CASES, REGULATIONS AND STATUTES

by Robert P. Achenbach, Jr

ANIMALS

BULL. A bull owned by the defendants broke through a fence and wandered onto the plaintiff's land. The plaintiff attempted to herd the bull back to the defendant's property with an all terrain vehicle (ATV) but was injured when the bull overturned the ATV. The plaintiff sued under Mo. Rev. Stat. § 272.030 which obligates a livestock owner to pay the true value of the damages sustained if an animal trespasses on other premises by breaching any lawful fence. The jury awarded damages but allocated fault 65 percent to the defendants and 35 percent to the plaintiff. Both sides appealed , with the plaintiff arguing that the statute imposed strict liability that prevented allocation of fault. The defendants argued that the statute applied only to exterior fences and did not provide for personal injury damage awards. Although the court acknowledged that prior fencing law in Missouri dealt primarily with exterior fences, the current statute applied to "any lawful fence" which included fences between farms. The court also disagreed that the statute did not provide for personal injuries. The court looked at Restatement (Second) of Torts, § 504 which allows for damages for personal injury for trespassing livestock and cases in other states with similar trespassing statutes and held that personal injury damages may be recovered under the statute. The court also held that the Uniform Comparative Fault Act was to be applied in Missouri insofar as possible where no intention act was shown; thus, the jury instructions on comparative fault and the jury allocation of fault were proper. **Coble v. Taylor, 2016 Mo. App. LEXIS 64 (Mo. Ct. App. 2016)**.

FEDERAL FARM PROGRAMS

NO ITEMS.

FEDERAL ESTATE AND GIFT TAXATION

BASIS OF ESTATE PROPERTY. The "Surface Transportation and Veterans Health Care Choice Improvement Act of 2015," amended I.R.C. § 1014 by adding subparagraph (f) which states that "basis must be consistent with the federal estate tax return." Proposed regulations have been issued to implement the new rules. The 2015 Act requires new information reporting for inherited property for which an estate tax return is filed after July 31, 2015. Under the statute, the executor of any estate required to file a federal estate tax return must furnish to the Department of the Treasury (presumably IRS) Form 8971, and furnish to each person acquiring any interest in property included in the decedent's gross estate, a statement identifying the value of each interest in that property as reported on the federal estate tax return. The IRS has announced that executors and other persons required to file or furnish a statement under I.R.C. § 6035(a)(1) or (a)(2) before June 30, 2016, need not do so until June 30, 2016. **Notice 2016-27, I.R.B. 2016-15**.

FIDUCIARY LIABILITY FOR ESTATE TAX. The taxpayer was the executor of a decedent's estate in which the IRS had filed a claim for federal income and estate taxes owed by the estate. The taxpayer made arrangements for payment of the income tax but made distributions of estate property before payment of the full estate tax. The IRS sought recovery of the unpaid estate taxes from the taxpayer personally under I.R.C. § 6901. Under 31 U.S.C. § 3713(b) the executor of an estate is personally liable for the unpaid claims of the United States to the extent of a distribution from the estate when (1) the executor distributed assets of the estate; (2) the estate was insolvent at the time of the distribution or the distribution rendered the estate insolvent; and (3) the executor had notice of the government's claim. The only issue in this case was whether the distributions rendered the estate insolvent. The court first noted that the burden of proof as to insolvency of the estate was placed on the IRS. The court also noted that under precedent of cases in the Second Circuit Court of Appeals, the value of any subrogation or contribution rights of the estate from the receivers of estate property is to be included in the solvency calculation. New York law grants estates the right of contribution for state and federal taxes from beneficiaries of an estate. Finally, the court held that the solvency calculation is to be made on the date of any distributions from the estate, not the date of the decedent's death. The court held that the IRS failed to prove that the estate was insolvent on the date of the distributions because the IRS failed to include the value of any contribution rights held by the estate against the estate's beneficiaries. The court also noted that several of the beneficiaries had already returned property received from the estate, indicating that the contribution rights had some value in this case. **Singer v. Comm'r, T.C. Memo. 2016-48**.

