The taxpayer's argument and the court's response

The taxpayer asserted that they were entitled to use the federal per diem rates to substantiate their travel expense deductions.[12] The annual revenue procedures authorize the per diem method to substantiate lodging, meals and incidental expenses,[13] but the per diem method is only available where an employer pays a per diem allowance in lieu of reimbursing actual expenses an employee incurs while traveling away from home. As the Tax Court explained, the taxpayer's claimed lodging expenses do not come within this provision because the taxpayer was self-employed in connection with the farming and rental activities and was not functioning in the role of an employee.[14]

The Tax Court noted, however, that the taxpayer, as a self-employed individual, was entitled to rely on the per diem method allowed for substantiation for meals and incidental expenses if the taxpayer could substantiate the elements of time, place and business purpose for the travel expenses. The Tax Court was satisfied with the substantiation for those expenses and allowed, over IRS objection, a deduction in the amount of $990 for 2001 ($30 times 33 days), $480 for 2002 ($30 times 16 days) and $360 for 2003 ($30 times 12 days). The Tax Court then applied the 50 percent limitation on meals and incidental expenses[15] with an allowed deduction of $445 for 2001, $240 in 2002 and $180 for 2003.[16]

The Tax Court concluded the discussion by stating that the taxpayer's ". . . ineligibility to claim greater amounts for meals and lodging is a result of his failure to maintain proper records of his expenses, including logs showing the dates, places, and business activity conducted while he was away from home."[17]

On another issue, the Tax Court, not surprisingly, held that the taxpayer was unable to deduct depreciation and other actual costs for business vehicles and, also, to deduct an allowance under the standard mileage rate[18] for the 15,000 miles driven each year. The standard mileage rate is in lieu of all operating and fixed costs of the vehicle, including depreciation, maintenance and repairs, tires, gasoline, oil, insurance, license and registration fees.[19] Inasmuch as the actual expenses (for depreciation and fuel expenses) exceeded the standard mileage rate figure, the Tax Court allowed actual expenses for travel.

The taxpayers were held liable for the accuracy-related penalties[20] for each of the three years in question of 20 percent of the portion of the underpayment attributable to negligence or disregard of rules and regulations.

Footnotes

[1] I.R.C. § § 162(a), 262, 274. See Rev. Proc. 2006-41, 2006-2 C.B. 777, *corrected by* Ann. 2006-96, 2006-2 C.B. 1108.

[2] Riley v. Comm'r, T.C. Summary Op. 2007-26. See generally 4 Harl, *Agricultural Law* § 28.05[22][c], 28.04[4] (2006); Harl, *Farm Income Tax Manual* § 427 (2006).

[3] T.C. Summary Op. 2007-26.

[4] *Id.*

[5] *Id.*

[6] *Id.*

[7] *Id.*

[8] *Id.*

[9] See Rev. Proc. 2000-39, 2000-2 C.B. 340. The current version for 2007 is Rev. Proc. 2006-41, 2006-2 C.B. 777, *corrected by* Ann. 2006-96, 2006-2 C.B.1108.

[10] Temp. Treas. Reg. § 1.274-5T.

[11] Temp. Treas. Reg. § 1.274-5T(b)(2).

[12] See I.R.C. § 274(d); Treas. Reg. § 1.274-5(g); Rev. Proc. 2000-39, 2000-2 C.B. 340 (for 2001). The current authority is Rev. Proc. 2006-41, 2006-2 C.B. 777.

[13] E.g., Rev. Proc. 2000-39, 2000-2 C.B. 340, § 4.01.

[14] *Id.*

[15] I.R.C. § 274(n)(1).

[16] Riley v. Comm'r, T.C. Summary Opinion 2007-26.

[17] *Id.*

[18] Treas. Reg. § 1.274-5(j)(2).

[19] E.g., Rev. Proc. 2002-61, 2002-2 C.B. 616, § 5.03.

[20] I.R.C. § 6662(a).

