CASES, REGULATIONS AND STATUTES

by Robert P. Achenbach, Jr

BANKRUPTCY

GENERAL

EXEMPTIONS.

CHILD TAX CREDIT. The debtors, husband and wife, claimed a portion of a federal tax refund as exempt because that portion resulted from the additional child tax credit (ACTC) and American Opportunity Tax Credit (AOTC). The debtor argued that the ACTC and AOTC were exempt under Mo. Rev. Stat. § 513.430.1(10)(a) as public assistance. The court held that, because the ACTC was available for taxpayers with up to $75,000 of taxable income, the ACTC was not designed to help only low income taxpayers and, therefore, did not qualify as public assistance. The court also held that the AOTC was not public assistance but was intended to encourage college attendance. ***In re* Gray, 2013-1 U.S. Tax Cas. (CCH) ¶ 50,367 (Bankr. W.D. Mo. 2013)**.

IRA. Prior to the debtor filing for bankruptcy filing, the debtor had received an IRA from a deceased parent. The debtor claimed the monthly payments from the IRA as exempt under Section 522(d)(12) for retirement funds. The court found that an inherited IRA contained additional restrictions on contributions, distributions and rollovers from an IRA owned by a debtor. The differences were sufficient to change the inherited IRA from a retirement account to a time-limited, tax deferral account. Therefore, the court held that the inherited IRA was no longer retirement funds eligible for the Section 522(d)(12) exemption. ***In re* Clark, 2013-1 U.S. Tax Cas. (CCH) ¶ 50,389 (7th Cir. 2013)**.

The debtor filed for Chapter 13 in March 2013. Prior to the bankruptcy filing, the debtor had received an IRA from a deceased parent. The debtor claimed the monthly payments from the IRA as exempt under Section 522(d)(12) for retirement funds. The court noted a conflict between the Eighth and Fifth Circuit Courts of Appeals in favor of treating the inherited IRA as exempt retirement funds and the Seventh Circuit Court of Appeals, see *In re Clark, above*, against treating the inherited IRA as exempt retirement funds. The court decided to follow the Eighth and Fifth Circuits and held that the inherited IRA funds were exempt. ***In re* Bauer, 2013-1 U.S. Tax Cas. (CCH) ¶ 50,387 (Bankr. D. S.C. 2013)**.

The debtor had an IRA with a brokerage firm and the IRA agreement provided that funds in the account would be subject to a lien for the discharge of any indebtedness to the brokerage firm. The account was not a margin account or otherwise ever incurred any indebtedness to the brokerage firm. The debtor claimed an exemption for the IRA under Section 522(b)(3)(C) in the debtor's Chapter 7 case. The trustee objected to the exemption, arguing that the IRA agreement created a direct or indirect extension of credit by the brokerage firm, in violation of I.R.C. § 4975(c)(1)(B), thus causing the IRA to lose its tax-exempt status. The court disagreed, holding that the IRA retained its tax-exempt status because no credit was extended to the debtor based on the existence of the IRA. The court noted that Ann. 2011-81, I.R.B. 2011-52 states that a cross-collateralization agreement does not disqualify an IRA as tax-exempt. ***In re* Daley, Jr., 2013-1 U.S. Tax Cas. (CCH) ¶ 50,385 (6th Cir. 2013), *rev'g*, 2012-2 U.S. Tax Cas. (CCH) ¶ 50,736 (D. Tenn. 2012)**.

FEDERAL FARM PROGRAMS

NO ITEMS.

FEDERAL ESTATE AND GIFT TAXATION

ALLOCATION OF BASIS FOR DEATHS IN 2010. The decedent died in 2010 and the trustee for the decedent's estate retained an accountant to prepare estate tax documents, including the necessity to file a Form 8939, *Allocation of Increase in Basis for Property Acquired from a Decedent*. The trustee of the decedent's estate requested an extension of time pursuant to Treas. Reg. § 301.9100-3 to file the Form 8939 to make the I.R.C. § 1022 election and to allocate basis provided by section 1022 to eligible property transferred as a result of the decedent's death. The IRS granted the extension. **Ltr. Rul. 201322019, Feb. 26, 2013**.

