Footnotes

[1] Pub. L. No. 109-135.

[2] Act, Sec. 101, *adding* I.R.C. § 1400M.

[3] Act, Sec. 101, *adding* I.R.C. § 1400N(d). Applicable to property placed in service on or after August 28, 2005, in taxable years ending on or after such date.

[4] Act, Sec. 101, *adding* I.R.C. § 1400N(e). Effective for property placed in service on or after August 28, 2005, in tax years ending on or after such date.

[5] Act, Sec. 101, *adding* I.R.C. § 1400N(g). Effective for tax years ending on or after August 28, 2005.

[6] Act, Sec. 101, *adding* I.R.C. § 1400N(i)(1). Effective for tax years ending on or after August 28, 2005, and before January 1, 2008, with respect to qualified timber property any portion of which is located in the GO Zone; effective for expenditures paid or incurred on or after September 23, 2005, and before January 1, 2008, with respect to qualified timber property any portion of which is located in the Rita Zone and no portion of which is located in the GO Zone; effective for expenditures paid or incurred on or after October 23, 2005, and before January 1, 2008, with respect to qualified timber property any portion of which is located in the Wilma Zone.

[7] Act, Sec. 101, *adding* I.R.C. § 1400N(i)(2). Effective for tax years ending on or after August 28, 2005, with respect to income and loss which are allocable to that portion of the taxpayer's taxable year which is (i) on or after August 28, 2005 (for qualified timber property any portion of which is located in the Gulf Opportunity Zone), on or after September 23, 2005 (for qualified timber property any portion of which is located in the Rita Zone and no portion of which is located in the GO Zone), or on or after October 23, 2005 (for qualified timber property any portion of which is located in the Wilma Zone) and (iii) before January 1, 2007.

[8] Act, Sec. 102, *adding* I.R.C. § 1400S(b). Effective upon enactment and applicable to losses related to Hurricane Rita arising on or after September 23, 2005, and to losses related to Hurricane Wilma arising on or after October 23, 2005.

[9] Act, Sec. 302, *amending* I.R.C. § 32 (c)(2)(B)(vi). Effective for taxable years beginning after December 31, 2005.

[10] Act, Sec. 102, *adding* I.R.C. § 1400O. Effective upon enactment.

[11] Act, Sec. 403(a)(7), amending I.R.C. § 199(c). Effective for tax years beginning after December 31, 2004.

[12] Act, Sec. 403(a)(10), amending I.R.C. § 199(d)(4)(B). Effective for tax years beginning after December 31, 2004.

[13] Act, Sec. 403(a)(7), amending I.R.C. § 199(c). Effective for tax years beginning after December 31, 2004.

[14] Act, Sec. 403(a)(13), amending I.R.C. § 199(d). Effective for tax years beginning after December 31, 2004

[15] Act, Sec. 403(e)(2). Effective for tax years beginning after December 31, 2004.

[16] Act, Sec. 403(a)(2), *amending*, I.R.C. § 199(b). Effective for tax years beginning after December 31, 2004.

[17] Act, Sec. 403(a)(5), *amending* I.R.C. § 199(c)(4). Effective for tax years beginning after December 31, 2004.

[18] Act, Sec. 403(a)(6), *amending* I.R.C. § 199(c)(4)(B). Effective for tax years beginning after December 31, 2004.

[19] Act, Sec. 403(b), *amending* I.R.C. § 1361(c)(1)(A). Effective October 22, 2004.

[20] Act, Sec. 403(b), *amending* I.R.C. § 1361(c)(1)(B).

[21] Act, Sec. 403(b), *amending* I.R.C. § 1361(c)(1)(A). Effective October 22, 2004.

[22] Act, Sec. 403(dd), *amending* I.R.C. §§ 334(b) and 362(e)(1)(B). Effective as if included in AJCA.

[23] Act, Sec. 403(ee), *amending* I.R.C. § 121(d)(10). Effective for sales or exchanges after October 22, 2004.

[24] Act, Sec. 403(gg). Effective for contributions after December 31, 2004.

[25] Act, Sec. 403(jj).

