CASES, REGULATIONS AND STATUTES

by Robert P. Achenbach, Jr

BANKRUPTCY

CHAPTER 12

ELIGIBILITY. The debtor originally filed for Chapter 13 in August 2003 because the authority for Chapter 12 had expired on July 1, 2003 and had not yet been reinstated. Chapter 12 was retroactively reinstated 11 days later. In September 2003 the Chapter 13 trustee moved to dismiss the case for failure to file documents and the debtor moved to convert the case to Chapter 12. In November 2003, the Bankruptcy Court scheduled the conversion motion for hearing in January 2004. The authority for Chapter 12 expired again on December 31, 2003 and at the conversion hearing, the Bankruptcy Court rejected the motion because the authority for Chapter 12 had expired. On appeal the appellate court noted that Section 348 states that conversion of a case under one chapter to one under another chapter did not affect the original petition date, the commencement date or the order for relief. Therefore, the court held that the law in effect on the original petition date is applicable to determine whether the debtor could file under Chapter 12. Because Chapter 12 was authorized retroactively to the period of the petition date, the debtor could convert the case to Chapter 12. ***In re* Campbell, 313 B.R. 871 (10th Cir. 2004)**.

CONTRACTS

IMPLIED WARRANTY OF FITNESS FOR CONSUMPTION. The plaintiff was a dairy farmer and purchased alfalfa hay from the defendant and fed the alfalfa to the dairy cows. The plaintiff claimed that the cows became sick, had less milk production and died from eating the hay. The plaintiff had the hay tested and the tests showed that some of the hay contained aflatoxin. The plaintiff sued under breach of implied warranty and res ipsa loquitur negligence, which was dismissed prior to trial. At trial, the defendant argued that the plaintiff's case was based on a common law theory of implied warranty of fitness for consumption and not a U.C.C. statutory cause of action. The trial court agreed and granted a directed verdict for the defendant on the basis that hay was a raw material for which no cause of action was available in Missouri. The court discussed the history of the common action for implied warranty of fitness for consumption by animals and determined that the action applied in two cases: (1) where the product is sold directly from one party to another, the action was available for injury caused by processed feed and raw feed; and (2) where the product is not sold directly between the parties, the action was available only for injury caused by processed and packaged feed sold and purchased in the original packaging. Thus, the court held that the directed verdict was improper because the hay was purchased directly from the defendant and the nature of the hay as raw material was irrelevant as to whether the action of implied warranty of fitness for consumption by animals was available to the plaintiff. **Watts v. Sechler, 140 S.W.3d 232 (Mo. Ct. App. 2004)**.

FEDERAL AGRICULTURAL PROGRAMS

AGRICULTURAL ECONOMICS. The Economic Research Service has issued its 2004 report on the economic outlook for agriculture. The report provides historical estimates and forecasts of farm sector financial information that allow readers to gauge the financial health of the nation's farmers and ranchers. The report is available on the web at http://www.ers.usda.gov/publications/so/view.asp?f=economics/ais-bb/ **Agricultural Income and Finance Outlook, AIS-82, Nov. 2004**.

BRUCELLOSIS. The APHIS has issued interim regulations which add Michigan, Louisiana and Arkansas as validated brucellosis-free states. **69 Fed. Reg. 67501 (Nov. 18, 2004)**.

BUSINESS AND INDUSTRY GUARANTEED LOAN PROGRAM. The Rural Business-Cooperative Service has adopted as final regulations to incorporate provisions outlined in Sections 6013, 6017, and 6019 of the Farm Security and Rural Investment Act of 2002 (Pub. L. 104-424). The new regulations expand the eligibility for the Business and Industry Guaranteed Loan Program, provide for a simplified application form for loans of up to $600,000, and require specialized appraisals on collateral. **69 Fed. Reg. 64829 (Nov. 9, 2004)**.

FARM LABOR. The National Agricultural Statistics Service has issued farm employment figures as of October 10-16, 2004. There were 1,173,000 hired workers on the nation's farms and ranches the week of October 10-16, 2004, down 2 percent from a year ago. Of these hired workers, 851,000 workers were hired directly by farm operators. Agricultural service employees on farms and ranches made up the remaining 322,000 workers. All NASS reports are available free of charge on the internet. For access, go to the NASS Home Page at: http:/www.usda.gov/nass/. **Sp Sy 8 (11-04)**.

