CASES, REGULATIONS AND STATUTES

by Robert P. Achenbach, Jr

BANKRUPTCY

GENERAL

DISCHARGE. The debtor originally filed for Chapter 12 but the court in that case converted the case to Chapter 7 after it was demonstrated that the debtor had concealed assets, failed to properly report all assets and failed to report various payments received during the case. The court in that case held that the behavior was fraudulent and supported conversion of the case to Chapter 7. In the Chapter 7 case, the trustee moved to deny discharge to the debtor under Section 727(a)(4)(A) for fraudulently making a false account of the debtor's assets. The court held that the finding of fraud in the conversion case was entitled to collateral estoppel effect of a finding of fraudulent actions by the debtor and held that the debt would be denied a discharge in Chapter 7. For previous case, see *In re Williamson, 2008 Bankr. LEXIS 4205 (Bankr. S.D. Ga. 2009).* ***In re*** **Williamson, 2009 Bankr. LEXIS 2662 (Bankr. S.D. Ga. 2009).**

CHAPTER 12

AUTOMATIC STAY. The debtor purchased herbicide and fertilizer from a supplier in 2008 for a crop planted prior to the Chapter 12 petition in 2008 and harvested after the petition in 2009. The supplier continued to supply herbicide and fertilizer post-petition. After the petition was filed, the supplier filed for a statutory agricultural lien for the herbicide and fertilizer provided pre- and post-petition. The debtor objected to the lien as violating the automatic stay under Section 362(a)(4). The court held that Section 546(b) provides an exception for perfection of a lien under generally applicable law involving the maintenance or continuation of rights held pre-petition. The court held that the filing of the agricultural lien gave rise to the lien under general state law and involved rights the creditor had prior to the filing of the petition. Therefore, the filing of the agricultural lien did not violate the automatic stay since the rights to the lien existed when the creditor began providing the herbicide and fertilizer prior to the bankruptcy case. ***In re*** **Aznoe Agribiz, Inc., 2009 Bankr. LEXIS 3045 (Bankr. D. Mont. 2009)**.

PLAN. The Chapter 12 debtors presented a plan which the trustee testified would pay unsecured creditors nearly 100 percent of their claims. A creditor objected to the plan, arguing that the debtors would not be able to make the payments as proposed. The court found that the debtors presented income and expense projections consistent with their historical amounts, the debtors presented evidence that their sons would contribute to the plan payments in an effort to save the farm, the debtors would gain additional income from hunting leases on their property and the debtors would receive help from their parents. The court also found that the creditor's secured claims were over-secured. The court held that the feasibility of the plan was a close case but gave the debtors the benefit of the doubt; however, the creditor was afforded protection in that the court allowed the creditor to post the farm for foreclosure and ordered an automatic lifting of the automatic stay for 180 days against the farm if the debtors missed their first payment. The court acknowledged that denial of the plan would financially harm the debtors and their creditors from the loss of the income produced by the farm. ***In re*** **Dennis, 2009 Bankr. LEXIS 3082 (Bankr. N.D. Texas 20 09)**.

FEDERAL TAX

DISCHARGE. The debtor failed to file income tax returns for 1991 and 1992. The IRS prepared substitute returns for both tax years and assessed taxes based on the substitute returns. The debtor filed for Chapter 7 and sought a ruling that the taxes were dischargeable under Section 523(a)(1)(B) because the substitute return was filed more than two years before the bankruptcy petition. The court held that a substitute return qualified as a return for purposes of Section 523(a)(1)(B) and because the return was constructed more than two years before the petition was filed, the taxes were dischargeable. ***In re*** **Ridgway, 2009-2 U.S. Tax Cas. (CCH) ¶ 50,678 (Bankr. D. Conn. 2009)**.

