CASES, REGULATIONS AND STATUTES

by Robert P. Achenbach, Jr

FEDERAL FARM PROGRAMS

ADMINISTRATIVE PROCEDURE. In 1971, in response to a recommendation of the Administrative Conference of the United States, the USDA issued a policy statement that subjected its rules relating to public property, loans, grants, benefits, or contracts to the notice-and-comment rulemaking procedures under Section 553 of the Administrative Procedure Act, notwithstanding the APA's exception for such rules. The USDA has issued a revocation of that policy that restores the discretion to use notice-and-comment procedures when appropriate, unless otherwise required by law, with regard to this class of rulemakings. **78 Fed. Reg. 64194 (Oct. 28, 2013)**.

FARM LOANS. The Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, FDIC, the FCA, and the National Credit Union Administration have jointly issued proposed regulations amending their regulations regarding loans in areas having special flood hazards to implement provisions of the Biggert-Waters Flood Insurance Reform Act of 2012. The proposed regulations would establish requirements with respect to the escrow of flood insurance payments, the acceptance of private flood insurance coverage, and the forced-placement of flood insurance. The proposal also would clarify the agencies' flood insurance regulations with respect to other amendments made by the Act and make technical corrections. Furthermore, the OCC and the FDIC are proposing to integrate their flood insurance regulations for national banks and federal savings associations and for state non-member banks and state savings associations, respectively. **78 Fed. Reg. 65107 (Oct. 30, 2013)**.

FEDERAL FARM PRODUCTS RULE. The GIPSA has issued a notice approving amendments to the debtor identification and signature requirements of the certified central filing system for Nebraska to permit the conversion of all debtor social security and taxpayer identification numbers into approved unique identifiers. The proposed specific procedure whereby Nebraska will automatically convert social security numbers and taxpayer identification numbers into ten number unique identifiers has been reviewed and determined to permit the numerical searching of master lists while providing protection against identity theft. **78 Fed. Reg. 63159 (Oct. 23, 2013)**.

FEDERAL ESTATE AND GIFT TAXATION

ALLOCATION OF BASIS FOR DEATHS IN 2010. The decedent died in 2010 and the executor retained a tax professional to advise on estate tax matters including the necessity to file a Form 8939, *Allocation of Increase in Basis for Property Acquired from a Decedent*. The estate requested an extension of time pursuant to Treas. Reg. § 301.9100-3 to file the Form 8939 to make the I.R.C. § 1022 election and to allocate basis provided by I.R.C. § 1022 to eligible property transferred as a result of the decedent's death. *Notice 2011-66, 2011-2 C.B. 184 section I.D.1*, provides that the IRS will not grant extensions of time to file a Form 8939 and will not accept a Form 8939 filed after the due date except in four limited circumstances provided in section I.D.2: "Fourth, an executor may apply for relief under § 301.9100-3 in the form of an extension of the time in which to file the Form 8939 (thus, making the Section 1022 election and the allocation of basis increase), which relief may be granted if the requirements of § 301.9100-3 are satisfied. The IRS granted an extension of time to file the election. **Ltr. Rul. 201342006, July 10, 2013.**

The decedent died in 2010 and the co-executors retained a tax law firm to advise on estate tax matters including the necessity to file a Form 8939, *Allocation of Increase in Basis for Property Acquired from a Decedent*. The decedent's son and daughter were named co-executors. The tax law firm was not informed about taxable gifts made by the decedent in the two years prior to death to the son and daughter; therefore, the Form 706, *United States Estate (and Generation-Skipping Transfer) Tax Return* did not include those gifts in the taxable estate. The son and daughter reviewed and signed the Form 706 but did not object to the omission of the pre-death gifts. The gifts were discovered only after an IRS audit had begun. The estate requested an extension of time pursuant to Treas. Reg. § 301.9100-3 to file the Form 8939 to make the I.R.C. § 1022 election and to allocate basis provided by I.R.C. § 1022 to eligible property transferred as a result of the decedent's death. *Notice 2011-66, 2011-2 C.B. 184 section I.D.1*, provides that the IRS will not grant extensions of time to file a Form 8939 and will not accept a Form 8939 filed after the due date except in four limited circumstances provided in section I.D.2: "Fourth, an executor may apply for relief under § 301.9100-3 in the form of an extension of the time in which to file the Form 8939 (thus, making the Section 1022 election and the allocation of basis increase), which relief may be granted if the requirements of § 301.9100-3 are satisfied. The IRS denied the request for an extension of time to file the election because the co-executors were aware of the pre-death gifts, signed the return, and did not inform the tax return preparer. **Ltr. Rul. 201343001, July 22, 2013.**

