CASES, REGULATIONS AND STATUTES

by Robert P. Achenbach, Jr

ADVERSE POSSESSION

FENCE. The defendants purchased their land first, almost 10 years before the plaintiffs purchased the neighboring land. The defendants pastured, trained and rode horses on their property and constructed an electric tape fence between the properties in order to prevent their horses from escaping their property. This fence was constructed on the plaintiffs' property. In another portion of the boundary line, a pre-existing paddock was built on the plaintiffs' property. The paddock fencing had deteriorated such that the defendants also constructed an electric tape fence. The defendants provided evidence that they used the disputed strips of land for their horse activities but did not show that the use of the disputed strips was continuous. The court held that the defendants did not obtain title to the disputed strips because they did not use the strips continuously with open intent to claim the disputed strips as theirs. The fences did not evidence a claim of ownership because the fences were constructed only with the intent to keep the horses from escaping and not with the intent to mark the boundary between the properties. **Caluori v. Nadeau, 2012 R.I. Super. LEXIS 10 (R.I. Super. 2012)**.

The prior owners of the parties' neighboring property constructed a fence between their properties which divided two hog pastures, one on each side of the fence. The prior owners maintained the hog pastures from 1947 through 1973 when the defendant purchased the defendant's property. Although a survey was done at that time, the defendant did not object to the fence as not being on the true property line. No objection was raised until the plaintiff purchased its property for development and discovered that the fence was located several feet onto the plaintiff's property. The court held that the defendant obtained title to the disputed strip by boundary by practical location because the original owners had agreed to and treated the fence as the boundary between their two properties for over 15 years. The opinion is designated as not for publication. **Soland v. Evert, 2011 Minn. App. Unpub. LEXIS 1037 (Minn. Ct. App. 2011)**.

ANIMALS

HORSE. The plaintiff was hired by the defendants to start the training one of their Tennessee Walking horses. The plaintiff had progressed enough to ride the horse but the horse was known to be skittish and the plaintiff asked the defendants not to make any unnecessary noise during the training. While the plaintiff was riding the horse, one of the defendants opened a gate which made a loud scraping noise which spooked the horse, causing it to rear up and throw the plaintiff. The plaintiff sued for personal injuries, alleging that the defendants were negligent in failing to provide a safe working environment for horse training. The trial court granted summary judgment to the defendants, ruling that the Kentucky Farm Animals Activities Act, Ky. Rev. Stat. § 247.4013 relieved the defendants of any liability because the accident was within the reasonable risks of horse training. In a decision designated as not for publication, the appellate court affirmed, noting that the plaintiff was an experienced horse trainer and was well aware of the inherent risks involved with horse training, including sudden loud noises from farm activities such as opening a gate. **Biesty v. Flynn, 2012 Ky. App. Unpub. LEXIS 87 (Ky. Ct. App. 2012)**.

The plaintiff was injured during a trail ride with the defendants, friends who owned the horses involved. Although the plaintiff had some riding experience, she had no formal training. The plaintiff claimed to have expressed uneasiness with riding the horse chosen for the plaintiff but the owners assured the plaintiff that the horse was calm and gentle. However, when one of the riders rode off the path at a higher speed, the plaintiff's horse followed and threw the plaintiff, causing injuries. The defendants sought summary judgment on the defense of assumption of risk. The court denied summary judgment because several issues of triable fact remained concerning the amount of care taken by the defendants and the knowledge of any risk assumed by the plaintiff. The court noted that a horse expert had testified that the defendants' actions violated several rules of trail riding and contributed to the loss of control of the horse by the plaintiff. Thus, the court ruled that a jury would need to determine the role played by the defendants' actions and whether those actions were a normal assumed risk of horseback riding. **Tavares v. Perl, 2012 N.Y. Misc. LEXIS 326 (Sup. Ct. N.Y. 2012)**.