PERISHABLE AGRICULTURAL COMMODITIES ACT. The plaintiff was a grocery wholesaler who had purchased battered and coated frozen potato products. The plaintiff filed for bankruptcy and was concerned that the plaintiff would be subject to the PACA trust for the battered and frozen potato products purchased but not paid for. Under 2003 USDA regulations, battered and coated potato products were defined as fresh vegetables. The plaintiff filed suit to have the new regulations declared invalid. The court first upheld the plaintiff's ability to bring the suit even though the plaintiff failed to object to the new regulations. The court then examined the regulations to see if they were authorized by and consistent with the PACA provisions. The court found that PACA did not provide a definition of fresh vegetables but appeared to intend a broad definition in that it referred to vegetables of "every kind and character." The court held that the inclusion of battered and coated potato products in the definition of fresh vegetables did not exceed the authority of PACA and was a reasonable interpretation of the statute by the USDA. The court noted that the main purpose of PACA was to protect producers and the expansive definition of fresh vegetables was in keeping with that purpose. **Fleming Companies, Inc. v. USDA, 322 F. Supp.2d 744 (E.D. Tex. 2004)**.

FEDERAL ESTATE AND GIFT TAXATION

ADMINISTRATIVE EXPENSES. The decedent's estate consisted mainly of a right to receive large annual payments of a lottery prize won by the decedent. Although the decedent had established a trust which was to pay the estate taxes owed on the lottery payments, the trust was insufficient to pay the entire estate tax; therefore, the estate borrowed the remaining amount. The loan was to be repaid from future lottery prize installments. The estate claimed a deduction for the interest paid in the first year and filed a protective refund claim based on the estimated interest to be paid on the estate tax loan in future years. The IRS argued that the interest was not deductible because the estate failed to demonstrate that the loan was required for estate property administration. The estate argued that the loan was necessary because most of the estate assets were future payments and the current assets were insufficient to pay the estate tax. The estate also argued that the lottery payments could not be sold, although they could be assigned, and the estate's judgment as to the best actions to preserve the estate should be upheld. The court held that, under Pennsylvania law, the right to the lottery installments could be sold or assigned; therefore, the burden was on the estate to prove that the choice of the loan was necessary. The court indicated that the best argument for the estate was that the sale of the right to receive lottery payments was similar to a forced sale of stock; however, the court held that the estate had not provided evidence to support that argument. **Rupert v. United States, 2004-2 U.S. Tax Cas. (CCH) ¶ 60,492 (M.D. Pa. 2004)**.

GROSS ESTATE. The decedent was the remainder beneficiary of two trusts established by the decedent's sister for the sister's benefit. The trusts provided for termination of the trusts at the decedent's death and distribution of the trust assets under the sister's will. The sister's will provided for distribution of the sister's estate by passing one-half of the estate to the decedent. The sister predeceased the decedent and the decedent became the beneficiary of the trusts and one-half of the sister's separate property. At the death of the decedent, the IRS claimed that the decedent's estate included one-half of the trusts' principal in that the sister's will bequeathed one-half of her estate to the decedent. The decedent's estate argued that the trust property did not pass to the decedent because the will bequest was to the decedent and not to the decedent's estate, and because the decedent did not survive the termination of the trusts, the trust property passed under the trusts' provisions to third parties. The court agreed with the estate's argument and held that the sister did not intend for any of the trusts' property to pass to the decedent or the decedent's estate; therefore, none of the trusts' property was included in the decedent's estate for federal estate tax purposes. **Cameron v. United States, 2004-2 U.S. Tax Cas. (CCH) ¶ 60,491 (W.D. Pa. 2004)**.

VALUATION. The decedent owned two retirement accounts containing stock which passed under the estate to heirs. The estate argued that the value of the two accounts should be reduced to reflect the income tax liabilities incurred by the beneficiaries. The court considered the accounts as a collection of the assets, the stock included in the accounts, and not as single assets in themselves. Therefore, a willing buyer of the stock would not have any income tax liability and the income tax liability of the beneficiaries would not effect the value of the stock to a willing buyer. The court noted that, under I.R.C.§ 691(c), the beneficiaries were entitled to an income tax deduction for estate tax attributable to an asset received by inheritance. **Estate of Smith v. Comm'r, 2004-2 U.S. Tax Cas. (CCH) ¶ 60,493 (5th Cir. 2004), *aff'g*, 2004-1 U.S. Tax Cas. (CCH) ¶ 60,476 (S.D. Tex. 2004)**.