INCOME IN RESPECT OF DECEDENT. The decedent owned multiple IRAs and each IRA had a trust listed as the sole designated beneficiary. The decedent had created the trust and the trust instrument provided that, after the funds in the IRAs are distributed to the trust, the trust was to distribute the funds to a charitable foundation. The trust received the funds from the IRAs and distributed the funds to the foundation in the same tax year. I.R.C. § 691(a)(1) provides that the amount of all items of gross income in respect of a decedent (IRD) which are not properly includible in respect of the taxable period in which falls the date of the decedent's death shall be included in the gross income, for the table year when received, of: (1) the estate of the decedent, if the right to receive the amount is acquired by the decedent's estate; (2) the person who, by reason of the death of the decedent, acquires the right to receive the amount, if the right to receive the amount is not acquired by the decedent's estate from the decedent; or (3) the person who acquires from the decedent the right to receive the amount by bequest, devise, or inheritance, if the amount is received after a distribution by the decedent's estate of such right. *Rev. Rul. 92-47, 1992-1 C.B. 198* holds that a distribution to the beneficiary of a decedent's IRA that equals the amount of the balance in the IRA at the decedent's death, less any nondeductible contributions, is IRD under I.R.C. § 691(a)(1) that is includible in the gross income of the beneficiary for the tax year the distribution is received. I.R.C. § 642(c)(1) provides that in the case of an estate or trust, a deduction is allowed in computing its taxable income (in lieu of the deduction allowed by I.R.C. § 170(a), relating to deduction for charitable, etc. contributions and gifts) any amount of the gross income, without limitation, which pursuant to the terms of the governing instrument is, during the taxable year, paid for a purpose specified in I.R.C. § 170(c). Treas. Reg. § 1.642-1(a)(1) provides that any part of the gross income of a trust which, pursuant to the terms of the governing instrument, is paid during a taxable year for a charitable purpose shall be allowed as a deduction to the trust. Thus, the IRS ruled that the trust would be allowed a deduction under I.R.C. § 642(c)(1) equal to the amount of IRD included in the trusts income resulting from the distributions from the IRAs. **Ltr. Rul. 201611002, Dec. 7, 2015**.

IRA. The taxpayer and decedent were married at the time of the decedent's death. The decedent owned a regular IRA and a Roth IRA with the decedent's estate as the beneficiary of both accounts. The taxpayer was the sole heir and administrator of the estate and elected to treat both accounts as the taxpayer's own and the trustee of the accounts changed the ownership accordingly. Generally, if the proceeds of a decedent's IRA pass through a third party, e.g. a trust or an estate, and then are distributed to the decedent's surviving spouse, the surviving spouse will be treated as having received the IRA proceeds from the third party and not from the decedent's IRA. Thus, generally a surviving spouse will not be eligible to roll over the distributed IRA proceeds into the spouse's own IRA. However, the general rule will not apply in a case where the IRA has not yet been distributed and the surviving spouse, as fiduciary of the decedent's estate, has the sole authority and discretion to pay the IRA proceeds to the spouse. In such a case, when the surviving spouse actually receives the IRA proceeds, the surviving spouse may roll over the amounts into an IRA set up and maintained in the surviving spouse's own name within 60 days. In this case, the decedent's interest in the IRA and Roth IRA passed to the estate. The taxpayer was both the administrator of the estate and its sole heir with the right to direct any and all amounts from the estate without restriction. Under this set of circumstances, no third party can prevent the taxpayer from receiving the proceeds of the accounts and from rolling over the full amount of the accounts into IRA and Roth IRA accounts set up and maintained in the name of the taxpayer. Thus, the IRS ruled that (1) The taxpayer will be treated for purposes of I.R.C. § 408(d)(3), as payee or distributee of the proceeds from the IRA and Roth IRA. (2) The IRA and Roth IRA will not be treated as inherited IRAs within the meaning of I.R.C. § 408(d)(3) with respect to taxpayer. (3) The taxpayer is eligible to roll over the proceeds from the IRA and Roth IRA to an IRA, and a Roth IRA, respectively, set up and maintained in the taxpayer's own name, pursuant to I.R.C. § 408(d)(3)(A)(i), as long as the rollover occurs no later than the 60th day after the proceeds are received by the taxpayer. (4) The taxpayer will not be required to include in gross income for federal tax purposes, for the year in which the distribution of the IRA and Roth IRA funds is made, any portion of the proceeds distributed from the IRA and Roth IRA that are timely rolled over to an IRA, and Roth IRA, respectively, set up and maintained in the taxpayer's name. **Ltr. Rul. 201612001, Dec. 17, 2015**.

