CASES, REGULATIONS AND STATUTES

by Robert P. Achenbach, Jr

BANKRUPTCY

CHAPTER 12

PLAN. On the debtor's statement of affairs, the debtor failed to mention that the debtor occupied real property during the three years before filing for bankruptcy and that the debtor had sold the property during that time for less than adequate compensation. The debtor also included false statements that the debtor had not made any distributions to insiders, the owner of the debtor, during the year before the bankruptcy filing. The court held that the false statements demonstrated that the petition and plan were filed in bad faith and ordered the case converted to Chapter 7 so that an independent trustee could investigate the conduct of the debtor's principals and pursue recovery of avoidable transfers. ***In re* @ Vantage.com, 2007 Bankr. LEXIS 3116 (Bankr. N.D. Calif. 2007)**.

SETOFF. The debtors were members of a cooperative association and owned a non-stock capital account with the cooperative. The debtors listed an account with the cooperative as a claim against the estate for "goods sold." The debtors owned common stock in the cooperative worth $1000 and ledger credits of $19,424. The cooperative filed a motion for relief from the automatic stay so as to setoff of the claim against the debtors' ledger credits. The debtors' plan contemplated that the debtors would continue farming and being members of the cooperative. The court held that, under Kansas law, the cooperative did not have a right of setoff of the account against the ledger credits because the ledger credits were not immediately payable to the debtors since they were subject to specific requirements under the cooperative bylaws which were not present. The court held that, under Section 553, no setoff right exists because the cooperative failed to show that the ledger credits were a present debt owed to the debtors, since the ledger credits could only be paid under limited circumstances set forth int he cooperative bylaws which the cooperative failed to show existed at the time of the bankruptcy filing. ***In re* Bergman, 2007 Bankr. LEXIS 3047 (Bankr. D. Kan. 2007)**.

FEDERAL TAX

SALE OF CHAPTER 12 ESTATE PROPERTY. The debtor filed for Chapter 12 and, with permission of the Bankruptcy Court, sold the debtor's farm, resulting in $29,000 of capital gain. The debtor's plan included the capital gains as an unsecured claim to be paid to the extent of other unsecured claims. The IRS objected to the plan, arguing that the capital gains were the post-petition personal responsibility of the debtor because no taxable entity was created in the bankruptcy estate. The debtor cited *In re Knudsen, 356 B.R. 480 (Bankr. N.D. Iowa 2006)*, which held that, under Section 1222(a)(2)(A), taxes generated by the sale of Chapter 12 estate property could be treated as unsecured claims of the estate. The court in this case rejected the holding of *In re Knudsen*, and held that the statute was clear that no separate taxable entity was created in Chapter 12 proceedings, therefore, post-petition sales of estate property were taxable to the debtor personally. The court also held that the taxes were not entitled to the administrative expenses exception in Section 1222(a)(2)(A) because the taxes were not entitled to priority under Section 507. ***In re* Hall, 2007 Bankr. LEXIS 3385 (Bankr. D. Ariz. 2007)**.

CONTRACTS

DAMAGES. The plaintiff owned a farm neighboring some highway construction performed by the defendant. The parties entered into a contract under which the defendant was allowed to dispose of excess muck and soil on the plaintiff's fields. After the construction was completed, the plaintiff attempted to cultivate the fields and found that the defendant had disposed of non-soil items such as concrete, metal parts and wire which damaged the plaintiff's equipment and made the soil unusable. The plaintiff sued for the cost of repair of the equipment and the diminution in the value of the land. The plaintiff did not repair the equipment but traded it in for newer equipment; therefore, the court disallowed damages for the repair costs and allowed damages only for the loss of value of the equipment as demonstrated by the lesser trade-in values. The plaintiff attempted to correct the erosion problems caused by the improper disposal but was unable to fully correct the problems. The court held that the plaintiff was entitled to recover the cost of the erosion repair efforts and any remaining diminution in the value of the land resulting from the remaining erosion problems. **Crider & Crider, Inc. v. Downen, 873 N.E.2d 1115 (Ind. Ct. App. 2007)**.