FEDERAL FARM PROGRAMS

BRUCELLOSIS. The APHIS has published a concept paper describing a new direction for the bovine brucellosis program available for public review and comment. The APHIS stated that the cooperative federal-state-industry effort to eradicate bovine brucellosis from cattle in the United States has made significant progress since the program's inception in 1934; however, unique challenges impede eradication. The concept paper presents APHIS current thinking about changes they are planning to address these challenges. The paper may be read online at http://www.regulations.gov/search/Regs/home.html#documentDetail?R=0900006480a26f44. **74 Fed. Reg. 51115 (Oct. 5, 2009)**.

GENETICALLY-MODIFIED ORGANISMS. Plaintiffs, supported by several beet processors, filed an action challenging

the decision by the USDA and its Animal and Plant Health Inspection Service (APHIS) to deregulate Roundup Ready sugar beets, a variety of genetically engineered sugar beets. The plaintiffs contended that the defendants failed to comply with the environmental and agricultural review requirements of the National Environmental Policy Act, 42 U.S.C. §§ 4321-4335 (NEPA) and the Plant Protection Act (PPA) in making that decision. APHIS had found that the genetically-modified beets would have no significant impact "on the environment from the unconfined cultivation and agricultural use of" the beets. The court found that the plaintiffs provided sufficient evidence of the possible effects of cross-pollination on organic beets, wild beets and closely-related species and insufficient controls to prevent cross-pollination, resulting in possible significant impact on the environment. The court reversed the deregulation of the Roundup Ready beets because it found that APHIS's finding of no significant impact was not supported by a convincing statement of reasons and thus was unreasonable. The court ordered APHIS to prepare an Environmental Impact Study before deregulating the GMO beets. **Center for Food Safety v. Vilsack, 2009 U.S. Dist. LEXIS 86343 (N.D. Calif. 2009)**.

PERISHABLE AGRICULTURAL COMMODITIES ACT. The plaintiff was a PACA-licensed dealer of agricultural commodities which purchased potatoes from the defendant. The purchase agreement provided for payment within 28 days after receipt of the potatoes and a 1 percent monthly charge on all payment made after 28 days. The defendant delivered potatoes and sent an invoice which was meant to create a PACA trust for payment and the payment terms above. The agreement allowed the defendant to terminate the contract for non-payment. The plaintiff was in arrears several times and the defendant allowed the plaintiff to make different payment arrangements. The contract was eventually terminated for failure to make full payments. The court found that there was no issue of fact that the plaintiff failed to pay in full for the potatoes delivered. The plaintiff alleged that e-mails sent by the defendant amended the payment terms sufficiently to take the transaction out of the protections of PACA. The court held that issues of fact remained as to the effect of the e-mails. **Affinity Production Co., LLC v. CSS Farms, Inc., 2009 U.S. Dist. LEXIS 86272 (D. Neb. 2009)**.

TUBERCULOSIS. The APHIS has published a concept paper describing a new direction for the bovine tuberculosis program available for public review and comment. The APHIS stated that the cooperative federal-state-industry effort to eradicate bovine tuberculosis from cattle in the United States has made significant progress since the program's inception in 1917; however, unique challenges impede eradication. The concept paper presents APHIS current thinking about changes they are planning to address these challenges. The paper may be read online at http://www.regulations.gov/search/Regs/home.html#documentDetail?R=0900006480a26f45. **74 Fed. Reg. 51116 (Oct. 5, 2009)**.

FEDERAL ESTATE AND GIFT TAXATION

FAMILY-OWNED BUSINESS DEDUCTION. The decedent owned a family corporation which operated a retail business. The decedent made loans to the corporation which were documented by promissory notes issued by the corporation. The decedent also formed a limited partnership and transferred the promissory notes to the partnership. The decedent's estate claimed the family-owned business deduction based on inclusion of the promissory notes as interests in a business held by the decedent. The court held that loan interests in a business did not qualify as qualified family-owned business interests under I.R.C. § 2057(b)(1)(C) which were limited to equity interests. **Estate of Farnam v. Comm'r, 2009-2 U.S. Tax Cas. (CCH) ¶ 60,582 (8th Cir. 2009), *aff'g*, 130 T.C. 34 (2008)**.