BANKRUPTCY

GENERAL

REJECTION OF CONTRACTS. The debtor was a chicken integrator that processed and marketed chickens for wholesale and retail markets. The debtor had entered into chicken growing contracts with several farmers and obtained Bankruptcy Court approval to reject those contracts. The growers filed claims for damages resulting from the breach of their grower contracts. The debtor argued that there was no breach because (1) the debtors could have terminated the contracts by reason of economic necessity as provided in the contracts and would then have had no liability to the growers; (2) the contracts permitted termination by either party between flocks; and (3) the debtor was not required to provide any flocks ever to the growers and thus had no obligation to perform at all under the contracts except during the time when flocks were in fact placed. The court rejected all these arguments as contrary to a reasonable interpretation of the contracts. ***In re***

Pilgrim's Pride Corp., 2012 Bankr. LEXIS 422 (Bankr. N.D. Tex. 2012).

FEDERAL FARM PROGRAMS

ORGANIC FOOD. The AMS has adopted as final regulations amending the USDA National List of Allowed and Prohibited Substances to enact six recommendations submitted to the Secretary of Agriculture by the National Organic Standards Board on May 22, 2008, November 19, 2008, and May 6, 2009. The final rule adds one substance, microcrystalline cheesewax, along with any restrictive annotations, for use in organic mushroom production; and adds three substances, acidified sodium chlorite, dried orange pulp, and Pacific kombu seaweed, with any restrictive annotations, for use in organic handling. The final rule also amends the annotation for one substance used in organic handling, unbleached lecithin, and removes bleached lecithin from the National List. **77 Fed. Reg. 8089 (Feb. 14, 2012)**.

FEDERAL ESTATE AND GIFT TAXATION

DEDUCTION FOR STATE TAX. The decedent had funded a C corporation with notes convertible to stock. The notes were converted to stock, resulting in capital gains under state law. The decedent had tried to prevent the corporation from being treated as a California corporation subject to California income tax but the issue was not clear. The decedent's estate's income tax return claimed a deduction for its estimated California income tax of $62 million. However, several years later, the estate settled the issue with California for $26 million in income taxes. The IRS reduced the state income tax deduction to $26 million. The court held that the state income tax claim was not ascertainable with reasonable certainty at the time of the decedent's death; therefore, the post-death settlement for less tax was the relevant event to determine the value of the claim at the settlement amount. **Marshall Naify Revocable Trust v. United States, 2012-1 U.S. Tax Cas. (CCH) ¶ 60,639 (9th Cir. 2012), *aff'g*, 2010-2 U.S. Tax Cas. (CCH) ¶ 60,603 (N.D. Calif. 2010)**.

GENERATION SKIPPING TRANSFERS. The taxpayer was the beneficiary of a pre-September 25, 1985 trust and obtained a court approved amendment of the trust (1) to make a different state the situs of the trust for purposes of administration of the trust, (2) to appoint a distribution advisor and an investment advisor, (3) redefine "book value" and (4) to change the term "issue" to "descendants." The IRS ruled that the amendments did not cause the trust to be subject to GSTT. **Ltr. Rul. 201207001, Oct. 26, 2011**.

PORTABILITY. The IRS has issued a notice which grants to qualifying estates, for the purpose of electing under I.R.C. § 2010(c)(5)(A) (a "portability election"), a six-month extension of time for filing Form 706, *United States Estate (and Generation- Skipping Transfer) Tax Return*. The extension applies when the executor of a qualifying estate did not file a Form 4768, *Application for Extension of Time To File a Return and/or Pay U.S. Estate (and Generation-Skipping Transfer) Taxes* within nine months after the decedent's date of death, and therefore the estate did not receive the benefit of the automatic six-month extension. An executor of a qualifying estate that wants to obtain the extension granted by this notice must file the application for a six- month extension no later than 15 months after the decedent's date of death. With the extension granted by this notice, the Form 706 of a qualifying estate will be due 15 months after the decedent's date of death. **Notice 2012-21, I.R.B. 2012-10**.

TRANSFERS WITH RETAINED INTERESTS. The decedent and spouse had owned 700 acres of rural woodlands which bordered a lake constructed by the county. The couple wanted to keep the land in the family and decided to create a family limited partnership (FLP) as a means of transferring the land to the other family members by gift. The decedent and spouse transferred the land to the FLP in exchange for 1 percent general interests and 49 percent limited interests. Over the next three years, all of the limited interests were transferred to the other family members equally; therefore, the decedent's estate included only the 1 percent FLP general interest in the estate. The decedent and spouse claimed to use the FLP method as preventing partition suits, allowing for easy annual gifts and preventing sales outside the family. The facts included two divorces where the non-family spouse relinquished their interest in the property to the family member as part of the divorce proceeding, although the FLP interest was not discussed. The court held that the transfer of the property to the FLP was a bona fide sale because the decedent and spouse had valid non-tax reasons for the transfer, the gift transfers were not discounted for gift tax purposes, the decedent and spouse did not commingle FLP and personal assets, and the decedent was in good health at the time of the transfer. **Estate of Stone v. Comm'r, T.C. Memo. 2012-48**.