FEDERAL AGRICULTURAL PROGRAMS

LIVESTOCK. The AMS has announced the establishment of a voluntary standard for a grass (forage) fed livestock marketing claim. A number of livestock producers make claims associated with production practices in order to distinguish their products in the marketplace. With the establishment of this voluntary standard, livestock producers may request that a grass (forage) fed claim be verified by the USDA. Verification of this claim will be accomplished through an audit of the production process in accordance with procedures that are contained in 7 C.F.R. Part 62, and the meat sold from these approved programs can carry a claim verified by USDA. **72 Fed. Reg. 58631 (Oct. 16, 2007)**.

ORGANIC FOOD. The AMS has adopted as final regulations amending the USDA National List of Allowed and Prohibited Substances regulations to reflect recommendations submitted to the Secretary of Agriculture by the National Organic Standards Board from November 17, 2005, through October 19, 2006 for the removal of three substances. **72 Fed. Reg. 58469 (Oct. 16, 2007)**.

FEDERAL ESTATE AND GIFT TAXATION

ALTERNATE VALUATION DATE. The decedent's estate hired an accountant to fill out and file the estate's estate tax return. The return was filed without making the alternate valuation date election. After the return was filed, the accountant determined that the election should have been made and filed a supplemental return with the election. The IRS allowed the estate an extension of time to file the alternate valuation date election. **Ltr. Rul. 200740009, May 10, 2007**.

GENERATION-SKIPPING TRANSFERS. A trust was established prior to September 25, 1985 and currently had four beneficiaries. The trustee and beneficiaries petitioned a local court to partition the trust into three separate trusts, with pro rata (by value) distribution of trust assets but not as to each individual asset. The IRS ruled that the partition did not subject the resulting trusts to GSTT because the partition did not shift any beneficial interest to any beneficiary occupying a generation lower than persons holding a beneficial interest in the original trust. The IRS also ruled that the non-pro rata (by value) distribution of individual assets did not cause recognition of gain or loss because such distribution was allowed by state law and trust provisions. **Ltr. Rul. 200742011, May 24, 2007**.

MARITAL DEDUCTION. The decedent's will bequeathed all the residuary estate to the decedent's surviving spouse if the surviving spouse is living when the estate is distributed. If the surviving spouse died before the estate was distributed, the residuary estate passed to the decedent's children. The estate claimed a marital deduction for the property which passed to the surviving spouse who did survive to receive the distribution. Under Rev. Code Wash. § 11.108.010(4), if it is determined that a testator intended a marital deduction gift in a will, the will shall be construed to comply with the federal marital deduction. The trial court noted that the decedent had ample notice of the marital deduction law and obtained surviving spouse insurance (provides funds for payment of estate tax), indicating the decedent's intent to make the bequest to the surviving spouse without qualification. The trial court held that the decedent intended to make a marital deduction bequest in the will provision for the surviving spouse and held that, for purposes of the marital deduction, the court would ignore the inconsistent language withdrawing the bequest if the surviving spouse did not survive until after the estate distribution. Thus, the reformed will provision did not place a time limitation on the bequest to the surviving spouse and the bequest qualified for the federal marital deduction. The initial decision was appealed, reversed and remanded on evidence issues. On retrial, the same result was reached because the trial court held that the "law of the case" rule applied which was not altered by the rulings on the use of evidence. On appeal, the appellate court agreed that the issue of testator intent was not changed by the reversal on the evidence issues. The appellate decisions is designated as not for publication. **Sowder v. United States, 2007-2 U.S. Tax Cas. (CCH) ¶ 60,550 (9th Cir. 2007),** ***aff'g*****, 2005-2 U.S. Tax Cas. (CCH) ¶ 60,512 (E.D. Wash. 2005)**.