GENERATION-SKIPPING TRANSFERS. The taxpayer created and funded two trusts for the benefit of the taxpayer's issue. The taxpayer's Form 709, *United States Gift (and Generation-Skipping Transfer) Tax* return was prepared by an accountant who failed to allocate the taxpayer's GST exemption to the transfers to the trusts. The failure was discovered in the following year and it was represented that there had been no generation-skipping transfers from the trusts in the meantime, and that the taxpayer has available GST exemption to allocate to the transfers. The taxpayer was granted an extension of time to file an amended return with the GST exemption allocated to the transfers. **Ltr. Rul. 201340014, June 19, 2013**.

The decedent had created and funded three trusts for the benefit of the decedent's issue. The decedent's Form 709, *United States Gift (and Generation-Skipping Transfer) Tax* return was prepared by a trust company which failed to allocate the decedent's GST exemption to the transfers to the trusts. The failure was discovered in the following year during the administration of the decedent's estate. The estate was granted an extension of time to file an amended return with the GST exemption allocated to the transfers. **Ltr. Rul. 201340013, June 5, 2013**.

INSTALLMENT PAYMENT OF ESTATE TAX. At the time of death, the decedent owned part of a company with five divisions which owned another company with two divisions. One of the divisions managed a warehouse maintained by the division in which the employees conduct business. The employees actively negotiated leases, inspected equipment, shipped equipment, arranged repairs, and hired and monitored third party contractors. The IRS ruled that the activities of the division constituted an active trade or business for purposes of I.R.C. § 6166. A second division was a real estate business involved in the acquisition, development, leasing, operation, and management of commercial real properties. The second division had an in-house leasing department with full-time employees. The second division was involved in the day-to-day operations, management, and maintenance of its properties, used a team of in-house professionals and engineers to maintain and operate its commercial office buildings, and developed extensive procedures for hiring and overseeing its third-party suppliers and vendors. Only major items such as substantial repairs and capital improvements and services unrelated to the management of the properties were performed by independent contractors. The IRS ruled that the activities of the second division constituted an active trade or business for purposes of I.R.C. § 6166. **Ltr. Rul. 201343004, July 17, 2013**.

FEDERAL INCOME TAXATION

AUDITS. The IRS has announced the nationwide rollout of a streamlined program designed to enable small businesses under audit to more quickly settle their differences with the IRS. The Fast Track Settlement (FTS) program is designed to help small businesses and self-employed individuals who are under examination by the Small Business/Self Employed (SB/SE) Division of the IRS. Modeled on a similar program long available to large and mid-size businesses (those with more than $10 million in assets), FTS uses alternative dispute resolution techniques to help taxpayers save time and avoid a formal administrative appeal or lengthy litigation. As a result, audit issues can usually be resolved within 60 days, rather than months or years. Plus, taxpayers choosing this option lose none of their rights because they still have the right to appeal even if the FTS process is unsuccessful. Under FTS, taxpayers under examination with issues in dispute work directly with IRS representatives from SB/SE's Examination Division and Appeals to resolve those issues, with the Appeals representative typically serving as mediator. The taxpayer or the IRS examination representative may initiate Fast Track for eligible cases, usually before a 30-day letter is issued. The goal is to complete cases within 60 days of acceptance of the application in Appeals. **IR-2013-88**.

