

CASES, REGULATIONS AND STATUTES

by Robert P. Achenbach, Jr

BANKRUPTCY

FEDERAL TAX

DISCHARGE. The debtor had sold a cable company and was liable for substantial capital gains taxes. In an attempt to decrease the tax liability, the debtor invested in sham transactions designed to create tax losses with minimal investment. The debtor filed for Chapter 11 and sought discharge of the taxes resulting from disallowance of the investment losses. The debtor argued that the debtor was the victim of misrepresentations by the promoters of the schemes and tax advisors. The court held that the taxes were nondischargeable because the debtor attempted to evade payment of taxes by investing in the sham activities. The court held that the debtor was an experienced and sophisticated business owner and failed to independently verify the legality of the transactions which produced such high tax benefits without substantial investment. In addition, the court held that the debtor did not reasonably rely on the tax advice of the promoters and their tax advisors. Finally, the court noted that the debtor failed to retain enough funds to pay the known tax liability after the loss deductions were disallowed. The appellate courts affirmed. *In re Vaughn*, 2014-2 U.S. Tax Cas. (CCH) ¶ 50,417 (10th Cir. 2014), *aff'g*, 2013-1 U.S. Tax Cas. (CCH) ¶ 50,260 (D. Colo. 2013), *aff'g*, 2012-1 U.S. Tax Cas. (CCH) ¶ 50,130 (Bankr. D. Colo. 2011).

FEDERAL FARM PROGRAMS

DOGS. The APHIS has adopted as final regulations amending the regulations under the Animal Welfare Act (AWA). The Food, Conservation, and Energy Act of 2008 (Pub. L. No. 110-246) added a new section to the AWA to restrict the importation of certain live dogs. The rule prohibits the importation of dogs, with limited exceptions, from any part of the world into the continental United States or Hawaii for purposes of resale, research, or veterinary treatment, unless the dogs are in good health, have received all necessary vaccinations, and are at least 6 months of age. **79 Fed. Reg. 48653 (Aug. 18, 2014).**

POULTRY. FSIS has adopted as final regulations amending the poultry products inspection regulations to establish a new inspection system for young chicken and all turkey slaughter establishments. Young chicken and turkey slaughter establishments that do not choose to operate under the new poultry inspection system may continue to operate under their current inspection system. The FSIS is also making several changes to the regulations that will affect all

establishments that slaughter poultry other than ratites (e.g. emus and ostriches). **79 Fed. Reg. 49566 (Aug. 21, 2014).**

FEDERAL ESTATE AND GIFT TAXATION

GENERATION SKIPPING TRANSFERS. Prior to September 25, 1985, the settlor created four irrevocable trusts for the settlor's children. Each trust was identical, except for beneficiaries, and provided that, during the life of a beneficiary, the trustees could distribute so much of the net income and principal to a child as the trustees, in their discretion, deemed necessary or advisable. In addition, the trustees at any time could pay so much of the principal to a child and his or her issue as the trustees, in their discretion, deemed necessary or advisable; provided, that the purpose for which payment was to be made justified, in the sole discretion of the trustees, a reduction in the principal of the trust estate. Upon the death of a child, the trustees, in their discretion, could pay so much of the net income in equal shares, per stirpes, to the then living issue of the child for his or her health, happiness, maintenance, education, welfare, or comfort. Each trust will terminate on the first to occur of (1) 20 years after the death of the last survivor of the child and those of his siblings who were living when the trust was created, or (2) the death of the last survivor of the child and his or her issue. On the termination of the trust, the accumulated income and principal will be distributed to the issue of the child, per stirpes. If none of the child's issue is then living, the trust principal and accumulated income is to be distributed to the other issue or trusts for the other issue of the settlor. If all of the settlor's issue are deceased, the undistributed income and principal will be distributed to a charitable foundation. Each trust originally required that all investment decisions be made jointly by the independent trustee and the individual trustee. Each trust was later modified to: (1) provide for successor individual trustees, (2) give the individual trustee the sole power to make investment decisions (investment trustee), (3) give the primary beneficiary, or if he or she is deceased, a majority of the issue of the primary beneficiary, the power to replace the independent trustee, (4) provide that the successor independent trustee cannot be related or subordinate to the settlor or the beneficiaries within the meaning of I.R.C. § 672(c), and (5) provide that neither a child, child's issue, nor spouse may serve as trustee of the trust created for their benefit. The trusts were further modified to provide for a distribution trustee to make distribution decisions. The IRS ruled that the modifications did not subject the trusts to GSTT. **Ltr. Rul. 201433006, March 5, 2014.**

