reimbursements or other payments after that date. **RRA, § 13213(e)**.

24. Lobbying Expense. Effective for amounts paid or incurred after 1993, deductions are not allowed for amounts paid or incurred in connection with influencing federal or state legislation or any communication with designated federal executive branch officials in an attempt to influence the official actions or positions of those individuals. **RRA, § 13222(a), amending I.R.C. § 162(e)**. An exception is provided for attempts to influence legislative actions of a "local council or similar governing body." **RRA, § 13222(a), amending I.R.C. § 162(e)(2)**. A *de minimis* rule is provided which exempts in-house lobbying expenditures from the disallowance rule if the amount of such expenditures for a taxable year do not exceed $2,000 (computed without taking into account general overhead costs otherwise allowable to lobbying). **RRA, § 13222(a), amending I.R.C. § 162(e)(5)(B)**.

25. Charitable Gifts of Appreciated Property. The act repeals the AMT preference for charitable contributions of appreciated real or personal property, tangible or intangible. **RRA, § 13171(a), amending I.R.C. § 57(a)**. The repeal is effective for contributions made after June 30, 1992; for contributions of capital gain property which is not tangible personal property, the repeal is effective for contributions after December 31, 1992. **RRA, § 13171(d)**.

26. Travel by Spouse. Effective for amounts paid or incurred after December 31, 1993, the travel expenses of a spouse, dependent or any other individual can be deducted as a business expense only if (a) the accompanying person is employed by the person providing the travel expense, (b) there is a business purpose for the person's presence, and (c) the expenses are otherwise deductible. **RRA, § 13272(a), (b), amending I.R.C. § 274(m)**.

27. Earned Income Credit. The act increases the maximum credit for 1994, 1995, and after; repeals the young-child credit for workers with a child under one year of age; and repeals the supplemental health insurance credit for workers who pay health insurance premiums from after-tax income. **RRA, § 13131(a), amending I.R.C. § 32**.

28. Estimated Tax for Individuals. The special rule, applicable from 1992 to 1996, that denies the use of the 100 percent-of-last-year safe harbor is repealed for taxable years beginning after 1993. For those with adjusted gross income of more than $150,000, as shown on the return for the preceding taxable year, the 100 percent of last year's liability safe harbor is modified to be a 110 percent of last year's liability safe harbor. **RRA, § 13214(a), amending I.R.C. § 6654(d)(1)**. The act does not change (a) the availability of the 100 percent of last year's liability safe harbor for those with a preceding year's adjusted gross income of $150,000 or less and (b) the rule allowing an individual to base estimated tax payments on 90 percent of the tax shown on the return for the current year.

29. Cancellation of Indebtedness Income. The act repeals the stock-for-debt exception (allowing insolvent debtors to issue stock in satisfaction of debt without creating cancellation of indebtedness income) effective for stock transferred in satisfaction of a debt after December 31, 1994. **RRA, § 13226(a), amending I.R.C. § 108(e)**. A bankrupt or insolvent corporation may exclude from income all or a portion of cancellation of indebtedness income created by the transfer of its stock by reducing tax attributes. The amendments do not apply to stock transfers in satisfaction of any indebtedness if the transfer is in a bankruptcy case filed on or before December 31, 1993. **RRA, § 13226(a)(3)(B)**.

30. Tax Attributes Reduced in Discharge of Indebtedness Calculations. Effective for discharge of indebtedness in taxable years beginning after December 31, 1993, the act adds additional tax attributes to the list of those reduced from discharge of indebtedness including—(a) minimum tax credits as of the beginning of the taxable year immediately after the taxable year of the discharge, and (b) passive activity loss and credit carryovers from the taxable year of the discharge. **RRA, § 13226(b), amending I.R.C. § 108(b)(2)(C)**.

31. Transportation Tax. The 4.3 cents per gallon increase in tax is a permanent excise tax imposed effective October 1, 1993. **RRA, § 13241**. Gasoline and diesel fuel used on farms for farming purposes is exempt from the tax.

32. Alternative Minimum Tax. For tax years beginning after December 31, 1992, a 26 percent rate applies to the first $175,000 of an individual's alternative minimum taxable income over the exemption amount ($45,000 for those who are married filing joint returns). A 28 percent rate applies above $175,000 of AMTI. **RRA, § 13203(a), amending I.R.C. § 55(b)(1)**. The corporate AMT rate remains at 20 percent.