FEDERAL INCOME TAXATION

BARTERING. The IRS has published information about bartering, the trading of one product or service for another. Usually there is no exchange of cash. However, the fair market value of the goods and services exchanged must be reported as income by both parties. (1) *Organized barter exchanges* A barter exchange functions primarily as the organizer of a marketplace where members buy and sell products and services among themselves. Whether this activity operates out of a physical office or is internet-based, a barter exchange is

generally required to issue Form 1099-B, Proceeds from Broker and Barter Exchange Transactions, annually to their clients or members and to the IRS. (2) *Barter income* Barter dollars or trade dollars are identical to real dollars for tax reporting purposes. If a taxpayer conducts any direct barter – barter for another's products or services – the taxpayer must report the fair market value of the products or services received on the tax return. (3) *Tax implications of bartering* Income from bartering is taxable in the year it is performed. Bartering may result in liabilities for income tax, self-employment tax, employment tax or excise tax. A taxpayer's barter activities may result in ordinary business income, capital gains or capital losses, or a nondeductible personal loss. (4) *How to report* The rules for reporting barter transactions may vary depending on which form of bartering takes place. Generally, taxpayers report this type of business income on Form 1040, Schedule C, *Profit or Loss from Business*, or other business returns such as Form 1065 for partnerships, Form 1120 for corporations or Form 1120-S for S corporations. For more information, see the Bartering Tax Center in the business section at www.irs.gov. **IRS TAX TIP 2012-33**.

CHILD TAX CREDIT. The IRS has published information about the child tax credit. (1) *Amount With the Child Tax Credit*.Taxpayers may be able to reduce your federal income tax by up to $1,000 for each qualifying child under age 17. (2) *Qualification* A qualifying child for this credit is someone who meets the qualifying criteria of seven tests: age, relationship, support, dependent, joint return, citizenship and residence. (3) *Age test To qualify* A child must have been under age 17 (age 16 or younger) at the end of 2011. (4) *Relationship test* To claim a child for purposes of the Child Tax Credit, the child must be a son, daughter, stepchild, foster child, brother, sister, stepbrother, stepsister or a descendant of any of these individuals, which includes a grandchild, niece or nephew. An adopted child is always treated as a taxpayer's child. An adopted child includes a child lawfully placed with the taxpayer for legal adoption. (5) *Support test* In order to claim a child for this credit, the child must not have provided more than half of his/her own support. (6) *Dependent test* A taxpayer must claim the child as a dependent on the federal tax return. (7) *Joint return test* The qualifying child can not file a joint return for the year (or files it only as a claim for refund). (8) *Citizenship test* To meet the citizenship test, the child must be a U.S. citizen, U.S. national or U.S. resident alien. (9) *Residence test* The child must have lived with the taxpayer for more than half of 2011. There are some exceptions to the residence test, found in IRS Publication 972, *Child Tax Credit*. (10) *Limitations* The credit is limited if a *Child Tax Credit's* modified adjusted gross income is above a certain amount. The amount at which this phase-out begins varies by filing status. For married taxpayers filing a joint return, the phase-out begins at $110,000. For married taxpayers filing a separate return, it begins at $55,000. For all other taxpayers, the phase-out begins at $75,000. In addition, the Child Tax Credit is generally limited by the amount of the income tax and any alternative minimum tax owed. (11) *Additional Child Tax Credit* If the amount of the child tax credit is greater than the amount of income tax owed, a taxpayer may be able to claim the additional child tax credit. For more information, see IRS Publication 972, *Child Tax Credit*. **IRS TAX TIP 2012-29**.