EXECUTOR LIABILITY. The decedent and spouse had been assessed for unpaid income taxes and a federal tax lien was perfected against their property. The property had been transferred solely to the decedent for $1. The spouse died first and no probate of the estate was done. The decedent died and two executors were appointed. The IRS informed the executors of the tax lien but the executors sold the property without payment of the taxes, first to one of the executors for $1 and then to a third for market value. The IRS filed suit against the executors to reduce the tax assessments to judgment, to set aside the conveyance of the property for fraud and to receive the proceeds of the sale. The court held that one-half of the property remained subject to the federal tax lien for the spouse's tax liability. The transfer of the property to the decedent did not extinguish the lien because the transfer was not made for full and adequate consideration. In addition, the court held that the co-executors were personally liable for the income taxes as fiduciaries of the estate for failing to pay the taxes with the proceeds of the sale of the property subject to the lien when the executors had knowledge of the lien. The appellate court affirmed in a decision

designated as not for publication. **United States v. Tyler, 2013-1 U.S. Tax Cas. (CCH) ¶ 50,373 (3d Cir. 2013), *aff'g*, 2012-1 U.S. Tax Cas. (CCH) ¶ 50,270 (E.D. Penn. 2012)**.

GIFTS. The taxpayer created a charitable lead annuity trust with a private foundation as the income beneficiary. The taxpayer was a director of the foundation but a committee, in which the taxpayer was not a member, was established to make all decisions as to contributions made by the trust to the foundation. The contributions were maintained in a separate account of the foundation. The IRS ruled that the trust was a completed gift and the trust property would not be included in the taxpayer's gross estate. **Ltr. Rul. 201323007, March 4, 2013**.

FEDERAL INCOME TAXATION

ABANDONMENT. The taxpayer purchased a residence in 2005 and lived there for about one year. After moving out, the taxpayer rented the house for a few months in 2007. The rental income was reported as income and the taxpayer claimed a depreciation deduction for the house for 2007. However, the house was valued at less than the mortgage loan and the taxpayer abandoned the house by no longer making the mortgage payments. The lender foreclosed on the mortgage in 2008 and sold the property. The lender sent the taxpayer a Form 1099-A, *Acquisition or Abandonment of Secured Property*, listing the loan amount, fair market value of the property and the "date of lender's acquisition or knowledge of abandonment" as of January 22, 2008. The IRS assessed a deficiency for 2008, claiming that the taxpayer realized long-term capital gain from the abandonment because, after considering depreciation allowed or allowable, the foreclosure resulted in a sale or exchange where the taxpayer's indebtedness exceeded the adjusted basis in the residence. The taxpayer argued that an ordinary loss resulted from the abandonment of the residence from the loss of the value of the residence when the debt obligation exceeded the value. Citing *Yarbro v. Comm'r, 737 F.2d 479 (5th Cir. 1984), aff'g, T.C. Memo. 1982-675*, the court held that the foreclosure of the loan was a sale or exchange resulting in capital gain equal to the amount of the mortgage less the taxpayer's basis (the taxpayer's cost less allowed and allowable depreciation). Note: because of the citation to *Yarbro*, the court seems to imply that it treated the mortgage amount as nonrecourse debt but the court provided no discussion of the character of the mortgage debt at the time of the abandonment. **Malonzo v. Comm'r, T.C. Summary Op. 2013-47**.

ALIMONY. During divorce proceedings, the taxpayer's attorney and taxpayer's spouse's attorney attempted to negotiate the monthly alimony to be paid pending the final divorce decree. Although the parties were nearing a settlement, no actual settlement was reached and the divorce decree established the monthly alimony. However, during the negotiations, the taxpayer made monthly payments to the spouse. The taxpayer claimed a deduction for these payments as alimony. The court held that the payments were not deductible as alimony because no divorce agreement had been reached or divorce decree issued when the payments were made. **Faylor v. Comm'r, T.C. Memo. 2013-143**.

BUSINESS EXPENSES. The taxpayer was an independent contractor. The taxpayer lost all business records when the taxpayer's house was foreclosed upon and destroyed with the records in the house. The taxpayer rented space in another house and used part of that space to store tools and run the taxpayer's business. However, the taxpayer did not use the space exclusively for business. The taxpayer claimed depreciation deductions for a truck and tools used in the business and claimed travel expenses for travel to work sites. The court held that the taxpayer did not have a home office for travel expenses purposes because the space was not used exclusively for business. Because the taxpayer worked at each site separately, no travel expenses were allowed between the work sites and the taxpayer's residence. There was no claim for travel expenses between work sites. The court also denied the depreciation deductions for the truck and tools for lack of substantiation of the value of that property. The appellate court affirmed in a decision designated as not for publication. **Bogue v. Comm'r, 2013-1 U.S. Tax Cas. (CCH) ¶ 50,354 (3rd Cir. 2013), *aff'g*, T.C. Memo. 2011-164**.