FEDERAL INCOME TAXATION

ACCOUNTING METHOD. The IRS is requesting comments regarding a proposal to change the process by which taxpayers obtain IRS consent to change a method of accounting for federal income tax purposes. The IRS is concerned that certain aspects of the existing accounting method change process make it a complex and inefficient means for taxpayers to obtain consent to change an accounting method. These complexities and inefficiencies often result in significant delays in the processing of accounting method change requests. The IRS anticipates that, under this proposal, the majority of accounting method change requests would be made through the standard consent process in a manner similar to the existing automatic consent process. The proposal contemplates that taxpayers would file Form 3115, Application for Change in Accounting Method, with their returns for the requested year of change. However, the IRS is considering an alternative approach, under which taxpayers would be required to file Form 3115 for changes to methods of accounting not specifically identified in *Rev. Proc. 2002-9, 2002-1 CB 327*, (or any successor) or other automatic guidance, by the last day of the ninth month of the requested tax year of change. Under the proposal, the IRS would screen accounting method change requests for completeness and for compliance with the procedures governing the standard consent process. Requests that are not substantially complete would be denied and the taxpayer would be notified that consent to change accounting method is not granted. The specific consent process is proposed for only two categories of accounting method changes: (1) accounting method changes specifically identified in published guidance as required to be made under the specific consent process, and (2) changes that otherwise qualify under the standard consent process, but for which the taxpayer seeks different terms and conditions or a waiver of certain scope limitations that apply to the standard consent process. Under the proposal, a taxpayer that seeks a change in accounting method other than a change that is specifically identified in *Rev. Proc. 2002-9* (or any successor), or other automatic consent guidance, may request a letter ruling under *Rev. Proc. 2007-1, 2007-1 C.B. 1* (or its successor). **Notice 2007-88, I.R.B. 2007-46**.

ALIMONY. Under the taxpayer's divorce decree, the taxpayer was required to pay the former spouse 25 percent of the taxpayer's military retirement pay, with the payments to end upon the death of either party. The court held that the retirement pay amounts paid to the former spouse were deductible under I.R.C. § 215. **Proctor v. Comm'r, 129 T.C. No. 12 (2007)**.

BUSINESS EXPENSES. The taxpayers, husband and wife, owned and operated a concrete construction business which was operated through several entities and trusts. The taxpayers claimed deductions for depreciation, employee expenses and vehicle expenses but had no written records of ownership of the property, the employer of the employees, the source of payment, and the amount or purpose of the payments. The court disallowed the deductions for lack of substantiation because the court could not determine whether the expenses were also claimed on other returns for other entities. **Tarter v. Comm'r, T.C. Memo. 2007-230**.

CORPORATIONS.

COMPENSATION. The taxpayer was a corporation formed by a wholly-owned corporation. Both corporations were wned by one person and the taxpayer corporation's sole purpose was to market products sold by the original corporation. The owner received compensation as an officer of the taxpayer corporation. The court held that the compensation paid was not fully deductible as compensation because the amount was not reasonable because the work performed by the officer was not extensive or complex, the taxpayer failed to provide evidence of similar compensation by similar companies, the officer controlled both corporations and the taxpayer corporation did had only a small amount of net income. **Universal Marketing, Inc. v. Comm'r, T.C. Memo. 2007-305**.

REORGANIZATION. The IRS has adopted as final regulations that provide that a transaction otherwise qualifying as a reorganization will not be disqualified as a result of a subsequent distribution of the acquired assets or stock if (1) no transferee receives substantially all of the acquired assets, substantially all of the assets of the acquired or surviving corporation in a transaction otherwise qualifying as a reorganization, or stock constituting control of the acquired corporation, (2) the transferee is either a member of the qualified group or a partnership the business of which is treated as conducted by a member of the qualified group, and (3) the COBE requirement is satisfied. **72 Fed. Reg. 60552 (Oct. 25, 2007)**.

DISABILITY PAYMENTS. The IRS has announced its acquiescence to the Tax Court's decision in the case of *Wallace v. Comm'r, 128 T.C. 132 (2007)*. The *Wallace* court held that amounts received by an individual through participation in a compensated work therapy program under the Special Therapeutic and Rehabilitation Fund of the Department of Veteran's Affairs, constituted veteran's benefits and, therefore, were not includible in the individual's gross taxable income. The IRS will no longer litigate the issue of payments received under this program. **AOD 2007-05**

DISASTER LOSSES. On September 25, 2007, the president determined that certain areas in Illinois are eligible for assistance from the government under the Disaster Relief and Emergency Assistance Act (42 U.S.C. § 5121) as a result of severe storms and flooding, which began on August 20, 2007. **FEMA-1729-DR**. On October 2, 2007, the president determined that certain areas in Texas are eligible for assistance from the government under the Act as a result of Tropical Storm Erin, which began on August 14, 2007. **FEMA-1730-DR**. On October 24, 2007, the president determined that certain areas in California are eligible for assistance from the government under the Act as a result of wildfires, which began on October 21, 2007. **FEMA-1731-DR**. Taxpayers who sustained losses attributable to these disasters may deduct the losses on their 2006 returns.