PORTABILITY. The decedent died, survived by a spouse, on a date after the effective date of the amendment of I.R.C. § 2010(c), which provides for portability of a "deceased spousal unused exclusion" (DSUE) amount to a surviving spouse. To obtain the benefit of portability of the decedent's DSUE amount to the spouse, the decedent's estate was required to file Form 706, *United States Estate (and Generation-Skipping Transfer) Tax Return*, on or before the date that is 9 months after the decedent's date of death or the last day of the period covered by an extension. The decedent's estate did not file a timely Form 706 to make the portability election. The estate discovered its failure to elect portability after the due date for making the election. The spouse, as executrix of the decedent's estate, represented that the value of the decedent's gross estate is less than the basic exclusion amount in the year of the decedent's death and that during the decedent's lifetime, the decedent made no taxable gifts. The spouse requested an extension of time pursuant to Treas. Reg. § 301.9100-3 to elect portability of the decedent's DSUE amount pursuant to I.R.C. § 2010(c)(5)(A). The IRS granted the estate an extension of time to file Form 706 with the election. **Ltr. Rul. 201612004, Nov. 2, 2015; Ltr. Rul. 201612005, Nov. 6, 2015; Ltr. Rul. 201612008, Dec. 7, 2015; Ltr. Rul. 201612009, Dec. 9, 2015; Ltr. Rul. 201612010, Dec. 7, 2015.**

TRANSFER OF PROPERTY WITH RETAINED INTERESTS. The decedent formed a limited partnership funded with securities. At the same time, the decedent formed an LLC which became the general partner of the limited partnership and the decedent transferred ownership of the LLC to the decedent's two children. Under the partnership agreement, limited partners could not participate in the management of the partnership. The partnership agreement also gave the general partner complete discretion for distributions. In fact the partnership made only one distribution. The transactions occurred while the decedent was in a nursing home and were constructed entirely by the two children who obtained the decedent's consent. The partnership agreement stated that the purpose of the partnership was to provide "a means for members of the Holliday family to acquire interests in the Partnership business and property, and to ensure that the Partnership's business and property is continued by and closely-held by members of the Holliday family." Although the fair market value of the assets in the partnership was $4,064,759, the estate valued the decedent's 89.9 percent interest in the partnership at $2,480,200. The IRS assessed additional taxes based on a higher value based on inclusion of all the partnership assets being included in the decedent's estate because the decedent retained an interest in the partnership income. The estate argued that the exception of a *bona fide* sale for adequate and full consideration of I.R.C. § 2036(a) applied to the creation of the partnership. The estate claimed that the partnership was formed to (1) protect the assets from trial attorney extortion, (2) protect the assets from undue influence by the decedent's caregivers, and (3) preserve the estate. The court did not believe that any of these reasons existed in that no attorney had sued the decedent, the two children lived near the decedent and provided control and maintenance of the decedent's accounts, and the estate failed to show that no other structures were available to preserve the estate. The court noted that the decedent and predeceased spouse's estate had both used trusts to hold some family assets. The court also looked at the lack of any negotiations or discussions with the decedent as to the transactions and the lack of any partnership records or meetings. The court held that the creation of the partnership and contribution of assets was not a *bona fide* sale; therefore, all of the decedent's assets in the partnership and LLC were included in the decedent's estate. **Estate of Holliday v. Comm'r, T.C. Memo. 2016-51**.

FEDERAL INCOME TAXATION

ACCOUNTING METHOD. The IRS has issued a revised Form 3115, *Application for Change in Accounting Method* (Dec. 2015). Taxpayers have the option of using the new Form 3115 or the prior Form 3115 (Dec. 2009) until April 16, 2016, except where the new version is required by guidance published by the IRS in the Internal Revenue Bulletin. **Ann. 2016-14, I.R.B. 2016-14**.