CASES, REGULATIONS AND STATUTES

by Robert P. Achenbach, Jr

BANKRUPTCY

FEDERAL TAX

AUTOMATIC STAY. The debtors filed for Chapter 7 and received a discharge of some but not all taxes. In the following year, the debtors' income tax return contained a claim for a refund which was allowed by the IRS but was used to offset some of the discharged taxes, in violation of the discharge order. The debtors filed a motion to find the IRS in contempt and sought compensatory damages, emotional distress damages, punitive damages, attorneys' fees and costs. The Bankruptcy Court awarded compensatory damages and damages for emotional distress and the IRS appealed. The appellate court reversed on the emotional damages award, holding that Section 106 did not waive the IRS's sovereign immunity as to emotional distress damages. ***In re* Torres, 2006-1 U.S. Tax Cas. (CCH) ¶ 50,112 (1st Cir. 2005), *rev'g and rem'g*, 2004-2 U.S. Tax Cas. (CCH) ¶ 50,379 (Bankr. 1st Cir. 2004)**.

CHILD TAX CREDIT. The debtors filed for Chapter 7 on October 25, 2004. The debtors timely filed their 2004 income tax return which claimed a refund, of which $69 came from the child tax credit and $1,931 came from the additional child tax credit. The court noted that the child tax credit was a non-refundable credit for which a refund would arise only to the extent of any tax owed and the additional child tax credit was a refundable credit which would be refunded even if no tax was owed. The court held that the refundable additional tax credit amount was property of the estate, prorated for the portion of the tax year after the bankruptcy filing, and the non-refundable child tax credit was not property of the estate. ***In re* Law, No. 05-6034WM (Bankr. 8th Cir. Jan. 26, 2006), *aff'g*, 2005 Bankr. LEXIS 2628 (Bankr. W.D. Mo. 2005)**.

DISCHARGE. The debtor was an educated and experienced business owner who failed to file or pay taxes for the debtor or the debtor's companies from 1985 through 1996, when the debtor filed most of the missing returns. The debtor entered into an installment plan for payment of the back taxes but stopped making the payments before filing for bankruptcy. The court held that the taxes were nondischargeable because the debtor willfully attempted to evade payment of the taxes. The court noted that the debtor was a sophisticated business owner who had filed returns and paid taxes when an employee but who stopped filing and paying when operating businesses. The court also noted that the debtor had sufficient income to make at least some payment of taxes throughout the period. The court also pointed to evidence that the debtor had transferred assets to accounts held by others in order to hide assets. **In re Claxton, 2006-1 U.S. Tax Cas. (CCH) ¶ 50,121 (Bankr. N.D. Ill. 2006)**.

CRIMINAL LAW

SEARCH. The defendants operated a goat cheese manufacturing business and were convicted of refusing to allow a warrantless inspection of their facilities by the Virginia Department of Agriculture and Consumer Services. The court reviewed the purpose of the state food law and regulations which required the inspections and held that the warrantless inspections satisfied the administrative inspection exception to the Fourth Amendment requirement of a warrant. The exception was extended to the defendant's farm because the defendants chose to operate their business in their residence. **Hill v. Commonwealth of Virginia, 2006 Va. App. LEXIS 16 (Va. Ct. App. 2006)**.

FEDERAL AGRICULTURAL PROGRAMS

BRUCELLOSIS. The APHIS has issued interim regulations which change Idaho from a Class Free state to a Class A state, requiring all bovine animals to be moved interstate to test negative for brucellosis unless the animals are moving directly to slaughter or a quarantined feedlot. **71 Fed. Reg. 2991 (Jan. 19, 2006)**.

CROP INSURANCE. The FCIC has issued proposed regulations amending the common crop insurance regulations, peanut crop insurance provisions, to remove all references to quota and non-quota peanuts and add provisions that will allow coverage for peanuts whether or not they are under contract with a sheller to better meet the needs of insured producers. The changes will apply for the 2007 and succeeding crop years. **71 Fed. Reg. 4056 (Jan. 25, 2006)**.

FEDERAL ESTATE AND GIFT TAXATION

GIFT. The taxpayer made payments to a school for prepayment of the grade school tuition for the taxpayer's six grandchildren. The agreement allowed for additional payments if the tuition increased and did not guarantee any special treatment or even enrollment of the grandchildren. The prepayments were nonrefundable. The IRS ruled that the direct education payments were "qualified transfers" under I.R.C. § 2503(e)(1) and were exempt from federal gift tax. The IRS also ruled that, because the prepayments were excluded from the gift tax under I.R.C. § 2503(e)(1), the prepayments were not generation-skipping transfers. **Ltr. Rul. 200602002, Sept. 6, 2005**.