33. Partnerships. The act repeals the special treatment of payments made for unrealized receivables (other than unbilled amounts and accounts receivable) for all partners. These amounts are treated as made in exchange for the partner's interest in partnership property. **RRA, § 13262(a), amending I.R.C. § 736**. The law also repeals payments made to a retired or deceased partner for goodwill and unrealized receivables. Such payments are treated as made in exchange for the partner's interest in partnership property and not as a distributive share or guaranteed payment that could give rise to a deduction. **RRA, § 13262(b), amending I.R.C. § 751**.

CASES, REGULATIONS AND STATUTES

by Robert P. Achenbach, Jr.

BANKRUPTCY

ADMINISTRATIVE EXPENSES-*ALM* § 13.03[5]. The debtor had leased some trucks to the creditor under a lease/purchase agreement. After the debtor had filed for Chapter 12, the debtor breached the agreement and repossessed the trucks with the intent to sell them for the benefit of the bankruptcy estate. After the repossession, the debtor converted the case to Chapter 7. Before the Chapter 7 trustee was appointed, the debtor allowed a third party to use the trucks without cost. The creditor obtained possession of the trucks through an abandonment proceeding and filed an administrative expense for damage to the trucks during the time the trucks were used by the third party. The trustee objected to the claim, arguing that the debtor had no authority to allow the trucks to be used after the case was converted to Chapter 7. The court allowed the expense as a priority administrative claim because the repossession and use of the trucks was done for the benefit of the estate. ***In re* J.A.V. Ag., Inc., 154 B.R. 923 (Bankr. W.D. Tenn. 1993)**.

The debtors had operated a trucking business on land which included wetlands. Some drums of petroleum products were disposed of on those wetlands and the EPA had ordered the debtor to remove the drums. After the debtor had filed Chapter 7 bankruptcy, the estate sold the property to a third party. The EPA again found the same drums on the property and ordered the purchaser to clean up the area. The purchaser filed a claim for the incurred cleanup costs and the estimated future cleanup costs as an administrative claim against the estate. The court held that the estimated future cleanup costs would not be allowed because of their contingent nature unless the purchaser can show that it could qualify as an innocent landowner under CERCLA. ***In re* Hemingway Transport, Inc., 993 F.2d 915 (1st Cir. 1993), *aff'g in part and rem'g in part*, 126 B.R. 656 (D. Mass. 1991)**.

EXEMPTIONS.

HOUSEHOLD GOODS. The debtors included a piano and bench in their list of exempt household goods. The trustee objected to the exemption because the piano was not a household good. The court compared the piano to a stereo that the debtors also claimed as exempt but was not objected to by the trustee. The court held that Wyo. Stat. § 1-20-106(a)(iii) allowed the debtors to choose which pieces of household furnishing were to be included in exempt household goods, subject to the $4,000 limitation. ***In re* Lindell-Heasler, 154 B.R. 748 (D. Wyo. 1992)**.

TAX REFUNDS. The debtors, husband and wife, each claimed $800 of an income tax refund as exempt, $400 as exempt under Ohio Rev. Code § 2329.66(A)(4)(A) (cash on hand) and $400 as exempt under Ohio Rev. Code § 2329.66(A)(17) (wild card). The trustee objected to the exemptions of the wife more than two years after knowledge of the wife's claim of exemption. The trustee argued that *Taylor v. Freeland & Kronz, 112 S.Ct. 1644 (1992)* did not apply to bar the untimely objection because the wife had no interest or ownership of the refund since the wife did not have any income subject to tax in the year to which the refund applied. The court held that *Taylor* barred any untimely objection to a claimed exemption. The court noted that if the claimed exemption is insufficiently made, e.g. too ambiguous or indefinite, the time limit for objections by the trustee runs only from the point that the trustee has sufficient knowledge of the specific property claimed as exempt. ***In re* Zimmer, 154 B.R. 705 (Bankr. S.D. Ohio 1993)**.

CHAPTER 12

ADMINISTRATIVE EXPENSES-*ALM* § 13.03[5]. The Chapter 12 debtor had leased farm equipment from a creditor. After filing the petition, the debtor ceased using the equipment but the equipment remained in the debtor's possession. The creditor sought to compel the debtor to assume or reject the lease and the debtor eventually rejected the lease. The creditor sought an administrative expense claim for the rent for the period from the petition to the date of rejection of the lease. The court held that because the debtor did not use the equipment after the petition date, the estate received no benefit from the equipment and the rent claim could not receive administrative expense priority. ***In re* Templeton, 154 B.R. 930 (Bankr. W.D. Tex. 1993)**.