AGRICULTURAL SECURITY CREDIT. I.R.C §45O(a) provides in relevant part that, in the case of an eligible agricultural business, the agricultural chemicals security credit for the taxable year is 30 percent of the qualified security expenditures for the taxable year. The amount of the credit determined under this subsection with respect to any facility for any taxable year shall not exceed (1) $100,000, reduced by (2) the aggregate amount of credits determined under this subsection with respect to such facility for the five prior taxable years. The amount of the agricultural security credit cannot exceed $2,000,000.00 for any tax year. The taxpayer was a chemical manufacturer with multiple facilities throughout the country. One of the chemicals produced by the taxpayer was a pesticide registered with the EPA. The taxpayer also manufactured two other chemicals which were used as inert ingredients in pesticides produced by other companies. In a Field Attorney Advice letter, the IRS ruled that the taxpayer was an eligible agricultural business during the years it produced the pesticide chemical, but not for the years it produced the chemical used as an inert ingredient in pesticides. The IRS also ruled that each of the taxpayer's manufacturing facilities which manufactured the registered pesticide qualified as a separate facility for purposes of the credit. The IRS ruled that the taxpayer had to allocate the expenses associated with storing the registered pesticide where the storage facility also stored non-agricultural use chemicals. **FAA 20161102F, March 24, 2016**.

BARTERING INCOME. The IRS has published information about bartering income. *Barter exchanges*. A barter exchange is an organized marketplace where members barter products or services. Some exchanges operate out of an office and others over the internet. All barter exchanges are required to issue Form 1099-B, *Proceeds from Broker and Barter Exchange Transactions*. The exchange must give a copy of the form to its members who barter and file a copy with the IRS. *Bartering income*. Barter and trade dollars are the same as real dollars for tax purposes and must be reported on a tax return. Both parties must report as income the fair market value of the product or service they get. *Tax implications*. Bartering is taxable in the year it occurs. The tax rules may vary based on the type of bartering that takes place. Barterers may owe income taxes, self-employment taxes, employment taxes or excise taxes on their bartering income. *Reporting rules*. If a taxpayer is in a trade or business, the taxpayer normally reports income from bartering on Form 1040, Schedule C, *Profit or Loss from Business*. For more information, see the Bartering Tax Center in the business section on irs.gov. **IRS Tax Tip 2016-46**.

CHARITABLE DEDUCTION. On December 29, 2005, the taxpayers, husband and wife, as individuals and trustees of a trust, granted a conservation easement in several parcels of land intended to preserve the "rural, agricultural and natural scenic qualities of the area by the retention of significant open space for a variety of uses including wildlife habitat, recreation, forest management, and agricultural purposes." The taxpayers filed their 2005 tax return without claiming a charitable deduction for the grant of the easement but prior to April 15, 2006, the taxpayers filed an amended return claiming the deduction and including Form 8283, *Noncash Charitable Contributions,* with the return. After the filing of the amended return, on June 6, 2006, a representative of the charitable organization which received the easement sent the taxpayers a letter stating that no goods or services were furnished in respect of the easement donation. The taxpayers had excess charitable contributions for 2005 and carried the excess deduction over to tax years 2006-2008. The IRS disallowed the carryover charitable deduction and issued a notice of deficiency disallowing the carryover charitable contribution deductions because the taxpayers failed to prove that they had an ownership interest in the property at issue, had failed to obtain a contemporaneous written acknowledgment that complied with the substantiation requirements of I.R.C. § 170(f)(8), and had failed to prove the value of the conservation easement. I.R.C. § 170(f)(8)(B) provides that a contemporaneous written acknowledgment must include: (1) the amount of cash and a description (but not value) of any property other than cash contributed; (2) whether the donee organization provided any goods or services in consideration, in whole or in part, for any property described in (1); and (3) a description and good faith estimate of the value of any goods or services referred to in (2). The court held that the letter from the donee organization did not meet the requirement of a contemporaneous letter because it was written after the due date for the 2005 return. The taxpayers argued that the conservation easement deed itself met the contemporaneous written acknowledgement requirement. The court cited two cases which allowed the easement deed to function as the contemporaneous written acknowledgment because the deed contained language that the deed was the entire agreement between the donor and donee. Because the easement deed in this case did not contain language that the deed was the entire agreement between the donor and donee, the court held that the charitable deduction for the easement was properly disallowed by the IRS for lack of a contemporaneous written acknowledgment that no goods or services were provided in consideration for the easement. **French v. Comm'r, T.C. Memo. 2016-53**.

