IRS has announced that for the period January 1, 1997 through March 31, 1997, the interest rate paid on tax overpayments is 8 percent and for underpayments is 9 percent. The interest rate for underpayments by large corporations is 11 percent. The interest rate on corporate overpayments above \$10,000 is 6.5 percent. **Rev. Rul. 96-61, I.R.B 1996-__.**

INVOLUNTARY CONVERSION. The taxpayers owned interests in a ranch held for investment because the property was leased to third parties. A neighboring city notified the taxpayers of its intent to purchase the property for use as a site to construct a sewage plant. The city entered into sale negotiations but informed the taxpayers that if a price could not be negotiated, condemnation proceedings would occur. The IRS ruled that the negotiated sale of the ranch to the city was an involuntary conversion which would make purchase of qualified replacement property eligible for a tax-free exchange. **Ltr. Rul. 9649018, Sept. 3, 1996.**

PARTNERSHIPS-ALM § 7.03[2].*

PARTNER'S DISTRIBUTIVE SHARE. The IRS has issued proposed regulations relating to the allocation of depreciation recapture among partners in a partnership. The proposed regulations amend existing regulations to require that any gain characterized as depreciation recapture must be allocated to each partner in an amount equal to the lesser of the partner's share of total gain from the sale of the property or the partner's share of depreciation from the property. **61 Fed. Reg. 65371 (Dec. 12, 1996).**

RETURNS. The IRS has issued a reminder that all tax returns will be required to have valid taxpayer identification numbers for taxpayers, spouses and dependents born before December 1, 1996. Temporary, "applied for" and other substitute designations will not be accepted. Form W-7, Application for IRS Individual Taxpayer Identification Number can be obtained from the IRS web site: <http://www.irs.ustreas.gov> or calling the IRS toll-free number 1-800-829-3676.

CCH has reported that final regulations concerning the check-the-box entity classification are imminent. The regulations were expected to have been delivered to the Federal Register by December 13, 1996, for publishing by the end of theyear. The Federal Register may be searched and viewed online at:

http://www.access.gpo.gov/su_docs/aces/aaces002.html

S CORPORATIONS-ALM § 7.02[3][c].*

TRUSTS. The taxpayer created an annuity trust for the benefit of the taxpayer. If the taxpayer survived the term of the annuity trust, the trust S corporation stock passed to one trust and other property passed to a family trust, both of which terminated at the later of the annuity term or the death of the taxpayer. The taxpayer had the power to acquire property in these trusts in exchange for property of identical value. At the termination of these two trusts, the corpus passed to the surviving spouse with remainders to separate trusts for the taxpayer's children. The IRS ruled that the trusts were grantor trusts during the life of the taxpayer and all income and deductions inured to the taxpayer. The IRS also ruled that the trust were QSSTs. **Ltr. Rul. 9648045, Sept. 3, 1996.**

Index to Volume 7, Nos. 1-24

Pages of current issue items in **bold**.

Adverse Possession

Fence 86, 174
Possession 50, 166
Public easement 166

Animals

Animal nuisance 86
Bull 158
Cattle 79, 182
Cows 95, 143, 174
Horses 102, 110, 158

Bankruptcy

General

Administrative expenses 71, 182
Automatic stay 10, 42, 102, 166
Avoidable liens 167
Avoidable transfers 34, 42, 143
Claims 10, 150
Discharge 2, 118, 143, **191**
Environmental cleanup costs 10
Estate property 18, 42, 50
Exemptions
Avoidable liens 143
Earned income tax credit 183
Homestead 18, 35, 43, 110
IRA 10, 65
Objections 95
Pre-petition conversions 19
Grain storage facility 65
Jurisdiction 50
Limited Liabilities Companies 2
Plan 65, 126
Preferential transfers 118, 167, 183

Priority 2, 110, 167
Reopening of case 119
Revocation of discharge 19
Trustee liability 183

Chapter 12

Conversion 119
Discharge 65
Dismissal 35
Eligibility 87, 126
Plan 35, 119, **191**
Plan modification 102
Reopening case 65
Trustee fee 43, 102, 127
Valuation 110

Chapter 13

Allocation of plan payments of taxes 183
Discharge **192**
Disposable income 158
Eligibility 144
Plan 2, 127, 136
Trustee fee 2