FEDERAL INCOME TAXATION

AUTOMOBILE EXPENSES. The U.S. Supreme Court has denied certiorari in the following case. The taxpayer operated a music entertainment business which involved a band which performed for a fee. The taxpayer claimed a deduction for expense method depreciation and travel expenses for the van. The deductions were disallowed because the taxpayer failed to provide substantiation of the business use of the van and the business purpose for the expenses and because the van was placed in service in a personal activity in a prior taxable year. **Kay v. Comm'r, T.C. Memo. 2002-197, *aff'd*, 2004-2 U.S. Tax Cas. (CCH) ¶ 50,405 (5th Cir. 2003)**.

BAD DEBTS. The taxpayer was an eye surgeon who owned a corporation which operated an eye clinic. The corporation hired a business manager and the taxpayer created other corporations with the manager to provide management services to other clinics and to operate an art gallery. The taxpayer provided all of the assets for the corporations and claimed that the taxpayer expected the manager to reimburse the taxpayer for the manager's share of the assets contributed to the corporation. The manager did pay some interest but did not make any principal payments to the taxpayer. The manager was eventually fired for refusing to follow the taxpayer's orders and the taxpayer claimed bad debt deductions for the amounts not paid by the manager. The taxpayer argued that (1) the firing of the manager made the debts worthless, although the taxpayer did negotiate a settlement with the manager and (2) the debt was worthless because the manager was insolvent. The court held that the taxpayer failed to demonstrate that the firing of the manager was sufficient to make the debt worthless, the manager was not insolvent before the year the debt was claimed to be worthless, the taxpayer had no reasonable expectation of collecting on the debt in the future, and the taxpayer took sufficient, reasonable steps to collect on the debt. **John v. Comm'r, T.C. Memo. 2004-257**.

CAPITAL ASSETS. The taxpayer won a state lottery prize which was payable in annual installments over 25 years. The taxpayer received the first five installments and reported each as ordinary income. The taxpayer assigned the rights to the remaining payments in exchange for a lump sum payment which was reported as capital gains by the taxpayer. The court held that, consistent with many previous cases, the right to receive the lottery payments was not a capital asset but was taxable as ordinary income the same as the installment payments. **Wolman v. Comm'r, T.C. Memo. 2004-262**.

DEPENDENTS. The taxpayer was divorced and the divorce decree provided that the taxpayer and former spouse were to share the federal dependency exemptions by claiming the exemptions on alternate tax years. The taxpayer claimed dependent exemptions for two of the children and attached a copy of the divorce decree to the income tax return. The taxpayer did not obtain a Form 8332 from the former spouse and argued that the attachment of the divorce decree satisfied the requirements of Form 8332. The court held that the divorce decree did not satisfy the requirements because the decree did not state the specific tax years in which the taxpayer could claim the exemptions and the decree was not signed by the taxpayer or former spouse. **Allsopp v. Comm'r, T.C. Summary Op. 2004-154**.

EARNED INCOME TAX CREDIT. The taxpayer was the father of two children and lived with the taxpayer's parent during the tax year involved. The taxpayer was employed and provided some support for the children but the parent had a higher income and provided the home without charge. Although the court noted that the taxpayer provided credible testimony as to the taxpayer's support for the children, the court upheld the IRS denial of the dependency exemption for the taxpayer because the taxpayer failed to provide evidence of the value of the use of the parent's home or the total value of all support. In addition, the court held that the taxpayer could not claim the earned income tax credit for the children because the parent was an "eligible individual" and earned more income in the tax year involved. **Lear v. Comm'r, T.C. Memo. 2004-253**.

The taxpayer was married but lived separately from the spouse. The couple had one child who lived with the spouse continually since birth. The New York Family Court issued an order requiring the taxpayer to pay weekly child support but did not include any provision as to which parent could claim the federal dependency exemption. Both the taxpayer and spouse claimed the child as a dependent on their income tax returns. The spouse did not fill out a Form 8332 release of the right to claim the dependency exemption. The court held that the taxpayer could not claim the child as a dependent on the taxpayer federal income tax return. **Wells v. Comm'r, T.C. Summary Op. 2004-153**.