DISASTER LOSSES. On February 17, 2016, the President determined that certain areas in Alaska are eligible for assistance from the government under the Disaster Relief and Emergency Assistance Act (42 U.S.C. § 5121) as a result of a severe storm which began on December 12, 2015. **FEMA-4257-DR.** On February 17, 2016, the President determined that certain areas in Oregon are eligible for assistance from the government under the Act as a result of severe winter storms and flooding which began on December 6, 2015. **FEMA-4258-DR.** Accordingly, taxpayers in the areas may deduct the losses on their 2014 or 2015 federal income tax returns. See I.R.C. § 165(i). On February 26, 2016, the President determined that certain areas in Georgia are eligible for assistance from the government under the Act as a result of severe storms and flooding which began on December 22, 2015. **FEMA-4259-DR.** On March 4, 2016, the President determined that certain areas in Maryland are eligible for assistance from the government under the Act as a result of severe winter storms which began on January 22, 2016. **FEMA-4261-DR.** On March 7, 2016, the President determined that certain areas in Virginia are eligible for assistance from the government under the Act as a result of severe storms which began on January 22, 2016. **FEMA-4259-DR.** Accordingly, taxpayers in the areas may deduct the losses on their 2015 or 2016 federal income tax returns. See I.R.C. § 165(i).

HEALTH INSURANCE. The IRS has published information on the requirement of minimum essential coverage under the Affordable Care Act. The individual shared responsibility provision requires taxpayers and each member of the family to have basic health coverage – also known as minimum essential coverage – to qualify for a health coverage exemption, or the taxpayer must make an individual shared responsibility payment for months without coverage or an exemption when the taxpayer files the federal income tax return. Most taxpayers will simply check a box to indicate that each member of their family had qualifying health coverage for the whole year. Examples of coverage that qualifies as minimum essential coverage: (1) Employer-sponsored coverage: group health insurance coverage for employees under a governmental plan such as the Federal Employees Health Benefit program, a plan or coverage offered in the small or large group market within a state, or a grandfathered health plan offered in a group market; self-insured group health plan for employees; COBRA coverage; and retiree coverage. Individual health coverage such as: health insurance purchased directly from an insurance company; health insurance purchased through the Health Insurance Marketplace Health; and insurance provided through a student health plan. (3) Coverage under government-sponsored programs: Medicare Part A coverage; Medicare Advantage plans; most Medicaid coverage; Children's Health Insurance Program, also known as CHIP; most types of TRICARE coverage; comprehensive health care programs offered by the Department of Veterans Affairs; Department of Defense Nonappropriated Fund Health Benefits Program; and Refugee Medical Assistance. U.S. citizens, who are residents of a foreign country for an entire year, and residents of U.S. territories, are considered to have minimum essential coverage for the year. **Health Care Tax Tip 2016-31**.

In general, under the employer shared responsibility provisions of the Affordable Care Act, an applicable large employer (ALE) may either offer affordable minimum essential coverage that provides minimum value to its full-time employees and their dependents or potentially owe an employer shared responsibility payment to the IRS. The IRS has published information on the definitions of "affordable coverage" and "minimum value." *Affordable coverage*: If the lowest cost self-only health plan is 9.5 percent or less of a full-time employee's household income then the coverage is considered affordable. Because employers likely will not know their employee's household income, for purposes of the employer shared responsibility provisions, an employer can determine whether the employer offered affordable coverage under various safe harbors based on information available to the employer. *Minimum value*: An employer-sponsored plan provides minimum value if it covers at least 60 percent of the total allowed cost of benefits that are expected to be incurred under the plan. Under existing guidance, employers generally must use a minimum value calculator developed by the U.S. Department of Health and Human Services to determine if a plan with standard features provides minimum value. Plans with nonstandard features are required to obtain an actuarial certification for the nonstandard features. The guidance also describes certain safe harbor plan designs that will satisfy minimum value. **Health Care Tax Tip 2016-35**.

HOBBY LOSSES. The taxpayer owned and operated a financial services company which was operated out of the taxpayer's residence. The taxpayer also operated a Hanoverian horse breeding and training activity for which the taxpayer incurred several years of operating losses. The taxpayer's involvement in the horse training was limited by two car accidents and damage to the farm by flooding. Although the court did not discuss the horse training activity under the nine factors of Treas. Reg. § 1.183-2(b), the court held that the horse training activity was not engaged in with the intent to make a profit because (1) the taxpayer did not operate the activity in a businesslike manner in that the taxpayer did not keep records sufficient to analyze the profitability of each horse and did not make any changes based on those records, (2) the losses offset substantial income from other sources, (3) the taxpayer spent little time on the activity because of the personal accidents, (4) the taxpayer derived personal pleasure from the activity, (5) the activity produced little or no revenue and no profitable years, and (6) the taxpayer did not apply any expertise in the business planning of the activity. **Kaiser v. Comm'r, T.C. Summary Op. 2016-13**.

