CASES, REGULATIONS AND STATUTES

by Robert P. Achenbach, Jr

ADVERSE POSSESSION

HOSTILE USE. A disputed parcel of property lay on the plaintiff's side of a stream and fence. Both the plaintiff and the defendant used their properties for pasturing cattle and the plaintiff's cattle would occasionally wander onto the disputed area as part of their feeding. Both parties helped to maintain the fence but the disputed area was included on the defendant's title. The trial court denied the plaintiff's title by adverse possession because the plaintiff failed to show that the plaintiff's possession was actual, open and notorious, and hostile. The plaintiff appealed, arguing that sufficient evidence was presented of the use of the disputed land as cattle pasture. The appellate court disagreed, citing precedent that the mere pasturing of cattle was insufficient to be open and hostile use of the property sufficient to acquire title by adverse possession. **Shanks v. Honse, 2012 Mo. App. LEXIS 582 (Mo. Ct. App. 2012)**.

BANKRUPTCY

GENERAL

DISCHARGE. The debtor was the sole shareholder of a company which provided electrical contractor services. The company had a bank account and the bank would cover checks made to pay federal and state employment taxes when the account was overdrawn. The debtor had agreed personally to guarantee the company's loans from the bank and the bank filed a claim in the debtor's bankruptcy case for the checks paid after the account became overdrawn. The bank further claimed that the amounts paid for federal and state taxes were nondischargeable under Section 523(a)(14) and (14A) because the taxes would be nondischargeable if filed as claims. The debtor argued that the taxes were a liability of the company and were paid; therefore, Section 523(a)(14) and (14A) did not apply. The court focused on the lack of evidence that the debtor incurred a debt for the purpose of paying the taxes. The court noted that the taxes were paid in the ordinary course of business and that the bank honored the checks as part of the ordinary course of business, honoring checks for other business debts as well as the taxes. In addition, the taxes were the liability of the company and would not become the liability of the debtor personally until the debtor caused the company to fail to pay the taxes. **Van Dyn Hoven v. Bank of Kaukauna, 2012-1 U.S. Tax Cas. (CCH) ¶ 50,347 (E.D. Wis. 2012)**.

SECURITY INTEREST. The debtor operated a grain and cattle operation and granted to a creditor a security interest in all government payments, including but not limited to, payments under any governmental agricultural diversion programs, governmental agricultural assistance programs, . . . and any other such program of the United States Department of Agriculture." The debtor defaulted on the secured loan and filed for Chapter 12. The USDA issued several checks to the creditor as the lienholder. The creditor was paid in full during the Chapter 12 case and turned over the checks to the Chapter 7 trustee after the case was converted. The Chapter 7 trustee requested that the creditor endorse the checks, which it did. However, the creditor then filed a claim for post-petition interest and attorney's fees. The trustee objected, arguing that the creditor's security interest in the checks terminated with the endorsement of the checks without reservation. The court held that the endorsement of the checks was not a clear waiver of the creditor of its security interest but the interest and fee claim would be reduced by the trustee's administrative costs associated with the claim. ***In re* Buchanan Land & Cattle, Inc., 2012 Bankr. LEXIS 2107 (Bankr. N.D. Tex. 2012)**.

FEDERAL TAX

PLAN. The debtor filed a Chapter 13 case and filed a plan which provided "All properties to be surrendered in full satisfaction of the liens." The plan provided a supplemental list of the properties but the plan did not contain specific information as to the address of each property or how the properties were to be transferred. Several properties had multiple lienholders but the plan did not provide information as to which lienholder would receive which property. The IRS had filed proof of claims totaling $135,593.78, of which $17,194.58 was secured; $82,467.31 was priority; and $35,931.89 was general unsecured. The IRS objected to the plan as failing to comply with Section 1325(a)(5) because the plan did not provide that all secured creditors would retain their liens and because the IRS claims were also secured by the debtor's exempt and personal property which was not listed in the plan. Although the debtor proposed to include personal property in the transfers, the IRS refused the offer because it can only accept cash or cash equivalents. The court denied confirmation of the plan because the transfer of property cannot be made in full satisfaction of a claim without retention of the creditor's lien and without provision for any deficiency that may arise where the value of the transferred property is less than the claim. ***In re* Shilling, 2012 Bankr. LEXIS 1939 (Bankr. D. N.J. 2012)**.