FOREIGN INCOME. The taxpayer performed work in Antarctica and the taxpayer excluded the wages earned while in Antarctica under I.R.C. § 911 as foreign income. The court held that income earned in Antarctica was not excludible under I.R.C. § 911 because Antarctica was not recognized by the U.S. government as a foreign sovereign nation. **Howard v. Comm'r, T.C. Memo. 2007-313; Charpentier v. Comm'r, T.C. Memo. 2007-314; Giammateo v. Comm'r, T.C. Memo. 2007-307; Prentiss v. Comm'r, T.C. Memo. 2007-308; Grant v. Comm'r, T.C. Memo. 2007-318; Fabre v. Comm'r, T.C. Memo. 2007-319**.

GAMBLING INCOME. The IRS has issued a news release reminding poker tournament sponsors, including casinos, that they will be required to report most winnings to winners and the IRS starting on March 4, 2008. The new reporting requirement was first announced in September 2007 in *Rev. Proc. 2007-57, 2007-2 C.B. 547*. **IR-2007-173**.

HYBRID VEHICLE CREDIT. The IRS has certified the 2008 Honda Civic Hybrid CVT as eligible for the alternative motor vehicle credit under I.R.C. § 30B for $2,100. The IRS noted that 58,872 qualifying hybrid Hondas were sold as of June 30, 2007; therefore, the previously certified Hondas remain eligible for the credit. **IR-2007-168**.

The IRS has announced that sales of Ford and GM qualified hybrid vehicles remain under 60,000 vehicles so previously certified hybrid vehicles remain eligible for the alternative motor vehicle credit under I.R.C. § 30B. **IR-2007-174; IR-2007-175**.

IRA. The taxpayer received early distributions from an IRA and claimed an exemption from payment of the 10 percent tax on early distributions, based on payment of a child's secondary education expenses at a private high school. The court held that no exemption existed for payment of secondary school education and a private high school did not qualify as a higher educational institution as defined by I.R.C. § 529(e)(3). **Nolan v. Comm'r, T.C. Memo. 2007-306**.

PARTNERSHIPS.

WIND ENERGY PRODUCTION CREDIT. The IRS has issued procedures establishing safe harbor requirements for partnerships claiming I.R.C. § 45 wind energy production tax credits. The safe harbor applies to partnerships between a project developer and one or more investors with the partnership owning and operating the qualified energy facilities only if the developer, investors and partnership satisfy each requirement in section four of the procedure. Furthermore, the revenue procedure applies only to partners or partnerships with I.R.C. § 45 production tax credits and does not apply to any other tax credits. The procedure is effective for transactions entered into on or after November 5, 2007. **Rev. Proc. 2007-65, I.R.B. 2007-45**.

PENSION PLANS. The IRS has issued a notice which provides guidance on the corporate bond yield curve and the segment rates required to compute the funding target and other items under I.R.C. § 430 and Section 303 of the Employee Retirement Income Security Act of 1974 (ERISA). In addition, the notice provides guidance on the interest rates for determining minimum present values as required under I.R.C. § 417(e)(3) of the Code and Section 205(g)(3) of ERISA. The notice implements changes to the funding rules and minimum present value requirements made by sections 101, 102, 111, 112, and 302 of the Pension Protection Act of 2006, Pub. L. No. 109-280. **Notice 2007-81, I.R.B. 2007-44**.

For plans beginning in October 2007 for purposes of determining the full funding limitation under I.R.C. § 412(c)(7), the 30-year Treasury securities rate for this period is 4.93 percent, the corporate bond weighted average is 6.23 percent, and the 90 percent to 100 percent permissible range is 5.29 percent to 5.88 percent. **Notice 2007-82, I.R.B. 2007-44**.

The IRS has extended for an additional year transition relief for compliance by nonqualified deferred compensation plans with the final regulations under I.R.C. § 409A. Nonqualified deferred compensation plans are now generally required to comply with the final regulations beginning on January 1, 2009. The IRS expects to issue guidance regarding a correction program as soon as possible. An additional extension to transition relief that was intended to facilitate compliance with written plan requirements set forth in Treas. Reg. § 1.409A-1(c) is also provided. **Notice 2007-86, I.R.B. 2007-46**.