PARTNERSHIPS

ELECTION TO ADJUST BASIS. The taxpayer was a limited liability company which was treated as a disregarded entity for federal tax purposes. The owner of the taxpayer died and the LLC ownership passed to a trust. The LLC then became a partnership for federal tax purposes eligible for the I.R.C. § 754 election to adjust the partnership' basis in its assets but failed to make the election. The IRS granted an extension of time to file the election by a written statement sent to the appropriate IRS center. Note: there is no mention of a partnership return in the ruling. **Ltr. Rul. 201611008, Dec. 10, 2015**.

PASSIVE ACTIVITY LOSSES. The taxpayer was a licensed real estate broker and an enrolled agent. The taxpayer was employed as a real estate mortgage broker and tax return preparer. The taxpayer owned two residential rental properties and claimed loss deductions for the rental activity. The taxpayer did not maintain a written contemporaneous log of the taxpayer's activities on the rental properties but constructed a log for trial which showed that (1) the taxpayer spent 752.6 hours providing mortgage brokerage services, (2) the taxpayer spent 47.95 hours providing leasing services, and (3) the taxpayer, the taxpayer's spouse and/or their children spent 233.25 hours on the rental properties. The taxpayer argued that the mortgage brokerage services were part of a real property trade or business under I.R.C. § 469(c)(7)(C); therefore, the taxpayer's time spent on the mortgage brokerage services could be included in meeting the 750 hour requirement to make the losses nonpassive. The court held that a mortgage brokerage service was not a real property trade or business but only a financial services activity; therefore, the taxpayer's time spent on that activity could not be included in the 750 hour test and the income from the rental activity was passive income. **Guarino v. Comm'r, T.C. Summary Op. 2016-12**.

QUARTERLY INTEREST RATE. The IRS has announced that, for the period April 1, 2016 through June 30, 2016, the interest rate paid on tax overpayments increased to 4 percent (3 percent in the case of a corporation) and for underpayments increased to 4 percent. The interest rate for underpayments by large corporations increased to 6 percent. The overpayment rate for the portion of a corporate overpayment exceeding $10,000 increased to 1.5 percent. **Rev. Rul. 2016-6, I.R.B. 2016-13.**

SAFE HARBOR INTEREST RATES
April 2016

	Annual	Semi-annual	Quarterly	Monthly
Short-term				
AFR	0.70	0.70	0.70	0.70
110 percent AFR	0.77	0.77	0.77	0.77
120 percent AFR	0.84	0.84	0.84	0.84
Mid-term				
AFR	1.45	1.44	1.44	1.44
110 percent AFR	1.59	1.58	1.58	1.58
120 percent AFR	1.74	1.73	1.73	1.72
Long-term				
AFR	2.25	2.24	2.23	2.23
110 percent AFR	2.48	2.46	2.45	2.45
120 percent AFR	2.71	2.69	2.68	2.68

Rev. Rul. 2016-9, I.R.B. 2016-14.

TAX COURT. The IRS has issued a revenue procedure which updates *Rev. Proc. 87-24, 1987-1 C.B. 720*, to clarify and describe the practices for the administrative appeals process in cases docketed in the United States Tax Court. **Rev. Proc. 2016-22, I.R.B. 2016-15**.

VEHICLE EXPENSES. The taxpayers, husband and wife, solely owned a corporation which operated an information technology business. The husband was the sole employee and provided all the services. The taxpayers filed a Schedule C which claimed a deduction for vehicle expenses based on about 75,000 miles of business use of an automobile. The taxpayers claimed that a contemporaneous mileage log was lost and presented a list of the names of clients for which the husband rendered services and invoices relating thereto, (2) receipts for the servicing and repair of the automobile that the husband used for business travel, and (3) a list reflecting the estimated business mileage. Although the court acknowledged that the taxpayer could substantiate the deductions without producing a mileage log, the court held that none of the evidence was sufficient to show the mileage driven and the business purpose for each trip; therefore, the deductions were properly disallowed for lack of substantiation. **Avery v. Comm'r, T.C. Memo. 2016-50**.