FAMILY-OWNED BUSINESS DEDUCTION. The decedent's estate hired an accountant to file the estate's estate tax return. Although the estate included a ranch, no family-owned business deduction was claimed on the return. The IRS granted an extension of time to file an amended return with the deduction. **Ltr. Rul. 200602007, Oct. 7, 2005**.

INCOME TAX. A decedent's estate filed its income tax returns on a calendar basis and made a distribution within 65 days of the beginning of the tax year and included the distribution in the income tax return for the previous year as allowed under I.R.C. § 663, but the estate failed to make the election required by I.R.C. § 663(b). The IRS granted the estate an extension of time to file the election. **Ltr. Rul. 200602009, Aug. 18, 2005**.

MARITAL DEDUCTION. The decedent's estate included a trust. On the decedent's death the estate placed in trust an amount of property which could pass without federal estate tax with the remainder of the estate to pass directly to the surviving spouse. The trust was to distribute all income to the surviving spouse and, at the death of the spouse, the trust proceeds passed to the decedent's heirs. The spouse also had the power to receive annual payments from the trust principal of up to the greater of $5,000 or 5 percent of the trust principal. The estate elected to treat all of the estate residue and trust as QTIP even though the trust property election was not required in order to avoid federal estate tax. The estate sought a ruling that the trust principal would not be treated as QTIP so that it would not be included in the surviving spouse's estate. The IRS ruled that, because the trust property was not needed to reduce the estate tax, the QTIP election would be disregarded and the trust property not included in the surviving spouse's estate. In addition, the IRS ruled that the spouse would not be treated as having made a taxable gift if the spouse disposes of a portion of the income interest in the trust. **Ltr. Rul. 200603004, Sept. 30, 2005**.

The decedent had received an interest in two trusts for which a QTIP marital deduction was claimed by the predeceased spouse's estate. The decedent, as trustee of the trusts, authorized the distribution of the trusts' assets to the decedent's own account and the substitution of a promissory note to the trusts. The estate argued that the decedent's estate did not include the trusts' assets because the assets were held in a constructive trust for the trusts' remainder holders. However, the IRS noted that no remainder holder ever tried to enforce the constructive trusts. Therefore, the IRS held that the trusts' property was included in the decedent's estate under I.R.C. § 2519 as property for which a marital deduction had been taken and which was not disposed of by the decedent, subject to gift tax. **Ltr. Rul. 200602033, Sept. 19, 2005**.

SPECIAL USE VALUATION. The decedent's estate hired an accountant to file the estate's estate tax return. Although the estate included a ranch, no special use valuation election or protective election was made. The IRS granted an extension of time to file an amended return with the election. **Ltr. Rul. 200602007, Oct. 7, 2005**.

VALUATION. The decedent's estate included minority interests in family-owned limited liability companies which owned oil and gas and related businesses. In valuing the decedent's interests, the court used both a net asset and market approach with the net asset valuation receiving a 2-1 weight over the market value; thus, the value of the decedent's interests was determined two-thirds by the net asset approach and one-third by the market approach. The net asset value was discounted 10 percent for liquidation costs, 10 percent for minority interest and 40 percent for lack of marketability. The market approach was discounted 40 percent for lack of marketability. In addition, because the valuation was less than that reported by the estate, the estate paid more estate tax than was owed and paid interest as a result of the IRS overvaluing the estate property and assessing additional taxes. The court held that the estate was entitled to refund of the interest paid and interest on the excess estate tax paid as well as a deduction for the cost of bringing the action for a refund. **Anderson v. U.S., 2006-1 U.S. Tax Cas. (CCH) ¶ 60,516 (W.D. La. 2005)**.

FEDERAL INCOME TAXATION

ALTERNATIVE MINIMUM TAX. The taxpayer was a tenant-shareholder in a cooperative housing corporation and claimed a share of the corporation's real estate taxes as a deduction. In computing the taxpayer's alternative minimum tax, the taxpayer also deducted the share of real estate taxes. The taxpayer argued that the deduction from AMTI was allowed because the deduction was not listed in I.R.C. § 56(b). The Tax Court and appellate court disagreed and held that the taxpayer's share of cooperative real estate taxes was not deductible from AMTI. The courts noted that Section 56 excludes deduction for "taxes described in" I.R.C. § 164(a) which include real estate taxes. Although the deduction of tenant-shareholders of cooperative housing corporations is granted by I.R.C. § 216, Section 216 refers to the deduction allowed by Section 164; therefore, the taxpayer's tenant-shareholder real estate tax deduction, as a Section 164 deduction, is excluded from AMTI calculations. **Ostrow v. Comm'r, 2006-1 U.S. Tax Cas. (CCH) ¶ 50,116 (2d Cir. 2006), *aff'g*, 122 T.C. 378 (2004)**.