FEDERAL FARM PROGRAMS

ANIMAL WELFARE ACT. The APHIS has issued proposed regulations revising the definition of retail pet store and related regulations to bring more pet animals sold at retail under the protection of the Animal Welfare Act (AWA). The proposed regulations narrow the definition of retail pet store so that it means a place of business or residence that each buyer physically enters in order to personally observe the animals available for sale prior to purchase and/or to take custody of the animals after purchase, and where only certain animals are sold or offered for sale, at retail, for use as pets. Retail pet stores are not required to be licensed and inspected under the AWA. The proposed regulations also increase from three to four the number of breeding female dogs, cats, and/or small exotic or wild mammals that a person may maintain on his or her premises and be exempt from the licensing and inspection requirements if he or she sells only the offspring of those animals born and raised on his or her premises, for pets or exhibition. This exemption would apply regardless of whether those animals are sold at retail or wholesale. **77 Fed. Reg. 28799 (May 16, 2012)**.

CROP INSURANCE. The FCIC has issued proposed regulations amending the Processing Sweet Corn Crop Insurance Provisions to utilize the base contract price as the price election, for the purpose of establishing a more accurate insurance guarantee that reflects the expected market price for processing sweet corn. **77 Fed. Reg. 27658 (May 11, 2012)**.

ORGANIC FOOD. The AMS has adopted as final regulations amending the USDA's National List of Allowed and Prohibited Substances to enact two recommendations submitted to the Secretary of Agriculture by the National Organic Standards Board on June 20, 2008, and May 30, 2004, establishing exemptions (uses) for two substances, fenbendazole and moxidectin, along with any restrictive annotations, as parasiticides in organic livestock production. **77 Fed. Reg. 28472 (May 15, 2012)**.

FEDERAL ESTATE AND GIFT TAXATION

GENERATION SKIPPING TRANSFERS. The decedent and a pre-deceased spouse had established a trust. On the death of the pre-deceased spouse, the trust passed to the decedent and was split into two trusts. The pre-deceased spouse's estate claimed a QTIP marital deduction for the trust passing to the decedent. The decedent transferred income interests in the trust to the remainder holders, triggering the transfer of the remainder interests. The transfers were taxable gifts but the recipients reimbursed the decedent for the gift taxes on the transfers. The decedent died within three years after the transfers and the IRS included the gift taxes in the decedent's estate. The court held that the gift taxes were included in the gross estate because, under I.R.C. § 2035(b), gift taxes paid by the decedent were included in the gross estate if made within three years of death. The court held that the gift of QTIP property was covered by Section 2035(b), although I.R.C. § 2207A(b) allows for recovery of gift tax liabilities from QTIP. The court noted that Section 2207A(b) does not provide that donees of QTIP are liable for gift taxes. **Estate of Morgens v. Comm'r, 2012-1 U.S. Tax Cas. ¶ 60,645 (9th Cir. 2012), *aff'g*, 133 T.C. 402 (2009)**.

The decedent was the beneficiary of two trusts created prior to September 25, 1985. The trusts provided that none of the property was to remain in a trust for a period longer than 21 years after the the death of a survivor of the decedent alive when the trust was created. The trust provided the decedent with a testamentary power of appointment of trust property, subject to the termination provision and subject to the limitation that the appointment could be made only to the decedent's or the settlor's issue. The decedent appointed the trusts' property in trust to one of the decedent's children and also granted the child a power of appointment over the trust property. However, the resulting trusts were all still subject to the applicable rule against perpetuities limitation in the original trust. The IRS ruled that the testamentary appointment was not a general power of appointment and the exercise of the appointment did not subject the trust to GSTT. **Ltr. Rul. 201218001, Dec. 20, 2012; Ltr. Rul. 201218002, Dec. 20, 2012**.