SPECIAL USE VALUATION. The IRS has issued the 2014 list of average annual effective interest rates charged on new loans by the Farm Credit Bank system to be used in computing the value of real property for special use valuation purposes for deaths in 2014:

<u>District</u>	<u>2014 Interest Rate</u>
AgFirst, FCB	5.29
AgriBank, FCB	4.71
CoBank, FCB	4.31
Texas, FCB	4.82
<u>District</u>	<u>States</u>
AgFirst	Delaware, District of Columbia, Florida, Georgia, Maryland, North Carolina, Pennsylvania, South Carolina, Virginia, West Virginia
AgriBank	Arkansas, Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Tennessee, Wisconsin, Wyoming
CoBank	Alaska, Arizona, California, Colorado, Connecticut, Hawaii, Idaho, Kansas, Maine, Massachusetts, Montana, New Hampshire, New Jersey, New Mexico, New York, Nevada, Oklahoma, Oregon, Rhode Island, Utah, Vermont, Washington
Texas	Alabama, Louisiana, Mississippi, Texas

Rev. Rul. 2014-21, 2014-2 C.B. 381.

TRANSFEREE LIABILITY. The decedent's estate included publicly-traded stock owned jointly with three heirs. One heir took responsibility for filing the federal estate tax return, included the value of all the stock in the estate and personally paid just over one-third of the tax due. The IRS assessed the full taxes against the estate and filed suit to recover the unpaid taxes, interest and penalties from the three heirs. Two of the heirs challenged the IRS motion for summary judgment against them, alleging various errors in the collection and assessments. The court held that, because the estate tax was not assessed against the heirs personally or as representatives of the estate, they had no ability to challenge the assessments as third parties. However, the amount owed by the heir who had paid a portion of the estate tax was reduced by that amount. **United States v. Cowles-Reed, 2014-2 U.S. Tax Cas. (CCH) ¶ 60,682 (9th Cir. 2014).**

FEDERAL INCOME TAXATION

ACCOUNTING METHOD. The IRS has issued a revenue procedure which provides the exclusive procedures by which a taxpayer obtains the consent of the Commissioner under I.R.C. § 446(e) to make certain changes within the retail inventory method to comply with final regulations under Treas. Reg. § 1.471-8. On August 15, 2014, the IRS adopted as final regulations under Treas. Reg. § 1.471-8 clarifying a taxpayer's treatment of certain sales-based vendor allowances, margin protection payments, permanent markups and markdowns, and temporary markups and markdowns when determining the cost complement. The final regulations apply to taxable years beginning after December 31, 2014. The final regulations clarify that a taxpayer using the retail inventory method may not reduce the numerator of the cost complement by the amount of an allowance, discount, or price rebate that, under Treas. Reg. § 1.471-3(e), must reduce only cost of goods sold. The final regulations provide that a taxpayer using retail lower-of-cost-or-market (LCM) generally may not reduce the numerator

of the cost complement by the amount of an allowance, discount, or price rebate that is related to or intended to compensate for a reduction in the taxpayer's retail selling price of inventory (a margin protection payment). The final regulations clarify that a taxpayer using the retail inventory method generally must adjust the denominator of the cost complement for all permanent markups and markdowns, but may not reduce the denominator for temporary markups or markdowns. A taxpayer using retail LCM, however, generally does not adjust the denominator of the cost complement for markdowns. The final regulations provide an alternative method for a taxpayer using retail LCM to compute the cost complement by reducing the numerator by the amount of margin protection payments if the taxpayer also reduces the denominator of the cost complement by the amount of the reductions in retail selling price to which the margin protection payments relate (related markdowns). The final regulations provide a second alternative method for a taxpayer using retail LCM to account for margin protection payments when computing the cost complement. Under this method, a taxpayer that is able to determine the amount of its margin protection payments but cannot determine the amount of the related markdowns may compute the cost complement by reducing the numerator by the amount of margin protection payments and adjusting the denominator by the amount that, in conjunction with the reduction of the numerator, maintains what would have been the cost complement percentage before taking into account the margin protection payments and related markdowns. **Rev. Proc. 2014-48, 2014-2 C.B. 527.**