COOPERATIVES. The taxpayers were rural electrical cooperatives exempt under I.R.C. § 501(c)(12). The taxpayers established an equity discounting program whereby members could redeem their patronage capital early and receive amounts discounted from the face value of the capital accounts. The program was voluntary for current and former members. The program was intended to equitably clear patronage capital accounts of receivers in bankruptcy, departing members and former members that might otherwise become lost. The IRS ruled that the program did not affect the taxpayers' tax-exempt status and did not constitute forfeiture of the patronage capital. **Ltr. Rul. 200602035, Oct. 18, 2005; Ltr. Rul. 200602043, Oct. 18, 2005**.

CORPORATIONS.

DISTRIBUTIONS TO SHAREHOLDERS. The taxpayers were three corporations owned primarily by one shareholder and with several minority shareholders. The corporations were mutual ditch companies formed under special state legislation which treated the shareholders as the beneficial owners of the water rights held by the corporations. The corporations dissolved and distributed these water rights to the shareholders. The IRS ruled that, because the shareholders were the beneficial owners of the water rights under state law before the distribution, the distribution would not be treated as a distribution of corporate property to the shareholder with respect to their stock; therefore, no gain or loss would be recognized to the corporations. **Ltr. Rul. 200602005, Sept. 30, 2005**.

REORGANIZATIONS. The IRS has adopted as final regulations which remove Treas. Reg. §§ 1.358-2(a)(2) through (5) and (c) and replace these provisions with a more complete set of rules for determining the basis of each share or security received in a reorganization described in section 368 and a distribution to which section 355 applies. The regulations generally provide that the basis of each share of stock or security received in an exchange to which I.R.C. § 354, 355, or 356 applies will be the same as the basis of the share or shares of stock or security or securities exchanged therefor. The determination of which share of stock or security is received in exchange for, or with respect to, a particular share of stock or security will be made in accordance with the terms of the exchange or distribution. The new regulations reject the method of basis allocation of *Arrott v. Commissioner*, 136 F.2d 449 (3d Cir. 1943), where the court reasoned that the shares surrendered in an acquisitive reorganization lost their identity when traded for new shares in the reorganization and held that the basis of the shares acquired was determined by averaging the basis of the shares exchanged. **T.D. 9244, 71 Fed. Reg. ____ (Jan. __, 2006)**.

DISABLED ACCESS CREDIT. The taxpayers, husband and wife, were both employed but filed a Schedule C for a business of "membership sales and prepaid legal services." The taxpayer subscribed to a computer service which allowed hearing-impaired people to call them without using the free TTY service provided by all telephone companies. Under the subscription, the taxpayers provided referrals to other potential customers to the service in exchange for a rebate of a portion of the subscription cost. The taxpayers claimed a tax credit under I.R.C. § 44, arguing that the computer telephone service was obtained in order to comply with the Americans with Disability Act. The court held that the credit was not allowed because the computer telephone system was not required in order to comply with the ADA since all public telephone services are already required to provide telephone service for hearing-impaired individuals without extra charge. In addition, the court held that the subscription to the service alone was not sufficient to establish a trade or business; therefore, the taxpayers could not claim the subscription cost as a business deduction. **Channell v. Comm'r, T.C. Memo. 2006-8**.

EARNED INCOME CREDIT. The IRS has provided an online tool to assist victims of hurricanes Katrina, Rita and Wilma in computing any earned income tax credit or additional child credit available under special rules for taxpayers affected by those disasters. **IR-2006-20, IR-2006-21**.

EMPLOYEE EXPENSES. The IRS has issued guidance for income and employment tax treatment of payments by federal executive agencies to their employees to cover the costs of evacuation from areas affected by hurricane Katrina. In general, the payments will be treated as reasonable, necessary and excludible from gross income and wages except to the extent such expenses were compensated by insurance. **Notice 2006-10, I.R.B. 2006-5**.