Federal taxation

Abandonment 3
Absolute priority rule 111
Administrative expenses 87, 103
Allocation of tax payments 127, 144, **192**
Assessment 71, 95
Automatic stay 19, 35, 51, 71, 150
Avoidable liens 3, 103
Avoidable transfers 95
Claims 3, 11, 19, 26, 51, 95, 103, 144, 183
Compromise offers 80

Discharge 3, 19, 26, 35, 51, 66, 80, 95, 103, 111, 119, 136, 144, 150, 159, 167, 174, **192**
Dismissal 19, 71, 95, 127, 150, 159, 175, 183
Earned income tax credit 151, 159
Estate property 119
Innocent spouse 159
Interest 183
Levy 111
Net operating losses 151, 167
Notice to IRS 19
Passive activity losses 51, 119
Plan 103
Post-petition taxes 183
Preferential transfers 35
Priority 11, 51, 87
Refund 80, 96, 145
Returns 175, 183
Reopening case 87
Secured claims 96
Setoff 3, 119, 145
Sovereign immunity **192**
Statute of limitations 87
Tax lien 71, 80, 103
Tax year 43

Contracts

Breach of contract 80
Entrustment 71
Excuse 26
Farmer as merchant 72
Guarantee 127
Hedge-to-arrive contracts 175
Implied warranty 71
Merchant 36