EMPLOYEE BENEFITS. Under I.R.C. § 106(a), the gross income of an employee does not include employer-provided coverage under an accident or health plan. Thus, premiums and other amounts that an employer pays on behalf of an employee to an accident or health plan are not included in gross income. Treas. Reg. §1.106-1 provides that the exclusion from gross income extends to contributions which the employer makes to an accident or health plan on behalf of the employee and the employee's spouse or dependents, as defined in I.R.C. § 152. The definition of dependent in I.R.C. § 152 was changed by the Working Families Tax Relief Act of 2004 (WFTRA), Pub. L. No. 108-311, 118 Stat. 1166. Because the reference to "dependents" under Section 106 appears only in the regulations under that section and not in the statute itself, Congress made no conforming amendments to Section 106 in WFTRA; therefore, the definition in the regulations differs from the definition in the statute. The IRS has announced that the definition in the Section 106 regulations will remain in effect until conforming amendments can be made. **Notice 2004-79, I.R.B. 2004-47**.

EMPLOYEE EXPENSES. The taxpayer was an employee of a company and agreed to perform services without compensation for several years while products were being developed. The taxpayer, however, did receive reimbursement payments for expenses incurred for the benefit of the company. The court found that the taxpayer did substantiate all expenses but that the taxpayer received excess reimbursements which were not required to be repaid; therefore, the court held that the reimbursement payments did not qualify as made under a plan or arrangement under Treas. Reg. § 1.62-2 and had to be included in income. **Namyst v. Comm'r, T.C. Memo. 2004-263**.

HOBBY LOSSES. The taxpayer was self-employed as a full time chiropractor and purchased a 115 acre farm used to breed and train horses. The horses were used primarily by the taxpayer's family for pleasure riding, although some horses were sold for a small gain. The court held that the farm was not operated with an intent to make a profit because (1) the taxpayer did not keep accurate records of the income and expenses of the horse operation, (2) no attempt was made to analyze the operation to make it profitable, (3) no separate bank account was maintained for the horse operation, (4) the taxpayer had little experience in the horse business and did not seek expert advice, (5) the losses offset income from other sources and (6) the taxpayer and family used the horses for recreation and personal use. **Montagne v. Comm'r, T.C. Memo. 2004-252**.

INVOLUNTARY CONVERSIONS. The taxpayer was a public utility company. The state decided to build a new highway over a portion of land owned by the taxpayer and, under threat of eminent domain, negotiated with the taxpayer for purchase of the property. The purchase price included payment for relocation costs associated with the taxpayer's need to move equipment located on the purchased land. The taxpayer sought a ruling that the portion of the purchase price allocated and used for the relocation costs would not be included in gross income. The IRS ruled that, under Rev. Rul. 58-396, 1958-2 C.B. 403 and Graphic Press, Inc. v. Comm'r, 523 F.2d 585 (9th cir. 1975), the amounts received for relocation would not be included in gross income to the extent the amounts were used for relocation costs. **Ltr. Rul. 200445004, July 16, 2004**.

MILEAGE DEDUCTION. The IRS has issued a revenue procedure which provides that the standard mileage rate for 2005 is 40.5 cents per mile for business use, 14 cents per mile for charitable use and 15 cents per mile for medical and moving expense purposes. The revenue procedure also provides rules under which the amount of ordinary and necessary expenses of local travel or transportation away from home that are paid or incurred by an employee will be deemed substantiated under Treas. Reg. § 1.274-5 when a payor (the employer, its agent, or a third party) provides a mileage allowance under a reimbursement or other expense allowance arrangement to pay for such expenses. Use of a method of substantiation described in this revenue procedure is not mandatory and a taxpayer may use actual allowable expenses if the taxpayer maintains adequate records or other sufficient evidence for proper substantiation. **Rev. Proc. 2004-64, I.R.B. 2004-47**.

PASSIVE ACTIVITY LOSSES. The taxpayer owned residential rental property and reported a loss of $2,635 for one tax year which offset income from other sources. The taxpayer's income was $164,000 for that year and, under I.R.C. § 469(i)(3), the amount of allowed passive losses allowed, $25,000, was reduced by one-half of the amount of income in excess of $100,000, eliminating the allowed amount for the taxpayer. ($164,000-$100,000 = 64,000; $64,000 x .5 = $32,000; $25,000 - $32,000 = 0 passive loss allowed) The court held that the taxpayer was not allowed a passive activity loss for the residential rental property. **Rahimi v. Comm'r, T.C. Summary Op. 2004-156**.