DEPENDENTS. Under a divorce agreement, the taxpayer and former spouse agreed that each would be allowed to take a dependency deduction for their child in alternate years. In compliance with the agreement, the taxpayer claimed the dependency deduction in 2008 and the other parent did not. The child resided with the other parent more than half of 2008 and the other parent did not sign a Form 8332, *Release of Claim to Exemption for Child of Divorced or Separated Parents* and the taxpayer did not include Form 8332 or any other written declaration to support the dependency deduction. The court held that the child was not a qualifying child because the child did not live with the taxpayer more than one-half of the tax year. The court also held that the child was not a qualified relative because the taxpayer failed to show that the taxpayer provided more than one-half of the support for the child during the tax year. Finally, the taxpayer did not qualify for the dependency deduction under the exception of I.R.C. § 152(e)(1) because the taxpayer did not include a signed From 8332 with the tax return. **Santana v. Comm'r, T.C. Memo. 2012-49**.

DISASTER LOSSES. On February 1, 2012, the President determined that certain areas in Alabama 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 tornadoes which began on January 22, 2012. **FEMA-4052-DR**. On February 1, 2012, the President determined that certain areas in Utah are eligible for assistance from the government under the Act as a result of severe storms which began on November 30, 2011. **FEMA-4053-DR**. On February 2, 2012, the President determined that certain areas in Alaska are eligible for assistance from the government under the Act as a result of severe storms which began on November 15, 2011. **FEMA-4054-DR**. Accordingly, taxpayers in the areas may deduct the losses on their 2010 federal income tax returns. See I.R.C. § 165(i).

DISREGARDED ENTITIES. In an IRS Advice Memorandum, the IRS describes an example: "[I]n a Split Eligible Entity Interest Transaction, Owner creates a wholly owned state law entity, treated as a disregarded entity for federal tax purposes. The entity's governing documents state that Owner takes one-hundred percent of each class of interest in the entity. Based on the preferences contained in the governing documents, the entity allocates items of income, deduction, loss, and credit between the classes. Owner tracks and adjusts an outside basis in its various classes of interests accordingly. Owner drafts the governing documents to establish Owner's chosen class interest allocations. Thus, adjustments to Owner's bases in the various classes of interests will create disparities based on the entity's items of income, deduction, loss, or credit. Such disparities will exist in spite of the fact that the entity is a disregarded entity, and Owner should recognize all of the entity's items of income, deduction, loss, or credit directly regardless of any supposed

'allocations' among artificially created classes of interests. This artificial manipulation of the interests, if permitted, would allow Owner to control the recognition of income or loss on distributions from the entity or dispositions of its interests in the entity for federal tax purposes." The IRS ruled that it would disregard such arrangements under (1) *Rev. Rul. 99-5, 1999-6 C.B. 434*, which provides that a taxpayer who sells a portion of its interest in a disregarded entity is treated as selling a pro-rata share of each asset owned by the disregarded entity; and (2) under Treas. Reg. § 301.7701-2(a) which treats a disregarded entity as a sole proprietorship, branch, or division of the owner. **AM-2012-001, Feb. 20, 2012**.

EMPLOYMENT TAXES. The Internal Revenue Service has released revised Form 941 enabling employers to properly report the newly-extended payroll tax cut benefiting nearly 160 million workers. Under the Middle Class Tax Relief and Job Creation Act of 2012, enacted on February 22, 2012, workers will continue to receive larger paychecks for the rest of this year based on a lower social security tax withholding rate of 4.2 percent, which is two percentage points less than the 6.2 percent rate in effect prior to 2011. This reduced rate, originally in effect for all of 2011, was extended through the end of February by the Temporary Payroll Tax Cut Continuation Act of 2011. **IR-2012-27**.

PARTNERSHIPS. The IRS has issued a revenue procedure that provides the requirements for furnishing substitute Schedule K-1, *Partner's Share of Income, Deductions, Credits, etc*., in electronic format. A partnership (including an Electing Large Partnership, as defined in I.R.C. § 775) that follows the procedures set forth in the revenue procedure will satisfy the requirements of I.R.C. § 6031(b) and Treas. Reg. § 1.6031(b)-1T(a)(1). **Rev. Proc. 2012-17, I.R.B. 2012-10**.