BUSINESS EXPENSES. The taxpayer was a tax lawyer who claimed a variety of business expense deductions, including wages, contract services, mortgage interest expense, and taxes and licenses expenses. The IRS disallowed most of the deductions for lack of substantiation. Although the taxpayer produced some cancelled checks to prove some of the expenses, much of the taxpayer's evidence was a spreadsheet prepared for trial which lacked substantiating documents. The court agreed with the IRS that most of the deductions were disallowed for lack of substantiation because the spreadsheet was insufficient evidence of the expenses claimed. The taxpayer also claimed net operating losses for several years but failed to file a statement, required by Treas. Reg. § 1.172-1(c), which set forth the amount of the NOL deduction claimed and all material and pertinent facts, including a detailed schedule showing the computation of the NOL deduction. The taxpayer did not produce any evidence to support the claims of NOL and the court disallowed all NOL claims. **Karch v. Comm'r, T.C. Memo. 2013-237**.

COURT AWARDS AND SETTLEMENTS. The taxpayer sued a former employer for employment discrimination based on the employer's failure to transfer the taxpayer to a position with less physical and emotional stress. The parties entered into a settlement which was intended to compensate the taxpayer for lost wages, for lost workers' compensation benefits, and for attorney's fees and costs. The taxpayer included in taxable income only the portion of the settlement in compensation for the lost wages. The court held that 10 percent of the settlement was intended to compensate the taxpayer for lost workers' compensation benefits for the physical injuries suffered by the taxpayer. The court also allowed a miscellaneous deduction for the payment of the attorney's fees and costs. **Simpson v. Comm'r, 141 T.C. No. 10 (2013)**.

DEPRECIATION. The taxpayer was a corporation which timely filed consolidated federal income tax returns for two years. Taxpayer did not claim the additional first year depreciation deduction under I.R.C. §§ 168(k)(1) or (k)(5) for all classes of qualified property placed in service during the two tax years. However, the taxpayer inadvertently failed to attach the election statement not to deduct the additional first year depreciation for such property to the consolidated federal income tax returns for either year. The taxpayer did not make the election under I.R.C. § 168(k)(4) to accelerate alternative minimum tax credits in lieu of the additional first year depreciation deduction with respect to its extension property as defined in I.R.C. § 168(k)(4)(H)(iii) or its round two extension property as defined in I.R.C. § 168(k)(4)(I)(iv). The IRS granted the taxpayer an extension of time to file an amended return with the election out of the additional first-year depreciation. **Ltr. Rul. 201341020, July 3, 2013**.

FIRST-TIME HOMEBUYER CREDIT. The taxpayer had inherited a partial interest in a house owned by the decedent parent. The taxpayer moved into the house in 1999 and received a state homestead exemption on the property taxes on the house. Starting in 2001, the taxpayer had owned another property on which a house was built. Construction was not completed until 2008 when the taxpayer moved to the new residence. The taxpayer claimed the first-time homebuyer's credit for the new residence, which was denied by the IRS because the taxpayer had an ownership interest in a residence in 2007. The taxpayer filed 2010 and 2011 returns which included $500 each in repayment of the credit claimed in 2008. The taxpayer argued that the IRS was contractually bound to the terms of the credit because it accepted the 2010 and 2011 repayments. The court rejected this argument, holding that the filing of a return does not create any contract between the IRS and a taxpayer but only establishes a position as to a tax claim. In addition, the taxpayer argued that the two $500 payments should be included in determining the amount owed from the denial of the credit. The court sympathized with the equitable nature of this argument but held that there was no authority for such offset. The court suggested that the taxpayer file for a refund of the overpayments. **Herring v. Comm'r, T.C. Summary Op. 2013-84**.

HOBBY LOSSES. The taxpayers, husband and wife, purchased a 2,564 acre ranch where they hunted, fished, entertained, and hosted game ranching seminars; bred and trained cutting horses; raised cattle, buffalo, and exotic livestock; and constructed a guest lodge, lighted arena, and primary residence. The taxpayers claimed losses over 15 years on Schedule F. The court held that the ranching activity was not engaged in with the intent to make a profit because (1) the taxpayers did not keep accurate records of the business activity, (2) the taxpayers made no changes in the operation to try to make the activity profitable, (3) the taxpayers held the property primarily as an investment in real property and had sold several parcels at a substantial profit, (4) the taxpayer received substantial personal pleasure from the activities on the ranch, and (5) the losses offset substantial income from other sources. **Hoelscher v. Comm'r, T.C. Memo. 2013-236**.