PENSION PLANS. The IRS has published the cost-of-living adjustments (COLAs), effective on Jan. 1, 2005, applicable to dollar limitations on benefits paid under qualified retirement plans and to other provisions affecting such plans. The maximum limitation for the I.R.C. § 415(b)(1)(A) annual benefit for defined benefit plans is increased to $170,000 and the I.R.C. § 415(c)(1)(A) limitation for defined contribution plans is $42,000. **Notice 2004-72, I.R.B. 2004-46**.

For plans beginning in November 2004 for purposes of determining the full funding limitation under I.R.C. § 412(c)(7), the corporate bond weighted average is 6.17 percent with the permissible range of 5.56 to 6.17 percent (90 to 100 percent permissible range). The 30-year Treasury securities rate for this period is 5.12 percent, the 90 percent to 105 percent permissible range is 4.61 percent to 5.38 percent, and the 90 percent to 110 percent permissible range is 4.61 percent to 5.63 percent. **Notice 2004-77, I.R.B. 2004-47**.

The taxpayer obtained a loan from the taxpayer's pension plan in 1998 and began making payments on the loan. Later that year, the taxpayer's employment was terminated and, under the employer's rules, no repayments on the loan could be made by the taxpayer. The former employer offset the loan in 2000 by applying the funds in the pension plan against the loan principal. The employer issued a Form 1099-R for 2000 listing the offset loan transaction as a distribution in 2000 from the pension fund. The taxpayer argued that, under I.R.C. §§ 402(a), 72(p)(1)(A), the distribution was deemed to have occurred in 1998 when the taxpayer stopped making regular payments on the loan because the loan no longer qualified for exception from treatment as a distribution. The court agreed and noted that subsequent regulations have established the rule that pension plan loans become taxable distributions when level amortization payments are not made. **Molina v. Comm'r, T.C. Memo. 2004-258**.

RETURNS. The IRS has issued Schedule J (2004), Income Averaging for Farmers and Fishermen; Form 1040A (2004), U.S. Individual Income Tax Return, and instructions; Form 1040EZ (2004), Income Tax Return for Single and Joint Filers With No Dependents; Form 2106-EZ (2004), Unreimbursed Employee Business Expenses; Form 2441 (2004), Child and Dependent Care Expenses, and instructions; Form 4562 (2004), Depreciation and Amortization (Including Information on Listed Property); Form 8812 (2004), Additional Child Tax Credit; Form 8851 (2004), Summary of Archer MSAs; Form 1040-SS (2004), U.S. Self-Employment Tax Return (Including the Additional Child Tax Credit for Bona Fide Residents of Puerto Rico), and instructions; Form 1040EZ (2004), Income Tax Return for Single and Joint Filers With No Dependents, and instructions; Form 4797 (2004), Sales of Business Property (Also Involuntary Conversions and Recapture Amounts Under Sections 179 and 280F(b)(2)), and instructions; and Form 8834 (2004), Qualified Electric Vehicle Credit. The forms are available on the IRS web site, www.irs.gov/formspubs/index.html, in the Forms & Pubs section. The 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.

S CORPORATIONS

EMPLOYEE. The U.S. Supreme Court has denied certiorari in the following case. The taxpayer was an S corporation with one shareholder who was also the sole officer and director. The taxpayer operated a business of veterinary surgical consultations for other veterinarians. The business operations were performed by the shareholder and the business was located at the shareholder's residence. The corporation did not have a separate bank account and the business and personal income and expenses were handled through the shareholder's personal bank account. The corporation reported income for 1997 and 1998, deductions for compensation paid to officers, but no deductions for wages or salaries. The shareholder reported the shareholder's share of income from the corporation on Schedule K-1 and Schedule E. The corporation did not withhold or pay any employment taxes. The court held that the shareholder was an employee of the taxpayer and the taxpayer was required to withhold, report and pay employment taxes. **Nu-Lock Design, Inc. v. Comm'r, 2004-1 U.S. Tax Cas. (CCH) ¶ 50,138 (3d Cir. 2004), *aff'g*, T.C. Memo. 2003-52, cert. denied Nov. 11, 2004.**