QUARTERLY INTEREST RATE. The IRS has announced that, for the period April 1, 2012 through June 30, 2012, the interest rate paid on tax overpayments remains at 3 percent (2 percent in the case of a corporation) and for underpayments remains at 3 percent. The interest rate for underpayments by large corporations remains at 5 percent. The overpayment rate for the portion of a corporate overpayment exceeding $10,000 remains at 0.5 percent. **Rev. Rul. 2012-8, I.R.B. 2012-13.**

REGISTERED TAX RETURN PREPARERS. The IRS has issued proposed regulations that provide guidance on the eligibility of tax return preparers to obtain a preparer tax identification number (PTIN). The proposed regulations expand the list of tax return preparers who may obtain and renew a PTIN. As to the first category, the proposed regulations provide that any individual 18 years of age or older is eligible for a PTIN if the individual is supervised as a tax return preparer by an attorney, certified public accountant, enrolled agent, enrolled retirement plan agent, or enrolled actuary authorized to practice before the IRS under Circular 230. As to the second category, the proposed regulations provide that any individual 18 years of age or older is eligible for a PTIN if the individual exclusively prepares tax returns and claims for refund that are not covered by any minimum competency test or tests that the IRS prescribes for registered tax return preparers. The proposed regulations also provide guidance concerning those tax forms submitted to the IRS that are considered returns of tax or claims for refund of tax for purposes of the requirement to obtain a PTIN and related provisions. **77 Fed. Reg. 8753 (Feb. 15, 2012)**.

S CORPORATIONS

OFFICER COMPENSATION. The taxpayer was an accountant and sole shareholder of a professional S corporation which held an interest in another accounting professional corporation, which was also an S corporation, for which the taxpayer worked. Amounts earned by the taxpayer at the accounting firm were paid as "dividends" to the taxpayer's S corporation and that corporation distributed the "dividends" to the taxpayer, except for a portion which was a nominal salary. The court agreed with the IRS that the "dividends" were properly recharacterized as wages because the source of the S corporation distributions was the services of the taxpayer to the accounting firm. The court held that the nominal compensation paid by the S corporation to the taxpayer was insufficient given the important role the taxpayer played in obtaining profits for the main accounting corporation which were distributed to the taxpayer's S corporation. NOTE: technically, S corporations have dividend distributions only if the corporation had earnings and profits as a C corporation. I.R.C. § 1368(c)(2). That distinction was not made in this case, hence we have placed the word "dividend" in quotes. See Harl, "Unreasonably Low Salaries in S Corporations: A Prescription For Additional Payroll Taxes, Interest and Penalties," 22 *Agric. L. Dig*. 169 (2011). **Watson v. United States, 2012-1 U.S. Tax Cas. (CCH) ¶ 50,203 (8th Cir. 2012), *aff'g*, 2011-1 U.S. Tax Cas. (CCH) ¶ 50,443 (S.D. Iowa 2011)**.

SAFE HARBOR INTEREST RATES

March 2012

	Annual	Semi-annual	Quarterly	Monthly
		Short-term		
AFR	0.19	0.19	0.19	0.19
110 percent AFR	0.21	0.21	0.21	0.21
120 percent AFR	0.23	0.23	0.23	0.23
		Mid-term		
AFR	1.08	1.08	1.08	1.08
110 percent AFR	1.19	1.19	1.19	1.19
120 percent AFR	1.30	1.30	1.30	1.30
		Long-term		
AFR	2.65	2.63	2.62	2.62
110 percent AFR	2.91	2.89	2.88	2.87
120 percent AFR	3.18	3.16	3.15	3.14

Rev. Rul. 2012-9, I.R.B. 2012-11.

SAVERS CREDITS. The IRS has published information about the savers credit. (1) *Income limits* The Savers Credit, formally known as the Retirement Savings Contributions Credit, applies to individuals with a filing status and 2011 income of:

- Single, married filing separately, or qualifying widow(er), with income up to $28,250
- Head of Household with income up to $42,375

Married Filing Jointly, with incomes up to $56,500 (2) *Eligibility requirements* To be eligible for the credit you must be at least