The taxpayer was employed full time as a job superintendent for a company. The company had a policy of providing employees with a $25 per day reimbursement for use of a personal vehicle to perform company business. The taxpayer claimed the reimbursement payments as business income on Schedule C and claimed business expenses for the vehicle. The taxpayer listed the business as "truck lease." The vehicle was not leased to the company nor did the taxpayer lease the vehicle to another company. The court held that the taxpayer was not in the trade or business of leasing vehicles; therefore, no Schedule C deductions were allowed for the vehicle and any unreimbursed vehicle expenses were deductible only on Schedule A. **Alley v. Comm'r, T.C. Summary Op. 2006-4**.

HYBRID AND LEAN BURN VEHICLE CREDIT. The IRS has issued guidance for passenger cars and light truck manufacturers to certify vehicles as eligible for the alternative motor vehicle credit, I.R.C. § 30B, enacted by the Energy Policy Act of 2005, and the amount of credit for each vehicle. A vehicle manufacturer/distributor may certify to purchasers that a passenger automobile or light truck of a particular make, model and model year meets the necessary requirements to claim the hybrid or lean burn credit, and the amount of the allowable credit, if the manufacturer (a) has submitted to the IRS by December 31 of that calendar year a certification that satisfies 13 enumerated requirements applicable to both credits, as well as several other requirements that apply specifically to each credit, and (b) has received an acknowledgment of certification from the IRS. A purchaser may rely on the manufacturer's certification if: (1) the vehicle is placed in service after December 31, 2005, and is purchased on or before December 31, 2010; (2) the original use of the vehicle begins with the taxpayer; (3) the vehicle is acquired for use or lease by the taxpayer and not for resale; and (4) the vehicle is used mostly in the United States. A manufacturer/distributor that has received an acknowledgment of certification from the IRS must submit a quarterly report to the IRS of the number of qualified vehicles sold by the manufacturer/distributor to a retail dealer during the calendar quarter. The quarterly report must be filed with the IRS not later than the last day of the first calendar month following the quarter to which the report relates. The IRS will review the report and send an acknowledgment letter to the manufacturer/distributor stating whether purchasers may continue to rely on the certification. In the event that, subsequent to the issuance of an acknowledgment of certification, the IRS determines that a vehicle does not qualify for the hybrid or lean burn credit, the amount of the credit determined by the manufacturer/distributor is incorrect or the quarterly report is erroneous, the manufacturer's/distributor's right to provide a certification to future purchasers will be withdrawn. However, purchasers may continue to rely on certifications issued before the IRS publishes an announcement of the withdrawal. **IR-2006-12**.

LIKE-KIND EXCHANGES. The taxpayer corporation entered into exchanges of intangible properties, including patents, trademarks and trade names, designs and drawings, software and trade secrets. In general, the IRS ruled that the exchange of intangibles did qualify for like-kind exchange treatment but excluded property used predominately in the U.S. from like-kind as to property used predominately outside the U.S. Second the IRS ruled that the determination had to be made on an asset-to-asset basis and the properties could not be grouped together under a single business. As to the patents, the comparison is based on the character or nature of the rights granted by the patents, not the underlying property patented. In addition, the IRS rejected the grouping of patents according to the four broad classes used by patent law, process, machine, manufacture and composition of matter. As to the trademarks and trade names, the IRS ruled that trademarks are not like-kind with trade names. As to unregistered intellectual property such as drawings and designs, the IRS ruled that such items are like-kind only if the underlying property to which the items relate are like-kind. **Ltr. Rul. 200602034, Sept. 29, 2005**.

LOW-INCOME HOUSING CREDIT. If a taxpayer disposes of a qualified low-income building or interest therein, the taxpayer can defer or avoid recapture of the low-income housing credit by furnishing a bond to the IRS. The IRS has issued a table of the bond factor amounts for calculating the amount of bond considered satisfactory under I.R.C. § 42(j)(6) or the amount of U.S. Treasury securities to pledge in a Treasury Direct Account under *Rev. Proc. 99-11, 1999-1 CB 275*. These amounts are to be used by taxpayers that disposed of qualified low-income buildings or interests therein during the months of January, February or March 2006. **Rev. Rul. 2006-5, I.R.B. 2006-3**.