GROSS ESTATE. The decedent had created a family limited partnership (FLP) funded with shares of stock owned by the decedent and the decedent's two children. The general partner was a limited liability company of which the decedent held a 95 percent interest. The court held that the assets transferred to the LLC and FLP were not included in the decedent's estate because the decedent received a corresponding interest in the entities, did not comingle the assets with the decedent's other property and had substantial other assets remaining after the transfers. **Estate of Murphy v. United States, 2009-2 U.S. Tax Cas. (CCH) ¶ 60,583 (W.D. Ark. 2009)**.

GIFTS. For calendar year 2010, the first $13,000 of gifts to any person (other than gifts of future interests in property) are not included in the total amount of taxable gifts under I.R.C. § 2503 made during that year. For calendar year 2010, the first $134,000 of gifts to a spouse who is not a citizen of the United States (other than gifts of future interests in property) are not included in the total amount of taxable gifts under I.R.C. §§ 2503, 2523(i)(2) made during that year. **Rev. Proc. 2009-50, I.R.B. 2009-45**.

INSTALLMENT PAYMENT OF ESTATE TAX. For an estate of a decedent dying in calendar year 2010, the dollar amount used to determine the "2-percent portion" (for purposes of calculating interest under I.R.C. § 6601(j)) of the estate tax extended as provided in I.R.C. § 6166 is $1,340,000. **Rev. Proc. 2009-50, I.R.B. 2009-45**.

PROTECTIVE ELECTION. The IRS has issued a notice which provides a limited administrative exception to the ability of the IRS to examine a Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return, in connection with certain protective claims for refund filed within the time prescribed in I.R.C. § 6511(a). Specifically, in processing a timely-filed protective claim for refund of tax based on a

deduction under I.R.C. § 2053, if the claim for refund ripens and becomes ready for consideration after the expiration of the period of limitations on assessment prescribed in I.R.C. § 6501, the IRS will limit its review of the Form 706 to the evidence relating to the deduction under I.R.C. § 2053 that was the subject of the protective claim. **Notice 2009-84, I.R.B. 2009-44**.

SPECIAL USE VALUATION. For an estate of a decedent dying in calendar year 2010, if the executor elects to use the special use valuation method under I.R.C. § 2032A for qualified real property, the aggregate decrease in the value of qualified real property resulting from electing to use I.R.C. § 2032A for purposes of the estate tax cannot exceed $1,000,000, the same as for deaths in 2009. **Rev. Proc. 2009-50, I.R.B. 2009-45**.

FEDERAL INCOME TAXATION

ASSESSMENTS. The IRS has issued proposed regulations which provide an exception to the three-year statute of limitations for assessments in I.R.C. § 6501(a). The exception applies where a taxpayer fails to disclose a listed transactions as required by I.R.C. § 6011. A listed transaction is any transaction the IRS determines to be a tax avoidance transaction. The limitations period continues as to the listed transaction until at least the earlier of (1) one year after the date on which the taxpayer provides a disclosure; or (2) one year after the date on which a material advisor provides the IRS with information concerning the taxpayer's participation in the transaction. Until final regulations are adopted, taxpayers may choose to use the guidance in *Rev. Proc. 2005-26, 2005-1 C.B. 965*. **74 Fed. Reg. 51527 (Oct. 7, 2009)**.

CAPITAL LOSSES. The taxpayer sold stock during the tax year but did not file a federal income tax return. The IRS used third party information to determine that all of the proceeds of the sale of the stock were included in taxable income and assessed taxes on the proceeds. The taxpayer filed an amended return and claimed only a portion of the proceeds as income, claiming that the stock had an income tax basis greater than zero. The IRS argued that, because the taxpayer failed to file a timely income tax return, the IRS could properly treat the stock as having a basis of zero. The court found that the taxpayer failed to substantiate any income tax basis in the stock and upheld the IRS assessment. **Cook v. Comm'r, 2009-2 U.S. Tax Cas. (CCH) ¶ 50,666 (4th Cir. 2009), *aff'g*, T.C. Memo. 2008-182**.