In addition to owning and operating a customs brokerage business, the taxpayer owned and operated a dog breeding and showing business. Although the taxpayer was successful at showing the dogs, obtaining breeding fees for the taxpayer's top show dogs and selling puppies, the operation produced only one year of net profit in 16 years. The court held that the operation was not entered into with the intent to make a profit because (1) although the taxpayer kept good records, the taxpayer did not make any changes to the basic operation in order to make the operation profitable; (2) the operation had only one year of net profit; (3) the losses from the dog breeding operation offset substantial income from other sources; and (4) the taxpayer received substantial pleasure from the activity. **Charuka-Justin v. Comm'r, T.C. Summary Op. 2013-85**.

IRA. The taxpayer had owned an interest in a 401(k) pension plan. The taxpayer received distributions from the pension plan which were contributed to a private IRA over which the taxpayer was trustee. The IRA funds were used to purchase a 98 percent interest in an LLC, taxed as a corporation. The taxpayer formed the LLC but did not take any ownership interest in the company. The taxpayer was the manager of the LLC which operated a used car business, and the taxpayer received compensation from the LLC's income. The court held that the taxpayer engaged in a prohibited transaction by receiving compensation from the LLC which was an asset of the IRA of which the taxpayer was a fiduciary. Because the taxpayer engaged in a prohibited transaction, the entire distribution from the pension plan was included in the taxpayer's income and was subject to the 10 percent additional tax for early distributions. **Ellis v. Comm'r, T.C. Memo. 2013-245**.

INFLATION-ADJUSTED ITEMS. The IRS has announced many of the inflation-adjusted deductions, credits and other limits for 2014. *Unearned Income of Minor Children Taxed as if Parent's Income* (*the "Kiddie Tax"*). For taxable years beginning in 2014, the amount in I.R.C. § 1(g)(4)(A)(ii)(I), which is used to reduce the net unearned income reported on the child's return that is subject to the "kiddie tax," is $1,000. The same $1000 amount is used for purposes of I.R.C. § 1(g)(7) (that is, to determine whether a parent may elect to include a child's gross income in the parent's gross income and to calculate the "kiddie tax"). *Rehabilitation Expenditures Treated as Separate New Building*. For calendar year 2014, the per unit low-income qualified basis amount under I.R.C. § 42(e)(3)(A)(ii)(II) is $6,500. *Low-Income Housing Credit*. For calendar year 2014, the amount used under I.R.C. § 42(h)(3)(C)(ii) to calculate the state housing credit ceiling for the low-income housing credit is the greater of (1) $2.30 multiplied by the state population, or (2) $2,635,000. *Alternative Minimum Tax Exemption for a Child Subject to the "Kiddie Tax*." For taxable years beginning in 2014, for a child to whom the I.R.C. § 1(g) "kiddie tax" applies, the exemption amount under I.R.C. §§ 55 and 59(j) for purposes of the alternative minimum tax under I.R.C. § 55 may not exceed the sum of (1) the child's earned income for the taxable year, plus (2) $7,250. *Income from United States Savings Bonds for Taxpayers Who Pay Qualified Higher Education Expenses*. For taxable years beginning in 2014, the exclusion under I.R.C. § 135, regarding income from United States savings bonds for taxpayers who pay qualified higher education expenses, begins to phase out for modified adjusted gross income above $113,950 for joint returns and $76,000 for other returns. The exclusion is completely phased out for modified adjusted gross income of $143,950 or more for joint returns and $91,000 or more for other returns. *Loan Limit on Agricultural Bonds*. For calendar year 2014, the loan limit amount on agricultural bonds under I.R.C. § 147(c)(2)(A) for first-time farmers is $509,600. *Eligible Long-Term Care Premiums*. For taxable years beginning in 2014, the limitations under I.R.C. § 213(d)(10), regarding eligible long-term care premiums includible in the term "medical care," are as follows: Attained Age Before the Close of the Taxable Year Limitation on Premiums 40 or less, $370; More than 40 but not more than 50, $700; More than 50 but not more than 60, $1,400; More than 60 but not more than 70, $3,720; More than 70. $4,660. *Medical Savings Accounts*. Self-only coverage. For taxable years beginning in 2014, the term "high deductible health plan" as defined in I.R.C. § 220(c)(2)(A) means, for self-only coverage, a health plan that has an annual deductible that is not less than $2,200 and not more than $3,250, and under which the annual out-of-pocket expenses required to be paid (other than for premiums) for covered benefits do not exceed $4,350. Family coverage. For taxable years beginning in 2014, the term "high deductible health plan" means, for family coverage, a health plan that has an annual deductible that is not less than $4,350 and not more than $6,550, and under which the annual out-of-pocket expenses required to be paid (other than for premiums) for covered benefits do not exceed $8,000. *Treatment of Dues Paid to Agricultural or Horticultural Organizations*. For taxable years beginning in 2014, the limitation under I.R.C. § 512(d)(1), regarding the exemption of annual dues required to be paid by a member to an agricultural or horticultural organization, is $158. *Property Exempt from Levy*. For calendar year 2014, the value of property exempt from levy under I.R.C. § 6334(a)(2) (fuel, provisions, furniture, and other household personal effects, as well as arms for personal use, livestock, and poultry) cannot exceed $8,940. The value of property exempt from levy under I.R.C. § 6334(a)(3) (books and tools necessary for the trade, business, or profession of the taxpayer) cannot exceed $4,470. **Rev. Proc. 2013-35, I.R.B. 2013-47.**