- Noncompetition agreement 88
- Promissory note 111
- Rejection 27
- Release 36
- Sale of goods 96
- Termination 11
- Employment**
 - Breach of loyalty 111
- Environmental Law**
 - Dairy farms 27
- Federal Agricultural Programs**
 - Administration 3
 - Agricultural labor 88
 - Appeals 145
 - Brucellosis 11, 20, 72, 88, 159, 176, 184
 - Cheese 11
 - Conservation 145, 151, 159, 168
 - Conservation Reserve Program 66
 - Crop insurance 51, 104, 128, 145, 151, 159, 168, 176, 184
 - Dairy Termination Program 43
 - Disaster assistance 11
 - Eggs 80
 - Emergency livestock assistance 112
 - Export of cattle 81
 - FAIR 1996 57, 72
 - Farm loans 120, 128, 145, 151, 168
 - Grain certification 4
 - Grain handling facility 66
 - Grain standards 88, 96
 - Grazing permits 27
 - Handbooks 88
 - Herbicides 72, 82, 88, 96, 112
 - Horses 176
 - Imports 168
 - Inspector general 12
 - Irradiation 96
 - Livestock 176
 - National Forests 4, 43
 - Marketing orders 20
 - Meat inspection 27, 72
 - Milk 12, 88, 159
 - PACA 12, 20, 72, 96, 137, 151, 160, 168, 176
 - Packers and Stockyards Act 176
 - Payment limitations 168
 - Peanuts 4, 120, 176, 184, **193**
 - Pesticides 36, 168
 - Poultry 177
 - Seeds 168
 - Sheep 151
 - Soils 104
 - Tobacco 112, 128, 168, **193**
 - Tuberculosis 4
 - Vaccines 88
 - Warehouses 120
 - Wheat and feed grains 72
 - Wetlands 4, 160
- Federal Estate and Gift Tax**
 - Administrative expenses 44
 - Annuities 4, 44
 - Apportionment of taxes 36
 - Capital gains 168
 - Charitable deduction 51, 67, 104, 120, 137
 - Claims against estate 104, 137
 - Deductions 4, 104
 - Disclaimers 51, 120, 137, 152, 160, 184
 - Executor liability 104
 - Generation skipping transfers 4, 20, 36, 52, 81, 104, 112, 120, 138, 169, 177
 - Gift 13, 20, 97, 112, 169, 184, **193**
 - Gifts of commodity futures contracts 67
 - Gross estate 44, 128, 152, 161, 184
 - Income in respect of decedent 4
 - Installment payment of estate tax 13, 88, 138, 145
 - Interest deduction 128
 - IRA 37, 44, 72, 104, 112
 - Joint tenancy property 88, 104, 177
 - Life insurance 21, 105, 145
 - Loans with below market interest rates 27
 - Marital deduction 5, 21, 28, 44, 52, 81, 105, 113, 138, 177, 184
 - Power of appointment 52, 105, 169
 - Power of attorney 13, 21, 138
 - Refund 97
 - Returns 21, 113, 128
 - Special use valuation 45, 67, 169, 177, 185
 - Tax lien 45, 185
 - Transfers with retained interests 21, **193**
 - Trustee liability for tax 152
 - Trusts 37, 45, 105, 161, **193**
 - Valuation 5, 28, 37, 45, 52, 67, 72, 81, 89, 113, 121, 152, 161, 185
- Federal Income Taxation**
 - Accounting period 152
 - Alternative minimum tax 161
 - Audit guidelines 73, 97
 - Appeals 138
 - Assessments 169
 - Assignment of income 13
 - Bad debts 5, 28, 45, 81, 89, 106, 185
 - Biomass fuels credit 161
 - Business deductions 37, 53, 89, 113, 138, 146, 152
 - C corporations
 - Accounting method 28
 - Compensation of officers 162
 - Conversion 37
 - Liquidation 37
 - Loan or capital contribution 53
 - Reorganizations 13
 - Small business stock 97, 178
 - Stock redemption 128
 - Capital expenses 81, 89
 - Casualty losses 53, 97, 106, 129, 153
 - Charitable deductions 146, 161
 - Conservation easement 21, 129
 - Constructive income 5
 - Constructive receipt 162
 - Cooperative 53, 73
 - Cost of goods sold 121
 - Court awards and settlements 5, 21, 89, 97, 106, 185, **193**
 - Depreciation 5, 29, 45, 53, 68, 82, 129, 153
 - Definition of farming 73
 - Demolition 106
 - Disaster areas 45
 - Discharge of indebtedness 13, 38, 45
 - Employees 162
 - Employee benefits 29, 53, 97
 - Employment taxes 46, 178
 - Entertainment expenses 46
 - Environmental cleanup costs 22, 113
 - Exempt organizations 5
 - Excise tax on trucks 29
 - False returns 29
 - Farm Credit System 169
 - Farm expenses 82
 - Gross income 22, 46, 153
 - Health insurance 90
 - Hobby losses 14, 22, 29, 38, 73, 97, 106, 129, 153, 185, **193**
 - Home office 22, 46, 90, 153
 - Independent contractors 46
 - Installment reporting 82, 114
 - IRA 14, 90, 169
 - Interest 14, 90, 162, 169
 - Interest rate 46, 90, 146, **193**
 - Investment income 5
 - Investment tax credit 14
 - Involuntary conversions 73, 114, 121, 154, 186, **194**
 - Joint tenancy 6
 - Legal fees 73, 82, 139
 - Letter rulings 14
 - Levy 186
 - Life insurance 23, 162
 - Like-kind exchanges 6, 14, 46, 53, 90, 139, 170
 - Lodging expenses 170
 - Losses 129, 154
 - Meal expenses 22
 - Mileage deduction 146
 - Mitigation credits 54
 - Mileage deduction 6
 - Net operating losses 68
 - Partnerships
 - Administrative adjustments 38, 46,
 - 106, 146
 - Basis of partner's interest 14
 - Contributions 30
 - Contributed property 6
 - Constructive distributions 47
 - Distributions 15
 - Distributive share 47, **194**
 - Limited liability companies 6, 23, 82, 98, 122, 147
 - Tax matters partner 90
 - Termination 98
 - Passive activity losses 6, 74, 98
 - Passive investment losses 38
 - Penalties 6, 186
 - Pension plans 23, 30, 38, 47, 54, 74, 90, 98, 106, 122, 129, 146, 154, 178, 187
 - Preproduction expenses 130
 - Qualified debt instruments 6
 - Rescission 54
 - Refunds 23, 170
 - Rent 23
 - Rental expense 6, 47, 54
 - Repairs 122
 - Research and development expenses 122
 - Responsible persons 178
 - Returns 7, 15, 54, 106, 139, 147, 162, 178, **194**
 - Safe harbor interest rates
 - January 1996 15
 - February 1996 23
 - March 1996 47
 - April 1996 55
 - May 1996 74
 - June 1996 91
 - July 1996 107
 - August 1996 122
 - September 1996 139
 - October 1996 154
 - November 1996 170
 - December 1996 187
 - S corporations
 - Administrative adjustments 30
 - Discharge of indebtedness 122
 - Election 15, 82, 106
 - Eligibility 146
 - Inadvertent termination 15, 39
 - Losses 7
 - Natural resource recapture property 170
 - Passive investment income 54, 122, 178
 - Reorganization 54, 162
 - Sale of assets 7
 - Section 1244 stock 91
 - Shareholder 74
 - Shareholder's basis 23, 162
 - Social security tax 170
 - Soil and water conservation expenses 178
 - Stock redemption 39
 - Trusts 54, 106, 114, **194**
 - Sale of assets 187
 - Sale of residence 7, 54, 74, 82, 107, 114, 122, 130
 - Self-employment 7, 154
 - Social security benefits 83
 - Tax liens 130, 147, 163
 - Taxpayers' rights 123
 - Tax protesters 47
 - Tax rates 7
 - Theft losses 55, 178
 - Timber 114
 - Transfers incident to divorce 74
 - Travel expenses 39, 55, 163
 - Trusts 7, 187
 - Unrelated business income 91
 - Withholding 7
 - Withholding taxes 30, 39
- Gifts**
 - Completed gift 123
- Insurance**
 - Coverage 98
- Landlord and Tenant**
 - Conversion 114
 - Emblements 130
 - Lease 83
 - Termination notice 130