The taxpayer operated a facial treatment business, primarily as an independent contractor for another spa company, although the taxpayer also remodeled a porch in the taxpayer's residence for use by the business. The taxpayer claimed a variety of business expense deductions, including vehicle mileage expenses, home office expenses and general business expenses such as advertising, uniforms, repairs and labor. The taxpayer provided three vehicle logs which provided information about the miles driven to the three locations of the spa company. Although the court held that the individual logs were insufficient, the logs taken as a whole supported the mileage claimed by the taxpayer and allowed the deduction for vehicle expenses. The court held that the home office expense deduction was not allowed because the taxpayer failed to prove that the porch was used exclusively for the taxpayer's business. The other business expense deductions were also disallowed for lack of substantiation. The taxpayer claimed that the records were lost in a flood but failed to provide any reconstruction of those records. **Santiago v. Comm'r, T.C. Summary Op. 2013-45**.

The taxpayer was a professional corporation which operated a dental office. The dentist and spouse were the sole shareholders. On the advice of a tax professional, the dentist formed a second corporation to manage the taxpayer's operations and to provide the basis of an employee stock ownership plan (ESOP). The new corporation entered into a management contract to provide management services in exchange for a percentage fee. However, the management services before and after the contract were performed by the spouse. The taxpayer claimed a deduction for the management fees paid to the new corporation but the deductions were disallowed by the IRS. The court held

that the deductions were properly disallowed because the taxpayer failed to show that the new corporation actually performed any services. **Wiley M. Elick DDS, Inc. v. Comm'r, T.C. Memo. 2013-139**.

The taxpayer was an oral surgeon who lived in a suburb of Philadelphia but maintained an office north of New York City. The taxpayer drove between the home and office regularly and claimed expense deductions for mileage, tolls, meals, gas and other incidentals of the travel. The court held that the travel expenses were nondeductible commuter expenses incurred for travel between the taxpayer's home and workplace. The taxpayer used a retail tax return preparation computer software to fill out federal tax returns. The court upheld assessment of accuracy-related penalties because the taxpayer did not conduct any research as to the legal basis for taking the claimed deductions. **Bigdeli v. Comm'r, T.C. Memo. 2013-148**.

CONSERVATION EASEMENTS. The taxpayers owned a limited liability company which owned a residential development and a golf course inside that development. The LLC transferred a conservation easement on the golf course land to a charitable organization. The easement prevented the development of the land other than as a golf course. The easement was granted in perpetuity, however, the LLC was allowed to substitute other land to be subject to the easement with the permission of the charitable organization. The golf course was valued at over $10 million prior to transfer, because its best use was as developed residential property. After the transfer the golf course was valued as a golf course for only $270,000. The IRS denied a charitable deduction for the transfer because the easement was not granted in perpetuity. The court noted that both I.R.C. § 170(h)(2) (qualified real property interest includes a restriction granted in perpetuity) and I.R.C. § 170(h)(5) (conservation purpose must be protected in perpetuity) need to be satisfied to allow a deduction. In this case, although the conservation purpose was perpetual, the restriction on the land was not perpetual because the parties could change the land subject to the conservation purpose. Therefore, the court held that the IRS properly denied the deduction because the easement on the golf course was not granted in perpetuity. On reconsideration, the court reaffirmed its holding, emphasizing that the conservation agreement specifically allowed the substitution of other property, turning the conservation easement provision a "floating easement" not attached to any specific property. **Belk v. Comm'r, T.C. Memo. 2013-154, *aff'g on recon.*, 140 T.C. No. 1 (2013)**.