CARBON DIOXIDE SEQUESTRATION CREDIT. The IRS has issued a notice providing interim guidance, pending the issuance of regulations, relating to the credit for carbon dioxide (CO_2) sequestration under I.R.C. § 45Q. The notice provides guidance on determining eligibility for the credit and the amount of the credit, as well as rules regarding adequate security measures for secure geological storage of CO_2. This notice also sets forth a separate reporting requirement. The IRS expects that regulations will incorporate the rules set forth in this notice. **Notice 2009-83, I.R.B. 2009-44**.

CORPORATIONS

OFFICERS AS EMPLOYEES. The taxpayer was a real estate agent who received commissions from a real estate brokerage. On the advice of the taxpayer's income tax return preparer, the taxpayer formed a C corporation and treated the commissions as income to the corporation. The taxpayer was president of the corporation. The taxpayer had the corporation pay for the taxpayer's business expenses and personal expenses. The taxpayer filed corporation income tax returns and personal income tax returns and did not include the corporation's income in the taxpayer's taxable income, nor did the taxpayer or corporation pay employment taxes on the income. The court held that, under I.R.C. § 3121(d), an officer of a corporation was an employee and the corporation was liable for employment taxes on the taxpayer's income. In addition, the court held that the corporation was not entitled to a deduction for employment taxes for the year that the wages were paid to the taxpayer because the taxes were in dispute. The employment taxes were not deductible until the tax year the taxes were settled and paid. **Martin v. Comm'r, T.C. Memo. 2009-234**.

COURT AWARDS AND SETTLEMENTS. The taxpayer's relative was killed in an accident and the taxpayer joined in a suit against a company for the wrongful death of the relative. The court granted an award of money to the taxpayer and while the suit was on appeal, the taxpayer sold a portion of the award to an investor in exchange for an immediate payment plus interest payments over time. The court award was negated by a new law enacted to compensate the survivors. The taxpayer and the investor then received a new award under the legislation. The IRS ruled that the cash received from the investor and the additional compensation received under the legislation was excludible from taxable income as money received for the wrongful death of the relative. The interest on the investor payment was not excludible. **Ltr. Rul. 200941005, July 8, 2009; Ltr. Rul. 200941006, July 1, 2009**.

DISASTER LOSSES. On September 29, 2009, the President determined that certain areas in the Territory of American Samoa are eligible for assistance from the government under the Disaster Relief and Emergency Assistance Act (42 U.S.C. § 5121) as a result of an earthquake, tsunami and flooding which began on September 29, 2009. **FEMA-1859-DR.** On September 24, 2009, the President determined that certain areas in Georgia are eligible for assistance from the government under the Act as a result of severe storms and flooding, which began on September 18, 2009. **FEMA-1858-DR.** Accordingly, taxpayers in the areas may deduct the losses on their 2008 federal income tax returns. See I.R.C. § 165(i).

EXPENSE METHOD DEPRECIATION. For taxable years

beginning in 2010, under I.R.C. § 179(b)(1) the aggregate cost of any Section 179 property a taxpayer may elect to treat as an expense cannot exceed $134,000. Under I.R.C. § 179(b)(2), the $134,000 limitation is reduced (but not below zero) by the amount by which the cost of Section 179 property placed in service during the 2010 taxable year exceeds $530,000. **Rev. Proc. 2009-50, I.R.B. 2009-45**.

IRA. The taxpayer had owned a retirement annuity funded with funds received from an employment retirement plan. The taxpayer received a distribution from the annuity and attempted to open a new IRA and deposit the funds in that account through a brokerage company already used by the taxpayer. Instead, the brokerage deposited the funds in the taxpayer's non-IRA account. The taxpayer maintained the account for three years without noticing that it was not designated as an IRA account but did not withdraw any funds. The court held that, as in *Wood v. Comm'r, 93 T.C. 114 (1989)*, because the IRA was not created due to an error of the brokerage company, the distribution was not included in taxable income. **Gochis v. Comm'r, T.C. Summary Op. 2009-156**.