FEDERAL TAXATION

CLAIMS. The IRS filed its claim for taxes in the wrong district court office and did not discover its error until after the bar date for claims in the debtor's Chapter 13 case. The IRS sought permission to file the late claim or to extend the filing date for the claim based on excusable neglect under Bankr. Rule 9006(b)(1). The trustee objected to the claim or any extension of time to file the claim as barred under Bankr. Rule 9006(c) because excusable neglect is not a permitted reason for allowing an exception to the 90 day claim rule. The court held that the claim was barred because Rule 9006(c) did not allow an exception for excusable neglect. The court held that *Pioneer Investment Services Co. v. Brunswick Associates Ltd., 113 S.Ct. 1489 (1993)* (late claim in Chapter 11 allowed for excusable neglect), applied only to Chapter 11 cases. **Matter of Jones, 154 B.R. 816 (Bankr. M.D. Ga. 1993)**.

DISCHARGE. The IRS sought a determination that the debtor's taxes for 1983 through 1985 were nondischargeable under Section 523(a)(1)(C) because the debtor willfully attempted to evade or defeat the taxes for those years. The debtor did not file any tax returns for 1983 through 1985; instead, the debtor transferred assets to a foreign trust, created sham loan agreements with himself to create interest deductions, and backdated the loan agreements to create deductions in prior years. The debtor also sought advice from tax protesters on tax evasion techniques. The court held that the taxes were nondischargeable because the evidence demonstrated that the debtor willfully and knowingly attempted to evade payment of the taxes. ***In re* Boch, 154 B.R. 647 (Bankr. M.D. Pa. 1993)**.

FEDERAL ESTATE AND GIFT TAX

CHARITABLE DEDUCTION-*ALM* § 5.04[4]. Under the decedent's will, most of the estate passed to a charitable organization. The executor obtained a state probate court ruling that administrative expenses were to be paid from estate income generated during the estate administration. The executor claimed the administrative expenses as a deduction on the estate fiduciary income tax return. The court held that the value of the gross estate which passed to the charitable organization was the amount remaining after payment of administrative expenses and that estate post-death income could not be used to increase, directly or indirectly, the estate for purposes of the charitable deduction. **Burke v. U.S., 994 F.2d 1576 (Fed. Cir. 1993)**.

CREDIT FOR PRIOR TRANSFERS-*ALM* § 5.04[5]. Three cases, *Est. of Street v. Comm'r, 974 F.2d 723 (6th Cir. 1992; Est. of Whittle v. Comm'r, 93-1 U.S. Tax Cas. (CCH) ¶ 60,141 (7th Cir. 1993); and Est. of Richardson v. Comm'r, 89 T.C. 1193 (1987)*, have held that the value of a prior testamentary transfer is not reduced by the interest paid on deferred payment of estate taxes. In response to these decisions, the IRS has revoked Rev. Rul. 82-6, 1982-1 C.B.

137 which held that the value of a residuary charitable bequest is reduced by the interest payments on deferred estate tax payments from the residuary estate. The IRS also modified Rev. Rul. 66-233, 1966-2 C.B. 428 to hold that prior residuary bequests are not reduced by interest payments on obligations payable from the residuary estate. The IRS also modified Rev. Rul. 73-98, 1973-1 C.B. 407 to hold that a residuary charitable bequest is not reduced by interest payments on obligations payable from the residuary estate. The IRS also modified Rev. Rul. 80-159, 1980-1 C.B. 206 to hold that a residuary marital bequest is not reduced by interest payments on taxes even if state law requires payment of the tax and interest from the marital bequest. **Rev. Rul. 93-48, I.R.B. 1993-25, 9**.

MARITAL DEDUCTION-*ALM* § 5.04[3]. The decedent had created two irrevocable trusts with the surviving spouse as remainder beneficiary. The first trust provided for all income to be distributed to the surviving spouse with a remainder to their children. The trust did not specify the frequency of the income payments, but the IRS ruled that under state law the payments would be required to be made at least annually; therefore, the first trust qualified for the marital deduction as QTIP. The second trust included three subtrusts, a QTIP trust, a QTIP-GSTT trust and a marital trust. The QTIP and QTIP-GSTT trusts were identical except that the estate made a reverse QTIP election for the QTIP-GSTT trust. The IRS ruled that these two trusts were eligible for the marital deduction. The marital trust originally provided that the surviving spouse had a lifetime special power to appoint trust corpus to the descendants of the decedent and a testamentary general power of appointment over trust corpus. The surviving spouse timely disclaimed the lifetime special power of appointment. The IRS ruled that after the disclaimer, the marital trust was eligible for the marital deduction. **Ltr. Rul. 9329025, April 28, 1993**.