TRUSTS**.** An S corporation had two qualified subchapter S trusts as shareholders and had left over subchapter C earnings and profits. The corporation did not have sufficient cash to make cash distributions of the subchapter C earnings and profits and decided to distribute deemed dividends as allowed by Treas. Reg. § 1.1368-1(f)(3). A deemed dividend is treated as a distribution of the earnings and profits followed by an immediate contribution to the corporation. The issue was whether the trusts had to treat the deemed dividends as income to be distributed to the trust beneficiaries or as addition to principal for purposes of meeting the distribution requirement of I.R.C. § 1361(d)(3)(B). The IRS first noted that, under state law, if a trust agreement does not provide a rule for allocating (between income and principal), an item of income is to be allocated to principal. The IRS ruled that the deemed dividends were not required to be distributed to the trust beneficiaries in order to meet the distribution requirements of I.R.C. § 1361(d)(3)(B). **Ltr. Rul. 200446007, July 14, 2004**.

SAFE HARBOR INTEREST RATES
December 2004

	Annual	Semi-annual	Quarterly	Monthly
		Short-term		
AFR	2.48	2.46	2.45	2.45
110 percent AFR	2.73	2.71	2.70	2.69
120 percent AFR	2.97	2.95	2.94	2.93
		Mid-term		
AFR	3.54	3.53	3.51	3.50
110 percent AFR	3.92	3.88	3.86	3.85
120 percent AFR	4.28	4.24	4.22	4.20
		Long-term		
AFR	4.68	4.63	4.60	4.59
110 percent AFR	5.15	5.09	5.06	5.04
120 percent AFR	5.64	5.56	5.52	5.50

Rev. Rul. 2004-106, I.R.B. 2004-49.

SOCIAL SECURITY TAX. The maximum amount of annual wages subject to Old Age Survivors and Disability Insurance for 2005 is $90,000, with all wages and self-employment income subject to the medicare portion of the tax. **Notice 2004-73, I.R.B. 2004-46**.

STATE REGULATION OF AGRICULTURE

WAREHOUSES. The Nebraska Pubic Service commission (PSC) declared a grain elevator to be insolvent when it discovered that the elevator did not have sufficient grain in storage to meet all obligations. The PSC held hearings on claims made by grain producers and others that they had grain stored in the elevator. Under PSC regulations, 291 Neb. Admin. Code, ch 8, § 001.01D, the proceeds of a failed elevator were to be distributed by the PCS to depositors, storers and owners of grain in the failed elevator on the day the elevator was taken over by the PSC. One claimant based its claim on warehouse receipts for purchases of grain from the elevator. The evidence demonstrated that, although the claimant made advance payments for the grain, the title to the grain was not considered to pass, both by the parties and by industry practice, until the claimant took delivery. The court held that the warehouse receipts for prepayment of grain were insufficient to make the claimant an owner, storer or depositor of grain in the failed elevator. ***In re* Claims Against Atlanta Elevator, Inc. v. Roberts Cattle Co., 685 N.W.2d 477 (Neb. 2004)**.

PRODUCT LIABILITY

HERBICIDES. The plaintiff purchased a weed herbicide to use on the plaintiff's commercial tulip bulb production fields. The defendant manufactured the herbicide and had obtained EPA approval for the label. The plaintiff claimed that the herbicide damaged the bulb crops and sued under theories of strict liability and negligence based on an improper label. The evidence showed that the EPA had required a change in the label to state that the herbicide was not to be used on commercial production bulb fields. The defendant argued that the action was preempted by FIFRA because the action was based on the label. The plaintiff argued that *Medtronic, Inc. v. Lohr, 518 U.S. 470 (1996),* held that negligence actions were not preempted by FIFRA. The court noted that subsequent cases in the Ninth Circuit rejected the argument that *Medtronic* had changed the preemption rule; therefore, the plaintiff's action was preempted by FIFRA. **Vanderzanden Farms, LLC v. Dow Agrosciences, LLC, 323 F. Supp.2d 1075 (D. Or. 2004)**.

CITATION UPDATES

Gacke v. Prok Xtra, L.L.C., 684 N.W.2d 168 (Iowa 2004) (hog confinement facility) see p. 103 *supra*.

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AGRICULTURAL TAX AND LAW SEMINARS

by Neil E. Harl and Roger A. McEowen

January 7-8, 2005

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