The grantor created an irrevocable trust prior to September 25, 1985. The trust beneficiary was the grantor's child with remainders passing to the grantor's spouse, the child's spouse and any issue of the grantor and the child. The trust terminated 21 years after the death of potential beneficiaries alive at the creation of the trust. The beneficiary sought state court approval of several modifications to the trust, including (1) adding a distribution advisor, an investment advisor and a trust protector, (2) changing the situs of the trust to another state, (3) changing the term "issue" to "descendants," (4) changing the definition of "book value," (5) prohibiting the grantor, the grantor's spouse or their descendants from serving as trust or distribution advisor, and (6) allowing remainder holders to appoint a trustee if the position is vacant and the child fails to appoint a new trustee. The IRS ruled that the modifications of the trust would not subject the trust to GSTT. **Ltr. Rul. 201208003, Oct. 26, 2011**.

FEDERAL INCOME TAXATION

BAD DEBTS. The taxpayer loaned money to another member of a religious cultural community in 1987 which was supposed to be repaid by 2000. The debtor made some payments of interest but failed to pay all interest or any principal by the termination date. The taxpayer failed to file a legal claim against the debtor because of the community standards and beliefs. However, when the debtor died in 2004, the taxpayer attempted to collect the debt from the debtor's heirs but was told in 2006 that the debt would not be repaid. The taxpayer claimed a bad debt deduction in 2006. The court assumed without so finding that the debt created a legitimate debtor-creditor relationship but held that the debt became worthless prior to 2006, either when the debtor died or sometime soon thereafter. The court also noted that the taxpayer never filed a claim against the debtor, the debtor's estate or the debtor's heirs and that this decision was also sufficient to deny the bad debt deduction. **Saadian v. Comm'r, T.C. Summary Op. 2012-44**.

CHARITABLE DEDUCTIONS. The taxpayers made cash donations of $22,517 by checks in amounts over $250. The taxpayers claimed the donations as charitable contribution deductions on their 2007 return. In April 2009, the IRS sought proof that the donations were made without any receipt of goods or services in exchange for the donations. The taxpayers obtained a written statement from the charitable organization, dated January 2008, but the statement did not declare that no services or goods were exchanged for the donations. The taxpayers obtained a second written statement from the organization in June 2009 that did declare that no services or goods were exchanged for the donations. The court held that the second statement did not comply with I.R.C. § 170(f)(8)(A) because it was not created contemporaneous with the donation. The taxpayers argued that the first statement was sufficient because it substantially complied with I.R.C. § 170(f)(8)(A). The court held that the first written statement did not substantially comply with I.R.C. § 170(f)(8)(A) which sets forth the minimum requirements for an allowed charitable contribution in cash. **Durden v. Comm'r, T.C. Memo. 2012-140**.

DISABILITY PAYMENTS. While the taxpayer was married, the former spouse received disability retirement benefits. The divorce decree awarded the taxpayer a share of those payments, which the taxpayer excluded from income. The taxpayer argued that the payments should be treated as disability payments excludible from taxable income. The court disagreed, holding that the payments were taxable to the taxpayer because the taxpayer was not injured or disabled. The court acknowledged that I.R.C. § 402(e)(1)(A) allows for payments to a former spouse but the court found no support for the idea that the taxpayer would step into the shoes of the former spouse as to the character of the payments as disability payments where the taxpayer was not injured or disabled. **Fernandez v. Comm'r, 138 T.C. No. 20 (2012)**.

DISASTER LOSSES. On April 18, 2012, the President determined that certain areas in Hawaii 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, flooding and landslides which began on March 3, 2012. **FEMA-4062-DR**. Accordingly, taxpayers in the areas may deduct the losses on their 2011 federal income tax returns. See I.R.C. § 165(i).

DISCHARGE OF INDEBTEDNESS. In a Chief Counsel Advice e-mail, the IRS stated "It appears that the section 108(i) election can be filed with an amended return as long as the amended return is filed within 12-months of the extended due date for the return on which the election should have been made. The specific date depends upon the partnership's tax year (i.e., when the partnership return is due)." **CCA 201218011, Feb. 2, 2012**.