LIMITED LIABILITY COMPANY. The taxpayer was an LLC and a manager of the LLC who was not an attorney filed a petition in the Tax Court on behalf of the LLC to squash a summons filed by the IRS. The court held that an LLC can only file petitions with or appear before the Tax Court through a licensed attorney. **Burbank Holdings, LLC v. United States, 2009-2 U.S. Tax Cas. (CCH) ¶ 50,681 (D. Nev. 2009)**.

MEDICAL DEDUCTIONS. The taxpayer had suffered a double mastectomy to address a medical condition. The taxpayer then gave birth to a child and had to purchase infant formula to compensate for the inability to breast feed the infant. The taxpayer sought to deduct the cost of the formula as a medical expense. The IRS ruled that the cost of the formula was not eligible for the medical expense deduction because the formula was not used to treat a medical condition of the child but was only used as food. **Ltr. Rul. 20941003, July 1, 2009**.

MORTGAGE INDEBTEDNESS. The taxpayer purchased a principal residence for $1,500,000, paying $200,000 in cash and borrowing the remaining $1,300,000 through a loan that is secured by the residence. The issue was whether $100,000 of taxpayer's indebtedness in excess of $1 million can qualify as home equity indebtedness such that interest on up to $1.1 million of the debt would be deductible ($1 million of acquisition indebtedness and $100,000 of home equity indebtedness). In a Chief Counsel Advice letter, the IRS ruled that, because home equity indebtedness is defined in I.R.C. § 163(h)(3)(C) as debt other than acquisition indebtedness, to the extent acquisition indebtedness exceeds $1 million, that excess is eligible to be treated as equity indebtedness to the extent of an additional $100,000. The IRS acknowledged that its ruling is contrary to *Pau v. Comm'r, T.C. Memo. 1997-43 and Catalano v. Comm'r, T.C. Memo. 2000-82*. **CCA Ltr. Rul. 200940030, Aug. 7, 2009**.

PARTNERSHIPS

ASSIGNMENT OF INCOME. The taxpayer invested money in two partnerships which generated interest and rental income and depreciation deductions. The taxpayer assigned the income amounts to the taxpayer's two children but continued to include the deductions in the taxpayer's income tax returns. The court held that the assigned income was taxable to the taxpayer because the taxpayer continued to own the interests in the partnerships. **Gochis v. Comm'r, T.C. Summary Op. 2009-156**.

BASIS ADJUSTMENT. A partner in the taxpayer partnership died during a tax year but the partnership failed to make the I.R.C. § 754 election to adjust the basis of partnership assets on the tax return for that year. The IRS granted an extension of time to file an amended return with the election. **Ltr. Rul. 200941007, July 7, 2009**.

PASSIVE ACTIVITY LOSSES. The taxpayers, husband and wife, were both employed full time and operated a part time charter fishing business as a limited liability company. The taxpayers demonstrated that they spent more than 100 hours at the business during the tax year. The LLC was disregarded for federal income tax purposes and the taxpayer filed a Form 1065 and reported the business income and losses on Schedule E of their personal income tax return. The IRS disallowed the losses from the activity, arguing that the taxpayers could not actively participate in the activity because they owned only an interest in the LLC. The court disagreed and held that the seven tests of Temp. Reg. § 1.469-5T(a) were applied to the taxpayers in accord with *Garnett v. Comm'r, 132 T.C. No. 9 (2009)*. The court held that the taxpayers materially participated in the activity because they spent more than 100 hours at the activity in the year and spent more time at the activity than anyone else in the business. **Hegarty v. Comm'r, T.C. Summary Op. 2009-153**.

PENSION PLANS. For plans beginning in October 2009 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 4.19 percent, the corporate bond weighted average is 6.46 percent, and the 90 percent to 100 percent permissible range is 5.82 percent to 6.46 percent. **Notice 2009-76, I.R.B. 2009-43**.