ASSESSMENTS. The taxpayers owned shares of a limited partnership and an S corporation. The entities reported capital gains from the sale of investments which were passed through to the taxpayers and reported on 2006 and 2007 federal tax returns. In 2012, the IRS assessed additional taxes based on unreported income. The taxpayers challenged the assessments as untimely made. Under the general rule set forth in I.R.C. § 6501(a), the IRS must assess a tax or send a notice of deficiency within three years after a return is filed. The limitations period extends to six years under I.R.C. § 6501(e)(1) "[i]f the taxpayer omits from gross income an amount properly includible therein and * * * such amount is in excess of 25 percent of the amount of gross income stated in the return". The IRS issued the notice of deficiency here more than three years but less than six years after petitioners filed their 2006 and 2007 returns. The taxpayers argued that the gross income they stated in their returns should include the amounts realized that they reported from the sale of investment assets. The IRS argued that gross income should include only the gain they reported from those sales, i.e., amounts realized less bases of assets sold. The court held for the IRS, that, although all the income realized in the sales was reported, only the taxable gain from the sales was included in gross income reported, for purposes of the statute of limitations. **Barkett v. Comm'r, 143 T.C. No. 6 (2014).**

BUSINESS EXPENSES. The taxpayer owned and operated a travel agency and claimed business expense deductions on Schedule C for car and truck expenses of \$18,780 derived largely from 28,600 business miles reported as driven primarily by the taxpayer, \$1,200 for cellular telephones, \$100 for training, and

\$1,500 for shipping. The IRS disallowed the mileage and cell phone deductions. The taxpayer did not testify at trial and produced only a printout of a Google calendar for the tax year which the court found to be inadequate in that it showed entries for only a few dates with inadequate descriptions of the travel and the mileage listed did not match the Schedule C mileage figure. The taxpayer provided no evidence to support the cell phone deduction. Although the court acknowledged that a business would reasonably have auto and phone expenses, the court held that the deductions were not allowed under I.R.C. § 274(d) without sufficient evidence to corroborate the business nature of the expenses because automobiles and phones are listed property under I.R.C. § 280F. **Ball v. Comm’r, T.C. Summary Op. 2014-83.**

CAPITAL EXPENSES. The IRS has adopted as final regulations that provide guidance on the application of I.R.C. §§ 162(a) and 263(a) to amounts paid to acquire, produce, or improve tangible property. The regulations clarify and expand the standards in the current regulations under I.R.C. §§ 162(a) and 263(a) and provide certain bright-line tests (for example, a *de minimis* rule for certain acquisitions) for applying these standards. The regulations also provide guidance under I.R.C. § 168 regarding the accounting for, and dispositions of, property subject to I.R.C. § 168. The final regulations provide rules for determining gain or loss upon the disposition of MACRS property, determining the asset disposed of, and accounting for partial dispositions of MACRS property. The regulations also amend the general asset account regulations. **79 Fed. Reg. 48661 (Aug. 18, 2014).**

DEPRECIATION. The taxpayer was an S corporation with several QSub subsidiaries. The taxpayer intended to elect out of additional first year depreciation under I.R.C. § 168(k) for all classes of qualified property placed in service during the taxable year. However, the taxpayer failed to attach the election statement not to claim the additional first year depreciation deduction for such property to its Form 1120S for the taxable year, as required by Treas. Reg. § 1.168(k)-1(e)(3)(ii). The IRS granted an extension of time to file an amended return with the statement attached to elect out of the additional first year depreciation. **Ltr. Rul. 201434017, May 9, 2014.**

DISASTER LOSSES. On August 13, 2014, the President determined that certain areas in Tennessee 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, tornadoes, straight-line winds, and flooding which began on June 5, 2014. **FEMA-4189-DR.** On August 5, 2014, the President determined that certain areas in Iowa are eligible for assistance from the government under the Act as a result of severe storms, tornadoes, straight-line winds and flooding which began on June 26, 2014. **FEMA-4187-DR.** On August 11, 2014, the President determined that certain areas in Washington are eligible for assistance from the government under the Act as a result of wildfires which began on July 9, 2014. **FEMA-4188-DR.** Accordingly, taxpayers in the areas may deduct the losses on their 2013 federal income tax returns. See I.R.C. § 165(i).