DOMESTIC PRODUCTION DEDUCTION. The taxpayer was a farmer's marketing and purchasing agricultural cooperative. The cooperative made payments to members and participating patrons for agricultural products produced by the members and patrons which were qualified per-unit retain allocations because they were (1) distributed with respect to the crops that the cooperative stored, processed and marketed for its patrons; (2) determined without reference to the cooperative's net earnings; and (3) paid pursuant to a contract with the patrons establishing the necessary pre-existing agreement and obligation, and within the payment period of I.R.C. § 1382(d). Some of the payments were in the form of a "c-Check" which represented a portion of the payments retained as capital in the cooperative. The IRS ruled that the cooperative was allowed to add back these amounts paid to members as net proceeds in calculating its qualified production activities income under I.R.C. § 199(d)(3)(C). **Ltr. Rul. 201219001, Feb. 3, 2012.**

FIRST-TIME HOMEBUYER CREDIT. The taxpayer was a beneficiary of an irrevocable family trust created in 1993. The taxpayer purchased a residence from the trust in 2009 and otherwise qualified as a first-time homebuyer. Under I.R.C. § 36(c)(3)(A)(i), the credit was not available if the residence was purchased from a person related to the buyer. I.R.C. § 35(c)(5) incorporates the definition of "related persons" in I.R.C. § 267 and I.R.C. § 267(b)(6) as a fiduciary of a trust and a beneficiary of that trust. Therefore, the court held that, because the taxpayer was a related person as to the trustee, the taxpayer was not entitled to the first-time homebuyer credit for the purchase of the residence. **Runyan v. Comm'r, T.C. Summary Op. 2012-42**.

IRA. The taxpayer had been a partner in a law firm which provided a qualified pension plan. At age 56, the taxpayer received a full distribution from the pension plan after leaving the law firm. The distribution was immediately rolled over to an IRA without income tax consequence. In the following year, the taxpayer received a distribution from the IRA which was used for the taxpayer's education costs, the taxpayer's child's education costs and other personal expenses. The taxpayer included the distribution in income but did not pay the 10 percent additional tax for a pre-age 59 1/2 distribution. The IRS assessed the 10 percent additional tax on the distribution not used for education expenses and the taxpayer sought a refund. The taxpayer complained that the assessment was unfair because the 10 percent penalty would not have applied if the distribution had come directly from the pension plan when the taxpayer was still with the law firm. The court sympathized but held that the statute was clear that the exemption provided by I.R.C. § 72(t)(2)(A)(v) for employee withdrawals from pension plans after age 55 expressly, under I.R.C. § 72(t)(3)(A), did not apply to IRA withdrawals. **Kim v. Comm'r, 2012-1 U.S. Tax Cas. (CCH) ¶ 50,340 (7th Cir. 2012)**.

The taxpayer received a distribution from an IRA prior to reaching age 59 1/2. The only reasons stated for the withdrawal was that the invested funds were losing value, the taxpayer lost a job and apartment lease and a portion of the funds were used to purchase a residence. The taxpayer also claimed that the taxpayer did not receive a Form 1099-R and was not told that the withdrawal was taxable. The court held that none of the reasons given made the withdrawal exempt from the 10 percent additional tax on early distributions; therefore, the distribution was subject to the 10 percent additional tax. **Brashear v. Comm'r, T.C. Memo. 2012-136**.

INTEREST. The taxpayer claimed a business interest deduction for interest paid on a home equity loan which the taxpayer claimed was used to purchase an air conditioning unit for a home office. The court found that the taxpayer failed to demonstrate that the loan interest was paid in the taxable year involved. The taxpayer also claimed an interest deduction for interest paid on a life insurance loan; however, the court found no evidence that the insurance loan proceeds were used for business expenses. The court upheld the denial of the interest deductions. **Parsons v. Comm'r, T.C. Memo. 2012-134**.

INVESTMENT INCOME. The taxpayers used a tax advisor to prepare their federal tax returns. In one tax year, the taxpayers provided information about a personal loan which was secured by securities. The advisor assumed that the loan proceeds were used to purchase the securities. However, the loan proceeds were not used to purchase the securities. Based on the erroneous assumption, the advisor treated the interest on the loan as investment interest and made the election to treat a similar amount of capital gains as investment income. The error was not discovered until the advisor was preparing for an IRS audit of the return. The taxpayers sought permission to revoke the election to treat the capital gains as investment income and the IRS granted the request. **Ltr. Rul. 201219005, Jan. 30, 2012**.