The IRS has published the cost-of-living adjustments (COLAs), effective on Jan. 1, 2010, applicable to dollar limitations on benefits paid under qualified retirement plans and to other provisions affecting such plans. The maximum limitation for the I.R.C. § 415(b)(1)(A) annual benefit for defined benefit plans remains unchanged at $195,000 and the I.R.C. § 415(c)(1)(A) limitation for defined contribution plans remains unchanged at $49,000. The annual compensation limit under I.R.C. §§ 401(a)(17), 404(l), 408(k)(3)(C) and 408(k)(6)(D)(ii) remains unchanged at $245,000. The annual compensation limitation under I.R.C. § 401(a)(17) for eligible participants in

certain governmental plans that, under the plan as in effect on July 1, 1993, allowed COLAs to the compensation limitation under the plan to be taken into account remains unchanged at $360,000. The compensation amounts under Treas. Reg. § 1.61-21(f)(5)(i) concerning the definition of "control employee" for fringe benefit valuation purposes remained unchanged at $95,000. **IR-2009-94**.

The IRS has released a new internet-based tool, the "IRS Retirement Plan Navigator," which is aimed at assisting small businesses with choosing and maintaining pension plans. The navigator can also help mid-sized businesses review plan options and help employees understand their employer's retirement plans. The navigator focuses on three general areas: choosing a plan, maintaining a plan and correcting a plan. The navigator also has the following features: (1) side-by-side comparison of pension plans and requirements; (2) checklist and suggested resources for maintaining plan compliance; and (3) options for employers to correct plan errors and bring plans back into compliance. The navigator is intended to be an easy-to-use guide that helps employers understand and choose among the daunting array of plan types and features. As pension laws and regulations change, the IRS will update the Retirement Plan Navigator. **IR-2009-91**.

SALES TAXES. The IRS reminded taxpayers who buy new motor vehicles that they may be entitled to a special tax deduction for the sales or excise taxes on those purchases through the end of 2009. Pursuant to the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5), purchasing a new car, light truck, motorcycle or motor home before January 1, 2010, could qualify taxpayers for a special deduction for the state and local sales and excise taxes on their 2009 tax returns. The deduction is limited to the sales and excise taxes and similar fees paid on up to $49,500 of the purchase price of a new vehicle. The deduction is reduced for joint filers with modified adjusted gross incomes (MAGI) between $250,000 and $260,000 and other taxpayers with MAGI between $125,000 and $135,000. Taxpayers with higher incomes do not qualify for the deduction. To help taxpayers take full advantage of the deduction, the IRS has provided a video on its Youtube.com channel along with audio podcasts in English and Spanish. Taxpayers may also estimate their deduction by using lines 10a to 10k of Worksheet 10 in IRS Publication 919, How Do I Adjust My Withholding? **IR-2009-88.**

TAX RATES. The standard deduction for 2010 remains at $11,400 for joint filers, $8,400 for heads of households, $5,700 for single filers and $5,700 for married individuals who file separately. The income limit for the maximum earned income tax credit is $5,980 for taxpayers with no children, $8,970 for taxpayers with one child, and $12,590 for taxpayers with two or more children. The IRS also announced the inflation adjusted tax tables and other inflation adjusted figures for 2010. The personal exemption remains at $3,650. For 2010, the phaseout of the personal exemption amount no longer applies. For taxable years beginning in 2010, 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 $146. The IRS has also issued the tax rate tables for 2010. **Rev. Proc. 2009-50, I.R.B. 2009-45**.