MEDICAL EXPENSES. The taxpayer incurred expenses for male-to-female gender reassignment surgery and treatment and claimed the expenses as a medical deduction to the extent the expenses exceed the 7.5 percent of the taxpayer's adjusted gross income. The taxpayer had been diagnosed as having Gender Identity Disorder and had received hormone treatments. The surgery and treatments were recommended by a doctor. In a Chief Counsel Advice letter, the IRS examined the legislative history of I.R.C. § 213 which allows deductions for cosmetic surgery only in specific instances. The Senate Report provided that exceptions included only (1) procedures that are medically necessary to promote the proper function of the body and which only incidentally affect the patient's appearance; and (2) procedures for treatment of a disfiguring condition arising from a congenital abnormality, personal injury, trauma, or disease (such as reconstructive surgery following the removal of a malignancy). The IRS ruled that the taxpayer's medical treatments did not meet any of the exceptions to the denial of deduction for cosmetic surgery by I.R.C. § 213(d)(9)(A); therefore, the costs could not be deducted as medical expenses. The IRS acknowledged that the issue of whether GID is a medical condition covered by the statute is controversial. The letter states "Only an unequivocal expression of Congressional intent that expenses of this type qualify under section 213 would justify the allowance of the deduction in this case. Otherwise, it would seem we would be moving beyond the generally accepted boundaries that define this type of deduction." **CCA Ltr. Rul. 200603025, Oct. 25, 2005**.

PENSION PLANS. The taxpayer employer decided to merge the taxpayer's employee retirement plan with a plan provided by a state retirement plan which was run by the state. The taxpayer was required to contribute to the state trust fund an amount equal to the projected cost of the taxpayer's employees participation in the plan and make continuing payments to help cover the cost of retired employees. The IRS ruled that the taxpayer's contributions to the state trust fund were excluded from the employees' income. **Ltr. Rul. 200602006, Oct. 13, 2005**.

RETURNS. The IRS has posted a draft of Form 8903 (2005), Domestic Production Activities Deduction on its web site in the Topics for Tax Professionals section (http://www.irs.gov/taxpros/topic/index.html) under Draft Tax Forms.

The IRS has issued a reminder that some taxpayers will be required to mail their 2005 tax returns to different service centers than last year. Returns from Colorado, Delaware, Kansas, Maryland, Mississippi, Nebraska, New Mexico, Ohio, South Dakota, Virginia, West Virginia and the District of Columbia are affected. For taxpayers who file paper returns and received a tax instruction booklet from the IRS, the correct addresses are on labels inside the tax packages. The proper service center addresses can also be found on the back cover of the Form 1040 series instructions. Taxpayers who use the e-file system are not affected by these changes. **IR-2006-16**.

SAFE HARBOR INTEREST RATES

February 2006

	Annual	Semi-annual	Quarterly	Monthly
Short-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
Mid-term				
AFR	4.40	4.35	4.33	4.31
110 percent AFR	4.85	4.79	4.76	4.74
120 percent AFR	5.39	5.22	5.19	5.16
Long-term				
AFR	4.61	4.56	4.53	4.52
110 percent AFR	5.08	5.02	4.99	4.97
120 percent AFR	5.54	5.47	5.43	5.41

Rev. Rul. 2006-7, I.R.B. 2006-6.

TRUST. The taxpayer established an irrevocable trust for the benefit of the taxpayer's spouse and taxpayer's children. The spouse had the power to withdraw annual contributions to the extent of any gift tax exclusion amount available to the taxpayer. The trust gave the taxpayer the power to withdraw all trust property and substitute property of equal value. The taxpayer had to make the exchange in a fiduciary capacity, that is, the exchange had to be in the best interests of the trust and its beneficiaries. The taxpayer withdrew shares of stock in one publicly traded corporation and contributed stock in another publicly traded corporation, with cash withdrawn or contributed to equalize the values of the exchanged stock. The stock will be valued under Treas. Reg. § 25.2512-2(b)(1) of the gift tax regulations. The IRS ruled that, under *Estate of Jordahl v. Comm'r, 65 T.C. 92 (1975), acq. 1977-1 C.B.1*, the taxpayer's power to exchange trust property did not cause the trust property to be included in the taxpayer's gross estate. The IRS also ruled that (1) the exchange of the stock did not result in any gift for federal gift tax purposes, (2) the trust was a grantor trust as to the taxpayer, and (3) no income or loss would be recognized by the taxpayer or trust from the exchange of stock. **Ltr. Rul. 200603040, Oct. 24, 2005**.

CITATION UPDATES

Gonzalez-Alvarez v. Rivero-Cubano, 426 F.3d 422 (1st Cir. 2005) (state regulation of milk) 16 *Agric. L. Dig*. p. 167.

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