POWER OF APPOINTMENT. At the death of the decedent‘s predeceased spouse, the decedent received a life estate in the residuary of the predeceased spouse's estate. The will provided that the decedent could "do [with the property] as she pleases" but could not dispose of the property except to meet the decedent's needs for health, education, support and maintenance. A District Court held that the decedent's life estate was not eligible for the marital deduction because the decedent did not have an unlimited power to use or dispose of the property. *Duvall v. Comm'r, 65-2 U.S. Tax Cas. (CCH) ¶ 12,342 (D. Ky. 1965)*. An IRS audit concluded that the decedent had an unlimited power of appointment over the property and included the life estate in the decedent's gross estate. The Tax Court held that the life estate was not includible in the decedent's gross estate because the decedent's power to dispose of the property was limited to the decedent's needs for health, education, support and maintenance. **Est. of Duvall v. Comm'r, T.C. Memo. 1993-319**.

At the decedent's death, the decedent was the beneficiary of two trusts, a marital trust and a family trust. The decedent had an unlimited right to receive the corpus of the marital trust and the right to receive up to 5 percent of the corpus of the family trust if the marital trust was exhausted. At the decedent's death, the marital trust was not exhausted. The IRS argued that 5 percent of the family trust corpus was includible in the decedent's gross estate because at the decedent's death, the decedent held the power to exhaust the marital trust and to receive the 5 percent interest. The IRS further argued that Treas. Reg. § 20.2041-3(b) required that any contingency relating to a decedent's power to receive property be out of the decedent's control in order for the property to be excluded from the gross estate. The court refused to accept the IRS criteria but held that the contingency must not be illusory and have some significant nontax consequence. In this case, the estate failed to demonstrate any significant nontax consequence for the contingency, exhaustion of the marital trust, which would entitle the decedent to the 5 percent interest. **Est. of Kurz v. Comm'r, 101 T.C. No. 3 (1993)**.

Three irrevocable trusts were established for the grandchildren of the settlor. The settlor's son and an independent trustee were the trustees of each trust. Under the trust, a trustee who was a beneficiary could not participate in trustee decisions for distribution of trust income or corpus, nor could a trustee participate in decisions for distributions to beneficiaries for which the trustee had a support obligation. The son trustee or successor family member trustees had the power to remove the independent trustee for one of several "causes" listed in the trust. The IRS ruled that the son trustee and the possible successor family member trustees did not have a general power of appointment over the trust corpus so as to include the trust corpus in their gross estates. **Ltr. Rul. 9328015, April 16, 1993**.

SPECIAL USE VALUATION-*ALM* § 5.03[2]. The decedent's estate included a farm which contained pastureland and timberland. The executor elected to value the farm under the special use valuation rules and included in the election appraisal the value of one other property in the area which contained pastureland and timberland. However, the comparable land was cash rented to a lessee who had no right to the timberland except for access to a reservoir for irrigation. The comparable land was recently sold with the pastureland sold separately from the timberland. The property tax on the estate farm did not include any value for the timber, but treated forested land as bare land. The IRS ruled that the comparable land listed by the executor was not sufficiently comparable to be used to determine the entire special use value of the estate farm; therefore, the multiple factors of I.R.C. § 2032A(e)(8) must be used to value the farm. Under these factors, the cash lease, the property tax assessment and the sale of the comparable pastureland were relevant for determining the special use value of the estate pastureland. The sale of the comparable timberland would be relevant if the method of timber harvesting on that land was similar to the method historically used on the estate timberland. **Ltr. Rul 9328004, Mar. 31, 1993**.

VALUATION-*ALM* § 5.02[3]. The taxpayers transferred a vacation house to a qualified personal residence trust. Also situated on the land was a small cottage used as a guest house for family members and their friends. The occupants of the cottage did not pay rent and have no right of continuing occupancy. The IRS ruled that the use of the cottage as a guest house did not disqualify the main house as a residence of the taxpayers under I.R.C. § 2702(a)(3)(A)(ii). **Ltr. Rul. 9328040, April 21, 1993**.