FIRST TIME HOMEBUYER CREDIT. In 2005, the taxpayer lived with a daughter in Kansas and accepted employment with a company in California. In 2007 the taxpayer purchased a fifth-wheel camper which was used as the taxpayer’s residence during

the employment in California. In 2009, while still employed in California, the taxpayer started construction of a home in Kansas. The taxpayer moved into the home in November 2009 and used it as the principal residence. The taxpayer claimed the first time homebuyer credit for the new home but the credit was denied by the IRS because the taxpayer owned and used the trailer as a residence within three years of the purchase of the new home. The court held that the trailer, under California law, was personal property because the trailer was not affixed to the land or otherwise permanently located. Therefore, the trailer could not be a principal residence under Treas. Reg. § 1.121-1(b)(1) or I.R.C. § 36. The court held that the taxpayer qualified for the first time homebuyer credit for 2009 because the taxpayer had no ownership interest in a principal residence within the three years prior to acquiring the new residence. **Oxford v. Comm’r, T.C. Summary Op. 2014-80.**

HEALTH INSURANCE. The IRS has published information for newlyweds to review their health insurance after marriage. This is particularly important if either taxpayer received premium assistance through advance payments of the premium tax credit through a Health Insurance Marketplace. If the taxpayer, spouse or a dependent gets health insurance coverage through the Marketplace, the taxpayer needs to let the Marketplace know the taxpayer got married. Informing the Marketplace about changes in circumstances, such as marriage or divorce, allows the Marketplace to help make sure taxpayers have the right coverage for the taxpayer’s family and adjust the amount of advance credit payments that the government sends to the health insurer. Reporting the changes will help the taxpayer and spouse avoid having too much or not enough premium assistance paid to reduce the monthly health insurance premiums. Getting too much premium assistance means a taxpayer may owe additional money or get a smaller refund when the taxpayer files tax returns. Getting too little could mean missing out on monthly premium assistance that the taxpayers deserve. Taxpayers should also check whether getting married affects the taxpayer’s, the taxpayer’s spouse’s, or their dependents’ eligibility for coverage through the taxpayer’s employer or the spouse’s employer, because that will affect eligibility for the premium tax credit. Other changes in circumstances that should be reported to the Marketplace include: the birth or adoption of a child, divorce, getting or losing a job, moving to a new address, gaining or losing eligibility for employer or government sponsored health care coverage, and any other changes that might affect family composition, family size, income or the taxpayer’s enrollment. In addition, certain life events – like marriage – give a taxpayer and new spouse the opportunity to sign up for health care during a special enrollment period. That means that if one or both is uninsured, the taxpayers may be able to get coverage now. In most cases, the special enrollment period for Marketplace coverage is open for 60 days from the date of the life event. See IRS Publication 5152 for more information about reporting changes in circumstances to the Marketplace. **Health Care Tax Tip 2014-16.**

In response to *Burwell v. Hobby Lobby Stores, Inc.*, 2014-2 U.S. Tax Cas. (CCH) ¶ 50,341 (S. Ct. 2014), the IRS has issued proposed regulations under which a closely held for-profit entity that has a religious objection to providing health insurance coverage for some or all of the contraceptive services otherwise required to be covered would be considered an employer eligible for a religious