INSURANCE. The taxpayer served as the court appointed guardian of an adult daughter, a legally incapacitated adult, who had sustained physical injuries in an automobile accident and was unable to care for herself. The taxpayer coordinated care giving services for the daughter. An insurer paid monthly benefits to the taxpayer on behalf of the daughter pursuant to a state statute which provided that every motor vehicle accident created a claim for no fault insurance benefits. No fault insurance benefits included all reasonable charges incurred for reasonably necessary products, services and accommodations for an injured person's care, recovery or rehabilitation. Allowable expenses are payable for life and without a dollar limitation. Benefits are paid by the victim's own insurance company and are always paid regardless of who was at fault for the accident. Allowable benefits include medical and hospital expenses, in-home nursing or attendant care, physical and vocational rehabilitation, and guardianship expenses. The IRS ruled that the insurance payments were excludible from the taxpayer's income under I.R.C. § 104(a)(3) as amounts received through accident or health insurance for personal injuries or sickness. **Ltr. Rul. 201342007, July 16, 2013**.

LOSSES. A limited liability company sold two membership interests in two partnerships to three trusts. Each trust was a grantor trust owned by three family members and was an indirect owner of the LLC through another grantor trust which had the individuals as beneficiaries. The IRS ruled that the purchasing grantor trusts should be ignored and that the grantors of each trust would be treated as the purchasers of the LLC interests. Because the grantors were also deemed greater than 50 percent owners in the LLC, the sale was between related parties and no loss could be allowed on the sale. **CCA 201343021, June 17, 2013**.

MORTGAGE INTEREST. The taxpayer claimed a Schedule A deduction for home mortgage interest which was disallowed by the IRS. The court held that the deduction was properly denied because the taxpayer failed to provide any substantiation of any payments of mortgage interest in the tax year involved other than self-serving testimony. **Fine v. Comm'r, T.C. Memo. 2013-248**.

PARTNERSHIPS

ELECTION TO ADJUST BASIS. The taxpayer was a family limited partnership in which one of the partners had died during the tax year. The taxpayer hired a tax advisor to prepare its tax return and the advisor failed to notify the taxpayer of the election to adjust basis in the partnership property for the tax year. The IRS granted an extension of time to file an amended return with the I.R.C. § 754 election. **Ltr. Rul. 201341002, June 25, 2013**.