LIKE-KIND EXCHANGE. The taxpayer sold three residential properties and claimed that the transactions were all like-kind exchanges for oil and mineral interests in other properties such that any gain from the sale of the three properties could be deferred under the like-kind exchange rules. The court upheld the IRS assessment of capital gains taxes on the proceeds of the sales because the taxpayer failed to prove that the taxpayer received any of the claimed oil and mineral interests. **Zurn v. Comm'r, T.C. Memo. 2012-132**.

MORTGAGE INTEREST. The taxpayer purchased a residence for $1.35 million with the taxpayer's father-in-law. The taxpayer and spouse lived in the residence and the taxpayer made all mortgage payments from the taxpayer's own funds. The taxpayer and spouse each filed a return with the status "married filing separately" and the taxpayer claimed all of the mortgage interest as a deduction on the taxpayer's return. The IRS allowed a deduction only for a little over half of the interest. Under I.R.C. § 163(h)(3)(B), the home mortgage is limited to acquisition indebtedness of $500,000 for married taxpayers filing separately. Under I.R.C. § 163(h)(3)(C), interest on home equity indebtedness is is limited to indebtedness of $50,000 for married taxpayers filing separately. The taxpayer argued that these limitations were designed to allow deduction of indebtedness of up to $1.1 million for married couples; therefore, the taxpayer should be able to claim the entire amount. The court disagreed, holding that the statutes were clear that a taxpayer filing as married filing separately was limited to a maximum deduction of interest on $550,000 of combined acquisition and equity indebtedness. **Bronstein v. Comm'r, 138 T.C. No. 21 (2012)**.

PENSION PLANS. For plans beginning in May 2012 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 3.18 percent, the corporate bond weighted average is 5.50 percent, and the 90 percent to 100 percent permissible range is 4.95 percent to 5.50 percent. **Notice 2012-36, I.R.B. 2012-__**.

PREPAID EXPENSES. The IRS has adopted as final regulations that govern how to allocate prepaid qualified mortgage insurance premiums to determine the amount of the prepaid premium that is treated as qualified residence interest each taxable year under I.R.C. § 163(h)(4)(F). The regulations also provide guidance to reporting entities receiving premiums, including prepaid premiums, for mortgage insurance. The regulations reflect changes to the law made by the Tax Relief and Health Care Act of 2006 and the Mortgage Forgiveness Debt Relief Act of 2007. **77 Fed. Reg. 26698 (May 7, 2012)**.

SAFE HARBOR INTEREST RATES
June 2012

	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	1.07	1.07	1.07	1.07
110 percent AFR	1.18	1.18	1.18	1.18
120 percent AFR	1.28	1.28	1.28	1.28
		Long-term		
AFR	2.64	2.62	2.61	2.61
110 percent AFR	2.90	2.88	2.87	2.86
120 percent AFR	3.16	3.14	3.13	3.12

Rev. Rul. 2012-15, I.R.B. 2012-23.

S CORPORATION

ONE CLASS OF STOCK. The taxpayer corporation had three shareholders and the taxpayer decided to purchase the shares of two of the shareholders. The purchase agreement provided that additional payments would be made if the taxpayer entered into specified transactions. The taxpayer claimed that the agreements were not entered into to create a different class of stock for the selling shareholders. The IRS ruled that the purchase agreement did not create a second class of stock. **Ltr. Rul. 201218004, Dec. 28, 2011**.