TAX SCAMS. The IRS issued a warning on its web site that, in recent weeks, a phony e-mail claiming to come from the IRS has been circulating in large numbers. The subject line of the e-mail often states that the e-mail is a "Notice of Underreported Income" and the e-mail itself may contain an attachment or a link claiming to lead to the taxpayer's tax information. However, when the recipient opens the attachment or clicks on the link, a virus is downloaded to their computers. The IRS is reminding the public that it does not send unsolicited e-mails to taxpayers about their tax accounts. Anyone who receives an unsolicited e-mail claiming to come from the IRS should avoid opening any attachments or clicking on any links. Taxpayers can report suspicious e-mails that claim to come from the IRS to a mailbox set up for this purpose, phishing@irs.gov. More information about this particular harmful e-mail can be found at http://www.irs.gov/newsroom/article/0,,id=213862,00.html?portlet=6

TRADE OR BUSINESS. Prior to 1988 the taxpayer was employed as a contract attorney. From 1988 to 2000 the taxpayer was employed with a state agency. When that position was terminated, the taxpayer again performed contract attorney services for one year but did nothing for the following two years. In the tax year involved, the taxpayer started to prepare for performing contract attorney services again by incurring some office expenses and attending a bar association meeting to market her services. Before any services were performed, the state agency re-hired the taxpayer and the contract attorney activity was abandoned. The court held that the contract attorney activity in the tax year did not amount to a trade or business because it was not regular and continuous. The court also held that the activity was separated from the previous contract attorney activity by sufficient time not to be considered a continuation of that activity. **Forrest v. Comm'r, T.C. Memo. 2009-228**.

TRAVEL EXPENSES. The U.S. State Department has published the maximum rates of per diem allowances for travel in foreign areas. These rates are used for determining per diem rates that employers can use to reimburse employees for lodging, meals and incidental expenses incurred during business travel away from home with the need to produce receipts. See *Rev. Proc. 2007-63, 2007-2 C.B. 809*. **CCH MISC-DOC, 2009ARD 191-1, Oct. 5, 2009**.

WITHHOLDING TAXES. The IRS has issued a new version of the W-2 form that needs to be completed by all employers before December 1 2009. See www.irs.gov for additional information.

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FARM INCOME TAX, ESTATE AND BUSINESS PLANNING SEMINARS

by Neil E. Harl

January 4-8, 2010
Sheraton Keauhou Bay Resort & Spa
Kailua-Kona, Big Island, Hawai'i.

We are happy to report that a sufficient number of people have sent in deposits for this seminar that we have decided to hold the seminar. Thus, the seminar will not be cancelled except for extraordinary circumstances. We encourage all subscribers to let us know if you plan to attend. Additional brochures will be sent out this fall.

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Seminar sessions run from 8:00 a.m. to 12:00 p.m. each day, Monday through Friday, with a continental breakfast and break refreshments included in the registration fee. Each participant will receive a copy of Dr. Harl's 400+ page seminar manual *Farm Income Tax: Annotated Materials* and the 600+ page seminar manual, *Farm Estate and Business Planning: Annotated Materials,* both of which will be updated just prior to the seminar.

Here is a sample of the major topics to be covered:

• Farm income items and deductions; losses; like-kind exchanges; and taxation of debt including the Chapter 12 bankruptcy tax provisions.

• Deferring crop insurance proceeds and livestock sales; reinvestment opportunities for livestock to avoid reporting the gain; involuntray conversions.

• Circumstances under which self-employment tax is due

• Income tax aspects of property transfer, including income in respect of decedent, installment sales, private annuities, self-canceling installment notes, and part gift/part sale transactions.

• Introduction to estate and business planning.

• Co-ownership of property, including discounts, taxation and special problems.

• Federal estate tax, including alternate valuation date, special use valuation, handling life insurance, marital deduction planning, disclaimers, planning to minimize tax over deaths of both spouses, and generation skipping transfer tax.

• Gifts and federal gift tax, including problems with future interests, handling estate freezes, and "hidden" gifts.

• Organizing the farm business—one entity or two, corporations, general and limited partnerships and limited liability companies; emphasis on entity liquidations, reorganizations and other strategies for removing capital from the entity.

• Recent developments in the treatment of passive losses of LLCs and LLPs

• Recent legislation tax provisions.

The seminar registration fee is $645 for current subscribers to the *Agricultural Law Digest,* the *Agricultural Law Manual* or the *Principles of Agricultural Law*. The registration fee for nonsubscribers is $695. For more information call Robert Achenbach at 541-466-5544 or e-mail at robert@agrilawpress.com.