accommodation. The proposed regulations would require that the qualifying closely held for-profit entity's objection, based on its owners' sincerely held religious beliefs, to covering some or all of the contraceptive services otherwise required to be covered, be made in accordance with the entity's applicable rules of governance as provided by state corporate law. The proposed regulations provide two definitions of qualifying entities. Under the first proposed approach, a qualifying closely held for-profit entity would be an entity where none of the ownership interests in the entity is publicly traded and where the entity has fewer than a specified number of shareholders or owners. Under a second, alternative approach, a qualifying closely held entity would be a for-profit entity in which the ownership interests are not publicly traded, and in which a specified fraction of the ownership interest is concentrated in a limited and specified number of owners. In addition, in response to a Supreme Court interim order, *134 S. Ct. 2806 (2014)*, in the appeal of *Wheaton College v. Burwell, 2014 U.S. App. LEXIS 12706 (7th Cir. 2014)*, the IRS has issued interim final regulations which provide an alternative process for organizations eligible for the religious employer accommodation to notify the HHS in writing of its religious objection to coverage of all or a subset of contraceptive services. A model notice to HHS that eligible organizations may, but are not required to, use is available at: <http://www.cms.gov/ccio/resources/Regulations-and-Guidance/index.html#Prevention>. **79 Fed. Reg. 51092 (Aug. 27, 2014)**.

INCOME. The taxpayer received a free airline ticket by redeeming points earned from a checking account. The bank reported the fair market value of the ticket as other income on Form 1099-MISC. The taxpayer denied receiving the ticket, but evidence from the bank showed the ticket redemption and the fair market value. The court held that the fair market value of the airline ticket redeemed for points received from the opening of the bank account was taxable income to the taxpayer. The court distinguished this airline ticket award from the frequent flyer miles awarded for air travel which are not taxable. See *Ann. 2002-18, 2002-1 C.B. 621*. In this case, the points and resulting ticket, were in the nature of interest paid for the creation of the bank account and were taxable. **Shankar v. Commissioner, 143 T.C. No. 5 (2014)**.

INNOCENT SPOUSE RELIEF. In 2003 the taxpayer made a withdrawal from an IRA. The distribution was included as taxable income on the taxpayer and former spouse's joint tax return for 2003 but the tax due was not paid. The couple were later divorced and the divorce decree provided that each taxpayer was liable for one-half of the tax due for 2003. The taxpayer completed and filed Form 8857, *Request for Innocent Spouse Relief*, and in an attachment to the request for relief, the taxpayer claimed to have already paid more than half of the IRS debt and innocent spouse relief for the other half of the taxes as provided by the divorce decree. The IRS allowed only a portion of the request but denied relief for the taxes resulting from the distribution from the taxpayer's IRA. The court found that the taxpayer failed to show that the taxpayer had no knowledge that the funds withheld from the distribution were being spent by the former spouse and would not be used to pay the taxes, therefore, innocent spouse relief was properly denied by the IRS. **Hammernik v. Comm'r,**

T.C. Memo. 2014-170.

IRA. The taxpayer owned an IRA and had begun receiving substantially equal payments. The taxpayer divorced and the divorce judgment required one-half of the IRA balance to be distributed to an IRA owned by the former spouse. The IRS ruled that the distribution of one-half of the IRA to the former spouse's IRA was not considered to be a distribution, as provided in Treas. 1.408-4(g)(1), was not a taxable distribution and was not subject to tax as a modification of the substantially equal payments under I.R.C. § 72(t)(4). **Ltr. Rul. 201434030, May 29, 2014.**

PARTNERSHIPS.

ELECTION TO ADJUST BASIS. The taxpayer was a limited partnership which elected to be taxed as a partnership. One of the partners died and the decedent's interests in the partnership were transferred by will to two trusts. The taxpayer's tax advisor did not advise the taxpayer of the availability of an election, under I.R.C. § 754, to adjust the partnership's basis in partnership property because of the partner's death and failed to prepare the tax return with the election. The IRS granted the taxpayer an extension of time to file an amended return with the election. **Ltr. Rul. 201433010, Dec. 11, 2013).**