PASSIVE ACTIVITY LOSSES. The taxpayers were married individuals who filed their tax returns jointly. The taxpayers represent that, in the tax year, they were in a real property business as defined by I.R.C. § 469 and were qualified under I.R.C. § 469(c)(7)(B) to make an election to treat all interests in rental real estate as a single rental real estate activity. However, the taxpayers inadvertently filed their joint return for the tax year without the statement required under Treas. Reg. § 1.469-9(g)(3). IRS granted an extension of time to file an amended return with the statement. **Ltr. Rul. 201341030, June 24, 2013**.

PENSION PLANS. The rates below reflect changes implemented by the Moving Ahead for Progress in the 21st Century Act (*Pub. L. No. 112-141*). For plans beginning in October 2013 for purposes of determining the full funding limitation under I.R.C. § 412(c)(7), the 30-year Treasury securities annual interest rate for this period is 3.44 percent. The 30-year Treasury weighted average is 3.44 percent, and the 90 percent to 105 percent permissible range is 3.10 percent to 3.62 percent. The 24-month average corporate bond segment rates for October 2013, without adjustment by the 25-year average segment rates are: 1.35 for the first segment; 4.05 for the second segment; and 5.05 for the third segment. The 24-month average corporate bond segment rates for October 2013, taking into account the 25-year average segment rates, are: 4.94 for the first segment; 6.15 for the second segment; and 6.76 for the third segment. **Notice 2013-66, I.R.B. 2013-46**.

The IRS has announced cost of living adjustments affecting dollar limitations for pension plans and other retirement-related items for tax year 2014. The elective deferral (contribution) limit for employees who participate in section 401(k), 403(b), or 457(b) plans, and the federal government's Thrift Savings Plan remains at $17,500. The catch-up contribution limit under those plans for those aged 50 and over remains unchanged at $5,500. The deduction for taxpayers making contributions to a traditional IRA is phased out for singles and heads of household who are active participants in an employer-sponsored retirement plan and have modified adjusted gross incomes (AGI) between $60,000 and $70,000 for 2014. For married couples filing jointly, in which the spouse who makes the IRA contribution is an active participant in an employer-sponsored retirement plan, the income phase-out range is $96,000 to $116,000. For an IRA contributor who is not an active participant in an employer-sponsored retirement plan and is married to someone who is an active participant, the deduction is phased out if the couple's income is between $181,000 and $191,000. The AGI phase-out range for taxpayers making contributions to a Roth IRA is $181,000 to 191,000 for married couples filing jointly, up from $173,000 to $183,000 in 2011. For singles and heads of household, the income phase-out range is $114,000 to $129,000. For a married individual filing a separate return who is an active participant in an employer-sponsored retirement plan, the phase-out range remains $0 to $10,000. The AGI limit for the saver's credit (also known as the retirement savings contributions credit) for low- and moderate-income workers is $60,000 for married couples filing jointly; $45,000 for heads of household; and $30,000 for married individuals filing separately and for singles. **IR-2013-86.**

RENT. The taxpayer was a medical doctor and rented space in a medical building. The taxpayer claimed a rent deduction in excess of the established rent for the space during the tax year. The taxpayer claimed that the additional expense was amounts paid in the tax year for back unpaid rent. The taxpayer provided copies of three checks, two made out to "cash" and one dated in the following tax year. The IRS provided evidence from the medical building owner that the taxpayer paid only the allowed 12 months of rent during the tax year. The court held that the additional amounts were properly disallowed as a rent deduction. **Ofoegbu v. Comm'r, T.C. Summary Op. 2013-79**.

SELF-EMPLOYMENT. In a prior Tax Court case, the taxpayers, husband and wife, lived in a community property state but had opted out of the community property law. Each taxpayer owned and operated a separate business and owned separately several real estate properties. Each taxpayer filed a Schedule C for their businesses, with the husband incurring net losses and the wife net income for three tax years. The taxpayers argued that they should be able to net the income and loss for purposes of determining self-employment taxes. The court held that each taxpayer had to compute self-employment tax separately. **Fitch v. Comm'r, T.C. Memo. 2013-244**.