The taxpayer owned 882 acres of mostly unimproved ranch land used for recreation by the taxpayer's family. Access to the property was only over easements granted by neighbors, including the federal government. The land was subject to a contract with the county government which limited the use of the property; however, the contract was not part of the case record. The taxpayer granted a conservation easement to a charitable organization and claimed a charitable deduction for the value of the easement. The taxpayer's appraisers testified that the highest and best use of the ranch before the easement was as a vineyard and residential development. After the easement, the appraisers claimed that the highest and best use was for recreation. The court held that the property could not be used for a vineyard because (1) the property did not have sufficient water, (2) the access easements did not allow for the additional road use for a vineyard, (3) the taxpayer failed to show that there was any market for vineyards in the area, and (4) the taxpayer failed to show that a vineyard was economically feasible. The court also held that the property could not be used for residential development because of the contract with the county which limited development of the property. Thus, the court held that the highest and best use of the property did not change and the value of the property did not decrease after the grant of the easement. Because the easement did not cause any decrease in the value of the property, the easement had no value and no charitable deduction was allowed. **Mountanos v. Comm'r, T.C. Memo. 2013-138**.

CORPORATIONS

DEBT OR EQUITY. In a Chief Counsel Advice letter, the IRS stated: "Based on the facts submitted for our review, we support the Field's argument that a bona fide debt does not exist. The taxpayer has not provided any information to show that the parties treated the amount as debt. Specifically, the taxpayer did not provide a fixed maturity date for the purported loan, there is no evidence of any principal repayment, or interest charged/paid. The purported creditor made no attempt to collect the alleged debt. Furthermore, beginning in *****, the parties treated the purported debt as equity for foreign jurisdiction purposes. As noted in the draft memorandum, if there is not a bona fide debt, then there can not be a bad debt loss under section 166. Treas. Reg. section 1.166-1(c). Therefore, based on the facts submitted for our review, and given that ***** supports the argument that a bona fide debt does not exist, we support the Field's argument that the taxpayer is not entitled to a bad debt loss deduction under section 166." **CCA 201323021, Jan. 18, 2013**.

COURT AWARDS AND SETTLEMENTS. The taxpayer had rented an apartment but the landlord filed an unlawful detainer action against the taxpayer who was forced to move out. The taxpayer filed suit against the landlord for retaliatory eviction, claiming economic and non-economic damages and "severe emotional distress and physical injury, humiliation and mental anguish, including bodily injury such as stomach aches; head aches; sleep loss; feelings of depression, discouragement, anger, and nervousness." The jury awarded the taxpayer $14,000 in economic and non-economic damages. The taxpayer included only economic damages in taxable income. The court held that the full jury award was taxable because the taxpayer failed to show that any of the award was made as compensation for physical injuries. **Tirfe v. Comm'r, T.C. Summary Op. 2013-42**.

EMPLOYEE EXPENSES. The taxpayer was employed as a salesman and was required to do much driving to visit clients. The employer reimbursed a portion of the driving expenses. The taxpayer claimed the driving and other travel expenses on Schedule C and Schedule A. The court held that the deduction for the expenses was limited to the amount allowed by the IRS because either the taxpayer failed to substantiate the expenses

or show that the expenses were ordinary and necessary to the taxpayer's employment. **Nielsen v. Comm'r, T.C. Memo. 2013-144**.

EXCISE TAX ON TANNING SERVICES. The IRS has adopted as final regulations on the excise tax on tanning services, under which, starting July 1, 2010, many businesses offering tanning services must collect a 10 percent excise tax on the tanning services they provide. Businesses providing ultraviolet tanning services must collect the 10 percent excise tax at the time the customer pays for the tanning services. If the customer fails to pay the excise tax, the tanning service provider is liable for the tax. The tax does not apply to phototherapy services performed by a licensed medical professional on his or her premises. The tax does not apply to spray-on tanning services. If a payment covers charges for tanning services along with other goods and services, the other goods and services may be excluded from the tax if they are separately stated and the charges do not exceed the fair market value for those other goods and services. If the customer purchases bundled services and the charges are not separately stated, the tax applies to the portion of the payment that can be reasonably attributed to the indoor tanning services. The tax does not have to be paid on membership fees for certain qualified physical fitness facilities that offer indoor tanning services as an incidental service to members without a separately identifiable fee. Tanning service providers must report and pay the excise tax on a quarterly basis. To pay the tax, businesses must file IRS Form 720, *Quarterly Federal Excise Tax Return*. **78 Fed. Reg. 112 (June 11, 2013)**.