PASSIVE ACTIVITY LOSSES. The taxpayers, husband and wife, owned nine rental properties which the taxpayers elected to treat as a single rental real estate activity. The taxpayers claimed deductions for the losses from the rental activity, arguing that the husband qualified as a real estate professional. In preparation of an audit of the tax returns, the husband prepared a spreadsheet of the time spent on the activity and as employed by a telephone company. The taxpayer also presented testimony of other employees of the telephone company as to the number of hours the taxpayer worked; however, the employees were not so employed in the tax years involved. In general, the court held that the taxpayer failed to provide written contemporaneous evidence of the time spent on the rental activity and time spent employed; therefore, the taxpayer failed to prove that the taxpayer spent more time on the rental activity than performing services for the telephone company. Thus, the court held that the taxpayer did not qualify as a real estate professional under I.R.C. § 469(c) and could not deduct the losses. The court also held that the rental activity spreadsheets were insufficient to prove that the taxpayer spent more than 750 hours in a year on the activity. **Graham v. Comm'r, T.C. Summary Op. 2014-79.**

PENALTIES. The taxpayers, husband and wife, owned an LLC which invested in a Euro put option and transferred it to a charity. The taxpayers claimed over \$3 million in losses passed through from the LLC from the transaction. The taxpayers had retained a law firm to write an opinion letter as to the tax treatment of the transaction; however, although the letter generally indicated that the tax treatment would be upheld by a court, the letter was contingent on certain actions by the taxpayers which they did not perform. The taxpayer hired an estate tax attorney and accountant to prepare their tax return claiming the losses but the professionals had little experience with such transactions. The court held that the I.R.C. § 6662(a) accuracy penalty was properly assessed because the taxpayer failed to show reasonable reliance on the opinion letter or the expertise of the tax return preparers. **Wright v. Comm'r, T.C. Memo. 2014-175.**

RENT DEDUCTIONS. During the tax years 2009, 2010 and 2011, the taxpayer was employed as a merchant marine in the Military Sealift Command and spent many months each year at sea. In 1992, the taxpayer purchased a house in California but during the tax years involved, the taxpayer used a brother's address on tax returns. During the tax years, the taxpayer's house was rented to a friend but the record was sparse and unclear as to the amount of rent paid, whether the rent matched the fair market rental value of the house and whether any attempts were made to collect unpaid rent. The taxpayer claimed deduction for losses on the rental property on Schedule E resulting from mortgage interest and taxes. The court found that the taxpayer failed to prove that the taxpayer did not use the house as the taxpayer's residence when the taxpayer was not at sea. In addition, the court found that the taxpayer rented the house for less than fair market value, also indicating that the house was for personal use and not for a business. Thus, the court held that the taxpayer was not entitled to mortgage payments and taxes as business deductions but could only claim such expenses as personal deductions. **Hunter v. Commissioner, T.C. Memo. 2014-164.**

SAFE HARBOR INTEREST RATES

September 2014

	Annual	Semi-annual	Quarterly	Monthly
Short-term				
AFR	0.36	0.36	0.36	0.36
110 percent AFR	0.40	0.40	0.40	0.40
120 percent AFR	0.43	0.43	0.43	0.43
Mid-term				
AFR	1.86	1.85	1.85	1.84
110 percent AFR	2.05	2.04	2.03	2.03
120 percent AFR	2.23	2.22	2.21	2.21
Long-term				
AFR	2.97	2.95	2.94	2.93
110 percent AFR	3.28	3.25	3.24	3.23
120 percent AFR	3.57	3.54	3.52	3.51

Rev. Rul. 2014-22, I.R.B. 2014-37.

S CORPORATIONS

PASSIVE ACTIVITY LOSSES. The taxpayers, husband and wife, claimed nonpassive losses from two S corporations in the plastic recycling business. One corporation developed raw products from recycled plastics and the other company manufactured building products from the raw materials. The taxpayers' son was brought into the companies, day-to-day management was turned over to the son and the taxpayers moved to Florida. The facts demonstrated that the husband had to make three trips to the companies' industrial facility in Louisiana, during which he assured the employees that operations would continue. The husband also redoubled his research and development efforts to help the companies recover from the financial downturn in 2008. During this time the husband invented a new technique for fireproofing polyethylene partitions, and he developed a method for treating plastics that would allow them to destroy common viruses and bacteria on contact. In addition to his research efforts, the husband ensured the companies' financial viability by securing a new line of credit. The court found that, without the husband's involvement in the companies, they likely would not have survived. Thus, the court found that the husband materially participated in both companies in the tax years involved and the losses passed through to the taxpayers

were nonpassive. The court noted that, because the taxpayers filed joint returns, the material participation of the husband was attributable to the wife. **Wade v. Comm'r, T.C. Memo. 2014-169.**