TAX RETURN PREPARERS. The IRS has announced that the nation's almost 690,000 federal tax return preparers must renew their Preparer Tax Identification Numbers (PTINs) for 2014. All current PTINs will expire on Dec. 31, 2013. Anyone who, for compensation, prepares or helps prepare any federal return or claim for refund must have a valid PTIN from the IRS. The PTIN must be used as the identifying number on returns prepared. The PTIN system is ready to accept applications for 2014. For those who already have a 2013 PTIN, the renewal process can be completed online and only takes a few moments. The renewal fee is $63. Preparers can get started at www.irs.gov/ptin. If a preparer is registering for the first time, the PTIN application fee is $64.25 and the process may also be completed online.

TRAVEL EXPENSES. The taxpayer was employed as a mechanical engineer and required to travel 160 miles to and from a work site. The taxpayer did not keep any records of the commuting but claimed a deduction for unreimbursed travel expenses of $150 per day. The taxpayer acknowledged that commuting expenses to and from work were not deductible but argued that the taxpayer's commute was eligible because of the remoteness of the work site and the lack of any public transportation. The court held that the commuting costs were not deductible because the work location was not temporary or different from the taxpayers usual work place. **Cor v. Comm'r, T.C. Memo. 2013-240**.

The taxpayer was employed as a civil engineer with a real estate development company. The taxpayer worked at several locations where the company had projects. The taxpayer claimed travel expenses from the company headquarters to the work sites but the taxpayer's travel records were either "illegible or unintelligible" and the court held that the deductions for the travel expenses were properly disallowed for failure to substantiate them. **Rael v. Comm'r, T.C. Summary Op. 2013-78**.

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by Neil E. Harl

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The topics include:

First day

FARM INCOME TAX

New Legislation

Reporting Farm Income
- Constructive receipt of income
- Deferred payment and installment payment arrangements for grain and livestock sales
- Using escrow accounts
- Payments from contract production
- Development in SE tax for CRP payments
- Leasing land to family entity
- 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, including consequences of exceeding the $5 million limit

Claiming Farm Deductions
- Soil and water conservation expenditures
- Fertilizer deduction election
- Depreciating farm tile lines
- Farm lease deductions
- Prepaid expenses
- Preproductive period expense provisions
- Regular depreciation, expense method depreciation, bonus depreciation
- Paying rental to a spouse
- Paying wages in kind
- Section 105 plans

Sale of Property
- Income in respect of decedent
- Sale of farm residence
- Installment sale including related party rules
- Private annuity
- Self-canceling installment notes
- Sale and gift combined.

Like-Kind Exchanges
- Requirements for like-kind exchanges
- "Reverse Starker" exchanges
- What is "like-kind" for realty
- Like-kind guidelines for personal property
- Partitioning property
- Exchanging partnership assets

Taxation of Debt
- Turnover of property to creditors
- Discharge of indebtedness
- Taxation in bankruptcy

Second day

FARM ESTATE AND BUSINESS PLANNING

New Legislation

Succession planning and the importance of fairness

The Liquidity Problem

Property Held in Co-ownership
- Federal estate tax treatment of joint tenancy
- Severing joint tenancies and resulting basis
- Joint tenancy and probate avoidance
- Joint tenancy ownership of personal property
- Other problems of property ownership

Federal Estate Tax
- The gross estate
- Special Use Valuation
- Family-owned business deduction recapture
- Property included in the gross estate
- Traps in use of successive life estates
- Basis calculations under uniform basis rules
- Valuing growing crops
- Claiming deductions from the gross estate
- Marital and charitable deductions
- Taxable estate
- The applicable exclusion amount
- Unified estate and gift tax rates
- Portability and the new regulations
- Generation-skipping transfer tax
- Importance of the Rule Against Perpetuities

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
- Eligibility for Section 754 elections

Limited Partnerships

Limited Liability Companies
- Developments with passive losses
- Corporate-to-LLC conversions
- Eligibility for "small partnership" exception
- New regulations for LLC and LLP losses

Closely Held Corporations
- 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, including the "two-year" rule for trust ownership of stock
- Underpayment of wages and salaries

Financing, Estate Planning Aspects and Dissolution of Corporations
- Corporate stock as a major estate asset
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- Dissolution and liquidation
- Reorganization

Social Security
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