The IRS has announced inflation-adjusted 2008 dollar amounts affecting employer-sponsored retirement and fringe benefit plans, traditional and Roth IRAs, and the retirement savings contribution credit. Some amounts will remain the same as in 2007: (1) the $15,500 limit on elective deferrals to 401(k) plans, 403(b) plans, certain 457 plans and the federal government's Thrift Savings Plan; (2) the $10,500 limit on elective contributions to SIMPLE retirement accounts; (3) the $5,000 and $2,500 limits on catch-up contributions to employer plans; and (4) the $500 minimum compensation amount for participation in SEP plans. The limit on contributions to traditional and Roth IRAs for 2008 is $5,000, plus $1,000 in catch-up contributions for taxpayers who have attained age 50 by the end of the year. The $5,000 limit will be adjusted for inflation beginning in 2009; the $1,000 catch-up limit will not be adjusted for cost of living increases under the current law. Effective January 1, 2008: (1) the beginning of the phaseout range for deductible IRA contributions increases from $83,000 to $85,000 for active participants in an employer plan filing a joint return, from $52,000 to $53,000 for other active participants (other than married individuals filing separately), and from $156,000 to $159,000 for taxpayers who are not active participants but are married to an active participant; (2) the beginning of the phaseout range for allowable Roth IRA contributions increases from $156,000 to $159,000 for joint filers, and from $99,000 to $101,000 for other taxpayers (other than married individuals filing separately); (3) the limit on annual additions to a defined contribution plan increases from $45,000 to $46,000; (4) the limit on annual benefits under a defined benefit plan increases from $180,000 to $185,000; (5) the limit on compensation that can be taken into account for most purposes increases from $225,000 to $230,000; (6) the amount in the definition of "key employee" for top-heavy plan purposes increases from $145,000 to $150,000; (7) the amount in the definition of "highly compensated employee" increases from $100,000 to $105,000; (8) the amount for determining the maximum ESOP account subject to a five-year distribution period increases from $915,000 to $935,000, while the dollar amount used to determine the lengthening of the five-year distribution period increases from $180,000 to $185,000; (9) and the special annual compensation limit for eligible participants in certain governmental plans increases from $335,000 to $345,000. For fringe benefit valuation purposes, the compensation amount that makes a corporate officer a "control employee" remains $90,000 for 2008. The compensation that makes any other employee a "control employee" increases from $180,000 to $185,000. **IR-2007-171.**

RETURNS. The IRS has issued a notice that provides that the Internal Revenue Service will allow Electronic Return Originators (EROs) to sign the following forms by rubber stamp, mechanical device (such as signature pen), or computer software program: Form 8453, U.S. Individual Income Tax Declaration for an IRS e-file Return; Form 8878, IRS e-file Signature Authorization for Form 4868 or Form 2350; and Form 8879, IRS e-file Signature Authorization. **Notice 2007-79, 2007-2 C.B. 809**.

The IRS has posted the following forms and instructions to its website, www.irs.gov/formspubs/index.html, in the Forms & Pubs section: Form 706 (September 2007), United States Estate (and Generation-Skipping Transfer) Tax Return and Form 8332 (September 2007), Release of Claim to Exemption for Child of Divorced or Separated Parents. Copy A of the following forms are for information only and, as such, should not be reproduced on personal computer printers by individual taxpayers for filing: Form 1099-LTC (2007), Long-Term Care and Accelerated Death Benefits, and instructions; Form 1099-LTC (2008), Long-Term Care and Accelerated Death Benefits, and instructions; Form 1099-PATR (2007), Taxable Distributions Received From Cooperatives, and instructions; and Form 1099-PATR (2008), Taxable Distributions Received From Cooperatives, and instructions. The IRS notes that a penalty of $50 per information return can be imposed for filing copies of forms that cannot be scanned. Copies can be ordered online at Forms and Publications by U.S. Mail or by calling 1-800-TAX-FORM (1-800-829-3676). The following instructions have been posted by the IRS: Instructions for Form 5329 (2007), Additional Taxes on Qualified Plans (Including IRAs) and Other Tax-Favored Accounts. These documents are available at no charge and can be obtained (1) by calling the IRS's toll-free telephone number, 1-800-TAX-FORM (1-800-829-3676); (2) through FedWorld on the Internet; or (3) by directly accessing the Internal Revenue Information Services bulletin board at (703) 321-8020. The IRS has posted drafts of the following forms in the Topics for Tax Professionals section of the IRS website (http://www.irs.gov/taxpros/topic/index.html) under Draft Tax Forms: Form 56-F (Rev. October 2007), Notice Concerning Fiduciary Relationship of Financial Institution; Form 1120 (2007), U.S. Corporation Income Tax Return; Form 1120S (2007), U.S. Income Tax Return for an S Corporation; Form 4562 (2007), Depreciation and Amortization; Form 5330 (Rev. January 2008), Return of Excise Taxes Related to Employee Benefit Plans; Form 8609 (Rev. December 2007), Low-Income Housing Credit Allocation and Certification; Form 8609-A (Rev. December 2007), Annual Statement for Low-Income Housing Credit; Form 8801 (2007), Credit for Prior Year Minimum Tax --Individuals, Estates, and Trusts; Form 8822 (Rev. December 2007), Change of Address;