SHAREHOLDER BASIS. The taxpayer was an ophthalmologist and sole shareholder of an S corporation which provided ophthalmology services. The taxpayer claimed nonpassive losses from the corporation which were denied to the extent they exceeded the taxpayer's basis in the corporation. The taxpayer argued that two checks were deposited in the S corporation's bank account which were loans to the corporation and which increased the taxpayer's basis in the corporation. However, the court held that the amounts did not increase the taxpayer's basis because the taxpayer failed to provide evidence that the checks were loans to the corporation. **Hall v. Comm'r, T.C. Memo. 2014-171.**

STRADDLES. The IRS has adopted as final regulations relating to the application of the straddle rules to a debt instrument. The temporary regulations clarify that a taxpayer's obligation under a debt instrument can be a position in personal property that is part of a straddle. The temporary regulations primarily affect taxpayers that issue debt instruments that provide for one or more payments that reference the value of personal property or a position in personal property. **79 Fed. Reg. 51090 (Sept. 5, 2013).**

IN THE NEWS

MARIJUANA. As reported in the Whidbey News-Times, a company had applied for a recreational marijuana-based businesses permit on Whidbey Island, Washington, but withdrew its application after it was discovered that a portion of the property at issue is encumbered by a conservation easement that was funded in part by the federal government. The executive director of the Whidbey Camano Land Trust, which holds the easement, notified the company that the terms of the easement would not allow them to do something that is in violation of federal law. **Hansen, "Coupeville Marijuana Business Pulls Permit Application," Whidbey News-Times, Aug. 23, 2014, <http://www.whidbeynewstimes.com/news/272360831.html#>**

AGRICULTURAL TAX SEMINARS

by Neil E. Harl

On the back cover, we list the agricultural tax seminars coming up in the late summer of 2014. Here are the cities and dates for the other seminars this fall:

October 2-3, 2014, Holiday Inn, Rock Island, IL

October 6-7, 2014 -Best Western Hotel, Clear Lake, IA

October 13-14, 2014 - Ramada Hotel, Hutchinson, KS

November 24-25, 2014 - Adams State Univ., Alamosa, CO

Each seminar will be structured the same as the seminars listed on the back cover of this issue. More information will be posted on www.agrilawpress.com and in future issues of the *Digest*.



AGRICULTURAL TAX SEMINARS

by Neil E. Harl

Join us for expert and practical seminars on the essential aspects of agricultural tax law. Gain insight and understanding from one of the country's foremost authorities on agricultural tax law. The seminars will be held on two days from 8:00 am to 5:00 pm. Registrants may attend one or both days. On the first day, Dr. Harl will speak about farm and ranch estate and business planning. On the second day, Dr. Harl will cover farm and ranch income tax. Your registration fee includes written comprehensive annotated seminar materials for the days attended and lunch. A discount (\$25/day) is offered for attendees who elect to receive the manuals in PDF format only (see registration form for use restrictions on PDF files).

September 4-5, 2014, Honey Creek Resort, Moravia, IA, ph. 641-724-9100
September 15-16, 2014, Courtyard Marriott, Moorhead, MN, ph. 281-284-5023
September 18-19, 2014, Ramkota Hotel, Sioux Falls, SD ph. 605-336-0650

More locations and dates listed on previous page.