IRA. The taxpayer owned an IRA from which the taxpayer was receiving an equal periodic payment. The taxpayer decided to switch investment companies holding the IRA and attempted to roll over the entire old IRA to the new IRA; however, the second company refused to accept all of the investments so only a portion of the IRA was actually transferred. The new IRA made the periodic distributions but calculated the amount based on the original IRA amount less the proportion subject to the retained investments. In addition, the old IRA stopped making distributions, resulting in a change of the periodic payments. When the problem was discovered, the new IRA made corrective distributions. The IRS ruled that the transfer resulted in a modification of the periodic payments, subjecting the payments to the 10 percent penalty for changes in the periodic payments. **Ltr. Rul. 201323045, March 14, 2013**.

INNOCENT SPOUSE RELIEF. The IRS has announced its acquiescence in the following case. The taxpayer's former spouse had omitted income from joint returns. Although no assessment had yet been made against the taxpayer personally, the taxpayer sought equitable innocent spouse tax relief for the tax deficiencies resulting from the unreported income. The court held that equitable relief should be granted because (1) the taxpayer was no longer married to the former spouse, (2) the taxpayer received no benefit from the unpaid taxes, (3) the tax liability resulted solely from the former spouse's activities, and the taxpayer would suffer significant hardship from paying the tax deficiency. On appeal, the IRS argued that the Tax Court had inappropriately allowed the taxpayer to present additional evidence not in the administrative record. The appellate court held that the Tax Court was allowed a *de novo* review of all evidence in determining whether innocent spouse relief was appropriate. **Wilson v. Comm'r, 2013-1 U.S. Tax Cas. (CCH) ¶ 50,147 (9th Cir. 2013), *aff'g*, T.C. Memo. 2010-134, Acq. Ann. I.R.B. 2013-25**.

LOSSES. The taxpayer lived with a relative in a house owned by that relative. The taxpayer paid for improvements to the property in exchange for an agreement that the taxpayer would receive a portion of the proceeds of any future sale of the property. When the relative died, the taxpayer was forced to sue to enforce the agreement and eventually settled for a portion of the sale proceeds. The taxpayer claimed a loss deduction for the difference between the amount paid for the improvements less the amount received in the lawsuit settlement. The court held that the loss deduction was allowed because the taxpayer had an economic interest in the property and the taxpayer invested in the property with the intent to make a profit. **Brooks v. Comm'r, T.C. Memo. 2013-141**.

PARTNERSHIPS

DEFINITION. The taxpayer was formed as a collaboration between two corporations to produce and market a product. In a Chief Counsel Advice letter, the IRS ruled that the taxpayer was a partnership because (1) the corporations entered into the collaboration agreement and did not deviate from its terms during the taxable years at issue; (2) both corporations contributed cash and services to the venture; (3) both corporations were involved in the production and marketing of the product; (4) the corporations shared the profits and losses of their operation; (5) both parties maintained records of their respective revenue and expenses; and (6) both corporations exercised mutual control and assumed mutual responsibilities for the enterprise. The IRS also ruled that the taxpayer could not elect out of subchapter K because the collaboration was not merely for investment. **CCA 201323015, Feb. 21, 20113**.

PASSIVE ACTIVITY LOSSES. The taxpayers, husband and wife, formed a limited liability company to perform construction activities related to another business owned by the taxpayers. Only the spouse was a member of the LLC and the spouse performed most office functions. The taxpayers had personally guaranteed a loan entered into by the LLC but on which the LLC had defaulted. The bank obtained a judgment against the taxpayers on the loan but no payments were made on the loan or judgment by the taxpayers. Both taxpayers set up the company, including hiring employees, entering into construction contracts and buying equipment. Although the taxpayers failed to provide substantiating evidence of their time spent on the LLC business, the court held that their testimony sufficiently proved that the taxpayers' involvement in the LLC business was regular, continuous and substantial to support the losses as non-passive. The court also held that the taxpayers' guarantee of an LLC loan did not increase the spouse's basis in the LLC interest because the taxpayer did not actually make a payment on the loan after the LLC defaulted on the loan. **Montgomery v. Comm'r, T.C.**

Memo. 2013-151.