FEDERAL INCOME TAXATION

CHARITABLE DEDUCTION. The taxpayer purchased a farm for $110,000, with $30,000 down and a mortgage of $80,000. The taxpayer donated a remainder interest in the farm to a charitable organization but remained liable for the full mortgage. The taxpayer planned to renovate the farm. The IRS ruled that the taxpayer was eligible for a charitable deduction for the remainder interest in the difference between the fair market value of the farm and the outstanding mortgage. In addition, a further charitable deduction is available for each mortgage payment to the extent of the reminder interest in each payment on the loan principal. If the taxpayer adds property to the farm in the renovation which is considered real property, the remainder interest in that additional property is also eligible for the charitable deduction; however, any personal property added is not eligible for the deduction. **Ltr. Rul. 9329017, April 26, 1993**.

DISCHARGE OF INDEBTEDNESS-*ALM* § 4.02[15]. The IRS has issued a notice that taxpayers who acquired indebtedness on or after March 21, 1991 and before December 28, 1992, may rely on the proposed regulations, Prop. Treas. Reg. § 1.108-2, for determining the application of I.R.C. § 108(e)(4) to the debt. See 4 *Agric. Law Digest* 14 (1993) for discussion of the final regulations. **Notice 93-40, I.R.B. 1993-26, 10**.

INSTALLMENT REPORTING-*ALM* § 6.03[1]. The taxpayers claimed an interest expense deduction from the installment sale of a condominium. The taxpayers claimed that the sale was completed in June 1983, the date the contract of sale was signed. The contract provided that the deed would be placed in escrow until the settlement date in December 1983. The condominium was not yet constructed in June 1983. The taxpayers became liable for property taxes as of the contract date. Upon default of the taxpayers, the sellers could retain the downpayment and recover the condominium. The taxpayers argued that under state law title passed on the date of the contract, more than six months before the payment of the first installment, and the installment method of reporting was available to the taxpayers. The court held that no title passed on the signing of the contract because the taxpayers had no right to specific performance upon the breach of the contract by the sellers but could only recover their downpayment. The court held that the sale did not occur until the settlement date in December 1983; therefore, the interest deduction was not allowed under I.R.C. § 483 because the first installment, paid in December 1983 was not received more than six months after the sale. Note: the case was decided under the pre-1984 version of I.R.C. § 483. **Williams v. Comm'r, 93-2 U.S. Tax Cas. (CCH) ¶ 50,422 (7th Cir. 1993), aff'g, T.C. Memo. 1992-269**.

INSURANCE. The taxpayer purchased long-term disability insurance through the taxpayer's employer. The insurance premium was paid entirely by the taxpayer using after-tax dollars. The taxpayer became disabled and received benefits under the policy. The IRS ruled that the benefit payments were excludable from gross income. **Ltr. Rul. 9329009, April 22, 1993**.

PARTNERSHIPS-*ALM* § 7.03.

LIMITED LIABILITY COMPANIES. The taxpayers formed a limited liability company (LLC) under the Illinois Limited Liability Act (the Act). The IRS ruled that the LLC would be taxed as a partnership because (1) the LLC lacked the corporate characteristic of continuity of life since the state LLC law and the LLC agreement required the consent of all members to continue the partnership after a terminating event, and (2) the LLC lacked the corporate characteristic of transferability of interests because the Act provided that if any other member objected to the sale or assignment of a member's interest in the LLC, the transferee or assignee had no right to participate in the management of the LLC. **Rev. Rul. 93-49, I.R.B. 1993-25, 11**.

The taxpayers formed a limited liability company (LLC) under the West Virginia Limited Liability Act (the Act). The IRS ruled that the LLC would be taxed as a partnership because (1) the LLC lacked the corporate characteristic of continuity of life since the state LLC law and the LLC agreement required the consent of all members to continue the partnership after a terminating event, and (2) the LLC lacked the corporate characteristic of transferability of interests because the Act provided that if any other member objected to the sale or assignment of a member's interest in the LLC, the transferee or assignee had no right to participate in the management of the LLC. **Rev. Rul. 93-50, I.R.B. 1993-25, 13**.

The taxpayers formed a limited liability company (LLC) under the Florida Limited Liability Act (the Act). The IRS ruled that the LLC would be taxed as a partnership because (1) the LLC lacked the corporate characteristic of continuity of life since the state LLC law and the LLC agreement required the consent of all members to continue the partnership after a terminating event, and (2) the LLC lacked the corporate characteristic of transferability of interests because the Act provided that if any other member objected to the sale or assignment of a member's interest in the LLC, the transferee or assignee had no right to participate in the management of the LLC. **Rev. Rul. 93-53, I.R.B. 1993-26, 17**.