and Form 8889 (2007), Health Savings Accounts (HSAs). Also posted were a draft of original issue discount (OID) table, section I-B, reflecting publicly traded corporate debt instruments originally issued at a discount after December 31, 1984, and Instructions for Form 1040, Schedule A, Itemized Deductions, Draft Worksheets. The IRS notes on the draft of Form 1120 that, effective for tax years beginning after December 31, 2006, Form 1120-A, U.S. Corporation Short-Form Income Tax Return, can no longer be filed and that for the 2007 tax year, all domestic corporations, unless required to file a special return, must file Form 1120.

S CORPORATIONS

ELECTION. The IRS has announced a simpler way for eligible businesses to request relief for late S corporation elections. Pursuant to *Rev. Proc. 2007-62, 2007-2 C.B. 786*, qualifying businesses may file both Form 2553, Election by a Small Business Corporation, and Form 1120S, U.S. Income Tax Return for an S Corporation, simultaneously, effective for tax years ending on or after December 31, 2007. **IR-2007-166**.

SAFE HARBOR INTEREST RATES
November 2007

	Annual	Semi-annual	Quarterly	Monthly
		Short-term		
AFR	4.11	4.07	4.05	4.04
110 percent AFR	4.53	4.48	4.46	4.44
120 percent AFR	4.94	4.88	4.85	4.83
		Mid-term		
AFR	4.39	4.34	4.32	4.30
110 percent AFR	4.83	4.77	4.74	4.72
120 percent AFR	5.28	5.21	5.18	5.15
		Long-term		
AFR	4.89	4.83	4.80	4.78
110 percent AFR	5.38	5.31	5.28	5.25
120 percent AFR	5.88	5.80	5.76	5.73

Rev. Rul. 2007-66, I.R.B. 2007-45.

SOCIAL SECURITY. Beginning with the January 2008 payment, the average monthly social security standard benefit payment is $637 for an individual and $956 for a couple. The maximum amount of annual wages subject to Old Age Survivors and Disability Insurance for 2008 is $102,000, with all wages and self-employment income subject to the medicare portion of the tax. For retirees under age 65, the retirement earnings test exempt amount is $13,560 a year, with $1 withheld for every $2 in earnings above the limit. The retirement earnings test exempt amount (the point at which retirees begin to lose benefits in conjunction with their receipt of additional earnings) for individuals age 62 through 64, will rise from $34,440 a year to $36,120 a year for the year in which an individual attains age 65; the test applies only to earnings for months prior to reaching age 65. One dollar in benefits will be withheld for every $3 in earnings above the limit, and no limit on earnings will be imposed beginning in the month in which the individual reaches retirement age. **SSA News Release, Oct. 18, 2007**.

TAX RATES. The standard deduction for 2008 is $10,900 for joint filers, $8,000 for heads of households, $5,450 for single filers and $5,450 for married individuals who file separately. The income limit for the maximum earned income tax credit is $5,720 for taxpayers with no children, $8,580 for taxpayers with one child, and $12,060 for taxpayers with two or more children. The IRS also announced the inflation adjusted tax tables and other inflation adjusted figures for 2008. The personal exemption is $3,500. For 2008, the personal exemption amount begins to phase out at, and is reduced to $1,133 after, the following adjusted gross income amounts:

Filing Status	AGI – Beginning of Phaseout	AGI Above Which Exemption is $1,133
I.R.C. § 1(a)	$239,950	$362,450
I.R.C. § 1(b)	$199,950	$322,450
I.R.C. § 1(c)	$159,950	$282,450
I.R.C. § 1(d)	$119,975	$181,225

For taxable years beginning in 2008, the limitation under I.R.C. § 512(d)(1), regarding the exemption of annual dues required to be paid by a member to an agricultural or horticultural organization, is $139. **Rev. Proc. 2007-66, I.R.B. 2007-45**.