PENSION PLANS. The rates below reflect changes implemented by the Moving Ahead for Progress in the 21st Century Act (*Pub. L. No. 112-141*). For plans beginning in June 2013 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 3.11 percent. The 30-year Treasury weighted average is 3.45 percent, and the 90 percent to 105 percent permissible range is 3.11 percent to 3.63 percent. The 24-month average corporate bond segment rates for June 2013, without adjustment by the 25-year average segment rates are: 1.43 for the first segment; 4.10 for the second segment; and 5.15 for the third segment. The 24-month average corporate bond segment rates for June 2013, taking into account the 25-year average segment rates, are: 4.94 for the first segment; 6.15 for the second segment; and 6.76 for the third segment. **Notice 2013-37, I.R.B. 2013-26**.

The taxpayer owned a retirement annuity and received a complete distribution of the funds in 2009. Although the taxpayer intended to roll over the funds to an IRA, the funds were deposited into the taxpayer's checking account when the taxpayer learned that the taxpayer's wife was pregnant and anticipated medical expenses. The taxpayer's wife gave birth in 2009 and did incur medical expenses but the amount was not proved. In addition, the couple had medical insurance and no evidence was submitted as to amount of reimbursed medical expenses. The court held that the distribution was included in taxable income and subject to the 10 percent penalty for early distributions. The court also held that no exemption for use of the funds for medical expenses was allowed because the amount of the unreimbursed expenses was unknown and the taxpayer failed to show that such expenses would be deductible as exceeding seven and one half percent (for 2009) of adjusted gross income. **McGraw v. Comm'r, T.C. Memo. 2013-152**.

SAFE HARBOR INTEREST RATES

July 2013

	Annual	Semi-annual	Quarterly	Monthly
		Short-term		
AFR	0.23	0.23	0.23	0.23
110 percent AFR	0.25	0.25	0.25	0.25
120 percent AFR	0.28	0.28	0.28	0.28
		Mid-term		
AFR	1.22	1.22	1.22	1.22
110 percent AFR	1.34	1.34	1.34	1.34
120 percent AFR	1.46	1.46	1.46	1.46
		Long-term		
AFR	2.80	2.78	2.77	2.76
110 percent AFR	3.08	3.06	3.05	3.04
120 percent AFR	3.37	3.34	3.33	3.32

Rev. Rul. 2013-15, I.R.B. 2013-28.

S CORPORATIONS

ONE CLASS OF STOCK. The taxpayer S corporation had shareholders who were residents of four states. The taxpayer provided payments to the shareholders based on their state income tax incurred from taxpayer income shares. The states had different income tax rates so the taxpayer had to adjust annual distributions so that each shareholder received the proportional share required by the shareholder agreement. However, some of the equalizing distributions occurred in different tax years. The IRS ruled that the timing of the equalizing distributions did not cause a termination of the taxpayer's S corporation status. **Ltr. Rul. 201322036, Jan. 30, 2013**.

TAX LIENS. The taxpayer transferred property to a revocable trust prior to the IRS making an assessment for unpaid taxes. In a Chief Counsel Advice letter, the IRS ruled that the trust property would be subject to a federal tax lien because, under the Restatement (Third) of Trusts § 25, the principal of a revocable trust is treated as property of the settlor and subject to the claims of creditors. **CCA 201324017, May 30, 2013**.

TRUSTS. The Mexican Federal Constitution prohibits non-Mexican persons from directly holding title to residential real property in certain areas of Mexico. Non-Mexican persons, however, may hold residential real property located in the restricted zones through a Mexican Land Trust (MLT) with a Mexican bank after obtaining a permit from the Mexican Ministry of Foreign Affairs. The revenue ruling discussed three situations involving an MLT: (1) an individual enters into an MLT through a pass-through entity, (2) an individual enters into an MLT through a corporation, and (3) an individual enters into an MLT directly. In each case, the Mexican bank acts only as a fiduciary for purposes of holding the title to the property, holding no other rights in the property purchased under the MLT. The IRS ruled that in none of the cases is the MLT a trust under Treas. Reg. § 301.7701-4(a). **Rev. Rul. 2013-14, I.R.B. 2013-26**.

FARM ESTATE AND BUSINESS PLANNING

by Neil E. Harl

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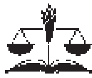
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The topics include:

First 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
- Development in SE tax for CRP payments
- Leasing land to family entity
- Items purchased for resale
- Items raised for sale
- 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
- 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.

Second 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
- Family-owned business deduction recapture
- 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 new regulations
- Generation-skipping transfer tax
- Importance of the Rule Against Perpetuities

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
- Eligibility for "small partnership" exception
- 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 "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

Social Security
- In-kind wages paid to agricultural labor

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