A general partnership was converted to an LLC. None of the LLC members was a C corporation. The LLC had been ruled a partnership for federal income tax purposes and sought a ruling that it could use the cash method of reporting income. All of the members participated in the daily business of the LLC and, although the LLC was managed by an executive committee, several actions of the committee required a vote of all of the members. The memberships in the LLC were not offered, nor were planned to be ever offered, for sale in an offering required to be registered under state or federal law. The IRS ruled that the LLC was not a tax shelter, under I.R.C. §§ 461(i)(3)(A), 6662(d)(2)(ii), required to use the accrual method of accounting. **Ltr. Rul. 9328005, Dec. 21, 1992**.

See Harl, "Limited Liability Companies," (three parts) 4 *Agric. Law Digest*, 93, 101 , 109 (1993).

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TERMINATION. The taxpayer was a partner in a partnership which owned an apartment building. The building was sold in 1980 at foreclosure, resulting in ordinary gain and long-term capital gain to the partnership which passed to the partners in 1980. The partnership terminated in 1980; however, the partnership retained sufficient funds to pay some remaining obligations in 1981. The taxpayer argued that the partnership terminated in 1980 and that the partner's loss from the liquidation of the partnership interest could be used to offset the gain recognized from the foreclosure sale. The court held that the partnership terminated in 1981 when all remaining assets were either paid or distributed. **Goulder v. U.S., 93-2 U.S. Tax Cas. (CCH) ¶ 50,421 (N.D. Ohio 1993)**.

The taxpayer's spouse died at the age of 45 and the taxpayer received a lump sum distribution from the decedent's qualified pension plan and elected to use the five-year averaging method for determining the tax on the distribution. The court held that the five-year averaging method was not allowed because the employee, the decedent, had not reached age 59 1/2 at the time of the distribution. **Cebula v. Comm'r, 101 T.C. No. 5 (1993)**.

RENT DEDUCTION. The taxpayers, husband and wife, owned real property as tenants by the entirety. The property was rented to the husband's sole proprietorship business. The taxpayers filed a joint return. The court held that the taxpayer must claim one-half of the rent as income and the husband could deduct one-half of the rent payments as a rent deduction on Schedule C for the business. **Cox v. Comm'r, T.C. Memo. 1993-326**.

TRUSTS-*ALM* Ch. 8. In 1945 an irrevocable trust was established to which shares of common stock in two corporations were transferred. The trust had individuals as lifetime income beneficiaries with the remainder to pass in trust in perpetuity to charitable organizations. All capital gains realized by the trust were to be allocated to trust corpus under state law. No additional stock was transferred to the trusts but the original shares were sold and new shares in other corporations were purchased. The trust planned to make another sale and purchase of stock and sought a ruling that the trust was eligible for a deduction for the capital gains realized on the sale of the stock. The IRS ruled that all stock obtained from the sales and trades of the original stock would be treated as acquired when the original stock was transferred to the trust. Because the stock was considered permanently set aside for the charitable organization, the trust was eligible for a deduction for the capital gains realized from the sale or trade of its stock. **Ltr. Rul. 9329013, April 23, 1993**.

SECURED TRANSACTIONS

LANDLORD'S LIEN-*ALM* § 13.01[5]. The debtor had purchased a farm and had assumed the seller's loan from the plaintiff which was secured by a deed on the farm. The debtor leased the farm to the defendant. The debtor defaulted on the loan and the plaintiff sought a distraint upon the defendant's crops under Ga. Code § 44-14-341 (landlord's lien). The court held that because the plaintiff was not the landlord of the defendant at the time the crops were sought to be distrained, the plaintiff had no standing to bring the action. **South Central Farm Credit v. V.T. Properties, 430 S.E.2d 645 (Ga. Ct. App. 1993)**.

REPOSSESSION. The defendant attempted a "self-help" repossession of collateral on the plaintiff's farm after the plaintiff defaulted on loans secured by the collateral. The owner and her daughter objected to the repossession and the daughter was injured in the process. The court held that once the owner and daughter objected to the repossession, the defendant became a trespasser and was required to withdraw and the failure to withdraw and subsequent injury to the daughter justified punitive damages to be awarded. **Smith v. John Deere Co., 614 N.E.2d 1148 (Ohio Ct. App. 1993)**.

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