The topics include:		
<p>First day</p> <p>FARM ESTATE AND BUSINESS PLANNING</p> <p>New Legislation</p> <p>Succession planning and the importance of fairness</p> <p>The Liquidity Problem</p> <p>Property Held in Co-ownership</p> <p>Federal estate tax treatment of joint tenancy</p> <p>Severing joint tenancies and resulting basis</p> <p>Joint tenancy and probate avoidance</p> <p>Joint tenancy ownership of personal property</p> <p>Other problems of property ownership</p> <p>Federal Estate Tax</p> <p>The gross estate</p> <p>Special Use Valuation</p> <p>Property included in the gross estate</p> <p>Traps in use of successive life estates</p> <p>Basis calculations under uniform basis rules</p> <p>Valuing growing crops</p> <p>Claiming deductions from the gross estate</p> <p>Marital and charitable deductions</p> <p>Taxable estate</p> <p>The applicable exclusion amount</p> <p>Unified estate and gift tax rates</p> <p>Portability and the regulations</p> <p>Federal estate tax liens</p> <p>Undervaluations of property</p> <p>Gifts</p> <p>Reunification of gift tax and estate tax</p> <p>Gifts of property when debt exceeds basis</p> <p>Use of the Trust</p> <p>The General Partnership</p> <p>Small partnership exception</p> <p>Eligibility for Section 754 elections</p> <p>Limited Partnerships</p> <p>Limited Liability Companies</p> <p>Developments with passive losses</p>	<p>Corporate-to-LLC conversions</p> <p>New regulations for LLC and LLP losses</p> <p>Closely Held Corporations</p> <p>State anti-corporate farming restrictions</p> <p>Developing the capitalization structure</p> <p>Tax-free exchanges</p> <p>Would incorporation trigger a gift because of severance of land held in joint tenancy?</p> <p>"Section 1244" stock</p> <p>Status of the Corporation as a Farmer</p> <p>The regular method of income taxation</p> <p>The Subchapter S method of taxation, including the "two-year" rule for trust ownership of stock</p> <p>Underpayment of wages and salaries</p> <p>Financing, Estate Planning Aspects and Dissolution of Corporations</p> <p>Corporate stock as a major estate asset</p> <p>Valuation discounts</p> <p>Dissolution and liquidation</p> <p>Reorganization</p> <p>Entity Sale</p> <p>Stock redemption</p> <p>Social Security</p> <p>In-kind wages paid to agricultural labor</p> <p>Second day</p> <p>FARM INCOME TAX</p> <p>New Legislation</p> <p>Reporting Farm Income</p> <p>Leasing land to family entity</p> <p>Constructive receipt of income</p> <p>Deferred payment and installment payment arrangements for grain and livestock sales</p> <p>Using escrow accounts</p> <p>Payments from contract production</p> <p>Items purchased for resale</p> <p>Items raised for sale</p>	<p>Crop insurance proceeds</p> <p>Weather-related livestock sales</p> <p>Sales of diseased livestock</p> <p>Reporting federal disaster assistance benefits</p> <p>Gains and losses from commodity futures, including consequences of exceeding the \$5 million limit</p> <p>Claiming Farm Deductions</p> <p>Soil and water conservation expenditures</p> <p>Fertilizer deduction election</p> <p>Depreciating farm tile lines</p> <p>Farm lease deductions</p> <p>Prepaid expenses</p> <p>Preproductive period expense provisions</p> <p>Regular depreciation, expense method depreciation, bonus depreciation</p> <p>Paying rental to a spouse</p> <p>Paying wages in kind</p> <p>Section 105 plans</p> <p>Sale of Property</p> <p>Income in respect of decedent</p> <p>Sale of farm residence</p> <p>Installment sale including related party rules</p> <p>Private annuity</p> <p>Self-canceling installment notes</p> <p>Sale and gift combined.</p> <p>Like-Kind Exchanges</p> <p>Requirements for like-kind exchanges</p> <p>"Reverse Starter" exchanges</p> <p>What is "like-kind" for realty</p> <p>Like-kind guidelines for personal property</p> <p>Partitioning property</p> <p>Exchanging partnership assets</p> <p>Taxation of Debt</p> <p>Turnover of property to creditors</p> <p>Discharge of indebtedness</p> <p>Taxation in bankruptcy.</p>

The seminar early-bird discount registration fees for *current subscribers* (and for each one of multiple registrations from the same firm) to the *Agricultural Law Digest*, the *Agricultural Law Manual*, or *Farm Estate and Business Planning* are \$225 (one day) and \$400 (two days). The early-bird registration fees for *nonsubscribers* are \$250 (one day) and \$450 (two days). Nonsubscribers may obtain the discounted fees by purchasing any one or more of our publications. See www.agrilawpress.com for online book and newsletter purchasing.

Contact Robert Achenbach at 360-200-5666, or e-mail Robert@agrilawpress.com for a brochure.



APPROVED
CONTINUING EDUCATION
PROVIDER