INSURANCE

POLLUTION EXCLUSION. The plaintiffs operated a pig farm and suffered a breach of their manure containment system. The plaintiffs incurred the costs of cleaning up the environmental damage and sought recovery under their insurance policy. The insurance company denied the claim as falling within the pollution exclusion. The plaintiffs sued the insurance agent for negligence in failing to sell them a policy which would cover such damage. The evidence showed that, when the initial insurance policy was purchased, the pig manure was not held in a pit but was fairly quickly spread on fields. About 20 years later, the plaintiffs changed the way they handled the manure to using a containment pit and less frequent emptying for field spreading. The plaintiff did not tell the insurance agent about the change and the agent testified that the insurance company would not provide insurance for such an operation. The court acknowledged that an insurance agent could have a duty to provide adequate insurance coverage but that such duty would arise under such factors as (1) the complexity and comprehensiveness of the particular insurance business at issue; (2) whether a continuing relationship existed between the plaintiff and the broker over a period of years; (3) the frequency of contact the broker had with the plaintiff to attend to the insurance needs; and (4) the extent to which the plaintiff, because of the complexity of the policies, had come to rely on the broker. The court held that the relationship between the parties was not so close as to give rise to a duty on the agent to provide full coverage, especially since the plaintiffs did not specifically ask the agent whether the manure system was insured against leakage. **Connell v. Plastridge, 2012 Mass. App. Unpub. LEXIS 333 (Mass Ct. App. 2012)**.

LANDLORD AND TENANT

TERMINATION. The plaintiff leased 480 acres of farm land from the defendant on a year-to-year lease. Local custom was that farm leases commence on March 1 of each year. On April 11, 2010, the defendant sent a written notice to terminate the lease at the end of 2010 for half of the acres. On December 6, 2010, the plaintiff sent a letter to the defendant reiterating the termination of the lease as to 240 acres and the the plaintiff's intention to continue the lease as to the other 240 acres. On January 27, 2011, the defendant sent an amended notice to terminate the lease as to the entire farm. The plaintiff filed suit to declare that the lease was not terminated as to the 240 acres not included in the first notice. The defendant argued that the tenant had actual notice of the intent to include the whole farm from oral communications and implied notice from the disking of the land by a third party in November 2010. The court held that under Indiana Code Sections 32-1-3, 32-1-5 and 32-1-9, any notice of termination of a farm lease had to be in writing and given to the tenant not less than three months before the termination of the lease. Because the second 240 acres were not included in the initial termination notice and the amended notice was not given within three months of the termination, the termination was not effective for the second 240 acre lease. **The Guardianship of Harold D. Garnder v. Prochno, 963 N.E.2d 620 (Ind. Ct. App. 2012)**.

STATE TAXATION OF AGRICULTURE

AGRICULTURE USE. The plaintiffs owned a 20 acre rural property consisting of 3.5 acres used for a u-pick blueberry field, 9 acres of horse riding trails, 5.5 acres of farm buildings used for commercial horse boarding, five acres for a pond, and 1.6 acres for the residence. The county changed the classification to residential homestead from agricultural homestead after passage of Minn. Stat. § 273.13 (23) which requires a minimum of 10 acres of agricultural production. The statute includes commercial boarding of horses in the definition of agriculture if there is also raising or cultivating of agricultural products on the property. The county assessor argued that the statute requires a minimum of 10 acres of agricultural production in addition to any horse pasture in order to include the commercial boarding of horses as agricultural use. The court denied the plaintiffs' and county's motions for summary judgment because there were issues of fact as to the actual use of the property. **O'Connor v. County of Washington, 2012 Minn. Tax LEXIS 28 (Minn. Tax Ct. 2012)**.

IN THE NEWS

RULE AGAINST PERPETUITIES. The Iowa General Assembly has rejected an attempt to repeal the rule against perpetuities. See Harl, "Dynasty Trusts: Another View," 22 *Agric. L. Dig*. 185 (2011).

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The topics include:

First day

FARM INCOME TAX

New Legislation

Reporting Farm Income
- Leasing land to family entity
- Constructive receipt of income
- Deferred payment and installment payment arrangements for grain and livestock sales
- Using escrow accounts
- Payments from contract production
- 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

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

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 credit and other credits
- The latest on "portability"
- Unified estate and gift tax rates
- Generation skipping transfer tax, including later GST consequences for transfers in 2010
- Federal estate tax liens
- Undervaluations of property
- Reopening an examination

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

Limited Partnerships

Limited Liability Companies
- Developments with passive losses
- Corporate-to-LLC conversions
- New regulations for LLC and LLP losses

The Closely-Held Corporation -
- 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

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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