AGRICULTURAL LAW PRESS ON THE WEB

<http://members.aol.com/aglaw/agpub>

Check out our internet site for information about:

- *Agricultural Law Manual*, by Neil E. Harl, a comprehensive, annotated looseleaf deskbook.
- *Principles of Agricultural Law*, a college textbook, by Roger A. McEowen and Neil E. Harl, due for publication in December 1996.
- **Seminar in Paradise**, "Farm Estate and Business Planning," by Neil E. Harl in Hawaii, January 6-10, 1997.
- Direct internet links to legal resources on the internet.
- Direct email link to the Agricultural Law Press.

We welcome any suggestions for improving our web site.

AGRICULTURAL LAW MANUAL

by Neil E. Harl

This comprehensive, annotated looseleaf manual is an ideal deskbook for attorneys, tax consultants, lenders and other professionals who advise agricultural clients. The book contains over 900 pages and an index.

As a special offer to Digest subscribers, the *Manual* is offered to new subscribers at \$115, **including at no extra charge updates published within five months after purchase**. Updates are published every four months to keep the *Manual* current with the latest developments. After the first free update, additional updates will be billed at \$100 per year or \$35 each.

For your copy, send a check for \$115 to Agricultural Law Press, P.O. Box 50703, Eugene, OR 97405.

Satisfaction guaranteed. 30 day return privilege.

ISSUE INDEX

Medicaid

Asset transfers 155

Mortgages

Redemption 98, 114

Negligence

Aerial spraying 68
Attractive nuisance 83
Contamination of groundwater 107
Herbicides 30
Licensee/invitee 163
Obstruction of creek 115
Safe workplace 131
Trespasser 23

Nuisance

Hogs 170
Hog confinement operation 179

Partnerships

Fiduciary duty 115

Patents

Hydroponic system 83

Product Liability

Cultivator 83
Damages 55
Fixtures 107
Hay baler 147
Herbicide 74, 83, 91, 99, 115
Manure handling system 74

Pesticides 39, 171

Prescriptive easement 108

Tractor 131, 148

Vaccines 91

Property

Fences 31, 75, 99
Hunters 31
Unlawful detainer 115
Usufruct 84

Secured Transactions

Artisan's lien 123
Attachment 155
Filing 75
Livestock lien 8
Ownership 31
Perfection by possession 155
Priority 171
Producer's lien 8, 139
Purchase money security interest 116
Repossession 31
Subordination agreement 75

State Regulation of Agriculture

Aerial crop spraying 131
Apples 47, 131
Environment 179
Import fees 55
Kiwi fruit 163

Nonresident alien ownership of land 91

State Taxation

Ad valorem taxes 91
Agricultural use 31, 75, 92, 171
Equalization valuation 75
Farmer 163
Sales tax 84
Valuation 140

Trespass

Environmental pollution 156
Timber 40, 55

Trusts

Apparent authority 131

Workers' Compensation

Statutory employee 99

Veterinarians

Bailment 171

Zoning

Agricultural use 99, 123
Exceptions 132
Hog confinement facility 24