18 years of age, you cannot have been a full-time student during the calendar year and cannot be claimed as a dependent on another person's return. (3) *Credit amount* If you make eligible contributions to a qualified IRA, 401(k) and certain other retirement plans, you may be able to take a credit of up to $1,000 ($2,000 if filing jointly). The credit is a percentage of the qualifying contribution amount, with the highest rate for taxpayers with the least income. (4) *Distributions* When figuring this credit, you generally must subtract distributions you received from your retirement plans from the contributions you made. This rule applies to distributions received in the two years before the year the credit is claimed, the year the credit is claimed, and the period after the end of the credit year but before the due date - including extensions - for filing the return for the credit year. (5) *Other tax benefits* The Retirement Savings Contributions Credit is in addition to other tax benefits you may receive for retirement contributions. For example, most workers at these income levels may deduct all or part of their contributions to a traditional IRA. Contributions to a regular 401(k) plan are not subject to income tax until withdrawn from the plan. (6) *Forms to use* To claim the credit use Form 8880, Credit for Qualified Retirement Savings Contributions. For more information, review IRS Publication 590, Individual Retirement Arrangements (IRAs), Publication 4703, Retirement Savings Contributions Credit, and Form 8880. **IRS TAX TIP 2012-36**.

TRUSTS. In a short e-mailed Chief Counsel Advice letter, the IRS stated "This responds to your request for assistance dated 1/11/12 regarding Rev. Proc. 2011-56 and information reporting. Under section 6034A, the fiduciary of a trust must furnish to a beneficiary information concerning a distribution during the taxable year. In this instance, the minor is the beneficiary. Therefore, we conclude that the Form 1099-MISC should go to the minor, not the parents." **CAA 201207006, Jan. 27, 2012**.

WITHHOLDING TAXES. The taxpayer was employed by a company which purchased, slaughtered and processed beef for sale through a related grocery store. The taxpayer worked as a cattle buyer but was instrumental in the formation of the company and its relationship with the grocery store. The plaintiff had check signing authority but signed no checks which were not authorized by the company's main officer. Although the plaintiff was aware that some bills were not being paid and that some checks had bounced, the plaintiff did not know that employment taxes were not being paid. A jury determined that the plaintiff did not have sufficient control over the finances of the company to be held a responsible person liable for the penalty under I.R.C. § 6672 for the company's failure to pay employment taxes. The IRS moved for renewed judgment as a matter of law, arguing that the jury verdict was not supported by the evidence and was actually contrary to the weight of the evidence of the plaintiff's authority in the company. The court upheld the jury verdict. **Tarpoff v. United States, 2012-1 U.S. Tax Cas. (CCH) ¶ 50,201 (S.D. Ill. 2012)**.

PROPERTY

FENCE. The disputed property line between the parties had a zigzag fence located on it when the plaintiff had a survey of the property performed. The deed, going back several conveyances, listed an "existing fence" as the property line between the parcels. The evidence, in the form of oral testimony and pictures of previous owners, showed that, at the time of several earlier conveyances, a straight fence existed over the line between the properties. The trial court had ruled that the boundary line was a straight line approximately where the original fence was located, based on the testimony of the persons and the photographs. The appellate court affirmed, holding that substantial evidence supported the trial court's finding. **Connor v. King, 2012 Wash. App. LEXIS 267 (Wash. Ct. App. 2012)**.

WORKERS' COMPENSATION

AGRICULTURAL LABORER. The plaintiff operated a hunting activity on a ranch owned by a third party. The plaintiff helped to insure good hunting by providing watering stations and setting out salt licks. The plaintiff also encouraged the hunters to shoot the less healthy animals to cull the wild herds. The plaintiff hired the defendant to work as a hunting guide. The defendant's duties included guiding hunters, preparing and cleaning up after their meals, setting and breaking campsites, feeding and caring for the mules and horses, pumping water to the camp, and chopping firewood. The defendant was injured during one of the hunting trips and sought workers' compensation benefits. The plaintiff argued that the defendant was an agricultural laborer because the defendant's duties included feeding, harvesting, and managing wildlife and livestock as defined in Utah Code § 35A-4-206(1)(a) and the plaintiff provided feeding and care for the wildlife by supplying water and salt licks and encouraging culling. The court held that the plaintiff was not involved in farming activities and that the defendant was not involved in farming activities for the plaintiff; therefore, the defendant was not an agricultural laborer and the plaintiff was not eligible for the agricultural labor exemption from workers' compensation. **Peterson Hunting v. Labor Commission, 2012 Utah App. LEXIS 17 (Utah Ct. App. 2012)**.

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by Neil E. Harl

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Tuesday, May 8, 2012

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.

Wednesday, May 9, 2012

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 unified credit and other credits
- 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

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