WITHHOLDING TAXES. The IRS has issued a notice which provides guidance to employers and payers on their reporting and wage withholding requirements for calendar year 2007 with respect to amounts includible in gross income under I.R.C. § 409A. The notice also provides guidance to employers and payers on their reporting requirements with respect to all deferrals of compensation under I.R.C. § 409A for 2007. This notice does not affect the application of I.R.C. § 3121(v)(2) or an employer's reporting obligations under Treas. Reg. § 31.3121(v)(2)-1. In addition, the notice provides guidance to service providers on their income tax reporting and tax payment requirements with respect to amounts includible in gross income under I.R.C. § 409A for 2007. Generally, these requirements for 2007 reflect an extension to 2007 tax years of the guidance provided in *Notice 2006-100, 2006-2 C.B. 1109* applicable to 2005 and 2006 tax years. **Notice 2007-89, I.R.B. 2007-46**.

PROPERTY

EMINENT DOMAIN. The defendant leased farm land which was subject to an eminent domain condemnation by the plaintiff natural resources district. On the basis of an appraisal, the trial court awarded compensation to the land owner and the defendant as tenant. The plaintiff objected to the status of the defendant as a proper party because the lease was in the name of a corporation owned by the defendant. The trial court allowed the substitution of the corporation as owner of the tenancy and awarded the appraised value of the tenancy to the corporation. The plaintiff appealed, arguing that the corporation was not part of the eminent domain proceeding; therefore, no award could be made. The appellate court agreed and held that the substitution was improper because the corporation's interest in the farm was not part of the original eminent domain proceedings. The court held that the corporation would be required to bring inverse condemnation proceedings. **Papio-Missouri River Natural Resources District v. Willie Arp Farms, Inc., 15 Neb. App. 984 (Neb. Ct. App. 2007)**.

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The Seminars in Paradise have returned!

FARM INCOME TAX, ESTATE AND BUSINESS PLANNING SEMINARS

by Neil E. Harl

Outrigger Keauhou Beach Resort, Big Island, Hawai'i. January 8-12, 2008

Spend a week in Hawai'i in January 2008! Balmy trade winds, 70-80 degrees, palm trees, white sand beaches and the rest of paradise can be yours; plus a world-class seminar on Farm Income Tax, Estate and Business Planning by Dr. Neil E. Harl. The seminar is scheduled for January 8-12, 2008 at the spectacular ocean-front Outrigger Keauhou Beach Resort on Keauhou Bay, 12 miles south of the Kona International Airport on the Big Island, Hawai'i.

Seminar sessions run from 8:00 a.m. to 12:00 p.m. each day, Tuesday through Saturday, with a continental breakfast and break refreshments included in the registration fee. Each participant will receive a copy of Dr. Harl's 400+ page seminar manual *Farm Income Tax: Annotated Materials* and the 600+ page seminar manual, *Farm Estate and Business Planning: Annotated Materials,* both of which will be updated just prior to the seminar.

Here are a sample of the major topics to be covered:

• Farm income items and deductions; losses; like-kind exchanges; and taxation of debt including the new Chapter 12 bankruptcy tax provision.

• Income tax aspects of property transfer, including income in respect of decedent, installment sales, private annuities, self-canceling installment notes, and part gift/part sale transactions.

• Introduction to estate and business planning.

• Co-ownership of property, including discounts, taxation and special problems.

• Federal estate tax, including alternate valuation date, special use valuation, handling life insurance, marital deduction planning, disclaimers, planning to minimize tax over deaths of both spouses, and generation skipping transfer tax.

• Gifts and federal gift tax, including problems with future interests, handling estate freezes, and "hidden" gifts.

• Organizing the farm business—one entity or two, corporations, general and limited partnerships and limited liability companies.

The Agricultural Law Press has made arrangements for **substantial discounts on partial ocean view hotel rooms at the Outrigger Keauhou Beach Resort**, the site of the seminar.

The seminar registration fee is $645 for current subscribers to the *Agricultural Law Digest,* the *Agricultural Law Manual* or the *Principles of Agricultural Law*. The registration fee for nonsubscribers is $695. For more information call Robert Achenbach at 541-466-5544 or e-mail at robert@agrilawpress.com.