CASES, REGULATIONS AND STATUTES

by Robert P. Achenbach, Jr

ADVERSE POSSESSION

FENCE. The plaintiffs purchased their property from an owner who at one time owned the plaintiffs' property and the defendant's neighboring property. The properties were split by a fence which existed when the original owner owned both properties and the plaintiffs were told that the fence was their boundary line. After the defendant purchased the neighboring property, the defendant had a survey performed which showed that the true boundary line was on the plaintiffs' side of the fence. The defendant wanted to move the fence on to the true boundary but the plaintiffs filed a quiet title action to have the disputed strip of land included in their title under adverse possession. The plaintiffs argued that they had used the disputed strip of land over 10 years as part of their ranch operation. The defendant argued that the fence was not moved to the true boundary line when the plaintiffs purchased their property solely as a matter of convenience to the seller and that adverse possession

could not be used to force the transfer of title but could only be used in defense of a challenge to title. The trial court granted summary judgment to the plaintiffs and the defendant appealed, arguing that issues of fact remained such that summary judgment was improper. The court held that adverse possession could be used to support a quiet title action in Wyoming. The court also held that the fence was not left in place off the boundary line for convenience of the seller because no evidence was presented or claimed to show that moving the fence was inconvenient to either party. The court noted that the plaintiffs and the seller had stated in affidavits that they had agreed that the fence would be the boundary between the properties. The defendant also argued that the adverse possession period could not begin until the defendant purchased the property, less than 10 years before the quiet title action was brought. The court held that the period of adverse possession was determined by the actions of the adverse claimant and not the period of ownership of the neighboring land. **Gillett v. White, 2007 Wyo. LEXIS 46 (Wyo. 2007)**.

ANIMALS

BULL. The plaintiffs were injured when their car struck a bull on the highway. The bull was owned by one defendant but kept on the farm owned by the defendant's son. The evidence showed that the son had known about three prior escapes by the bull and had erected an electric fence which had otherwise prevented the escape of the bull. The evidence also showed that no damage to the fence was seen on the day of the accident. The defendant testified that the defendant did not know about the escapes and had not inspected all of the fence. The trial court granted "no evidence" summary judgment as to the defendant and the plaintiffs appealed, arguing that the defendant's failure to do anything to prevent the bull from escaping was sufficient to raise a material issue of fact as to whether the defendant breached a duty to prevent the escape of the bull. Under Tex. Agric. Code § 143.074, owners of livestock owe a duty to not permit livestock to run at large. The court held that the mere ownership of the bull was not sufficient to show a breach of the duty where the bull was not kept in the owner's possession and the owner did not know that the bull had escaped from the possessor's property. The court noted that, in order for the statutory duty to apply, the owner had to permit the bull to run at large and the evidence in this case did not show that the defendant had, through act or omission, permitted the bull to run at large; therefore, the defendant did not breach any duty to the plaintiffs and summary judgment was proper. **Van Horne v. Harris, 2007 Tex. App. LEXIS 2266 (Tex. Ct. App. 2007)**.

BANKRUPTCY

CHAPTER 12

PLAN. The debtor was a farm partnership of four individuals and a limited liability corporation. The debtor had assets of just over $5 million and total claims of just over $3 million. The Chapter 12 plan provided for interest payments on secured claims, new priority security interests for operating loans and payoff of all claims within five years by obtaining new financing. The creditors objected to the plan because (1) of bad faith in that the partnership was poorly controlled as to the financing obtained pre-petition and (2) the plan was not feasible. The court held that poor pre-petition management of the financial affairs of the partnership business was not sufficient cause for bad faith filing of the bankruptcy petition. The debtor's plan acknowledged that the history of the farm did not support a feasible plan but the debtor proposed changes in the farm operation to make the farm more profitable, including (1) elimination of Christmas and orange tree operations, (2) planting more reliable crops and increasing crop yields, and (3) change from grass seed to wheat seed crops. The creditors objected to the plan as unfeasible because even with the rosy profit projections, the refinancing of all the debts was not possible. The court, in a "letter" to the parties' counsel, confirmed the plan on the condition that the debtor submit a modified plan which provided for the contingency that, if the profit projections did not occur, the debtor would institute more drastic provisions, including liquidation of assets. ***In re*** **Volker, 2007 Bankr. LEXIS 708 (Bankr. D. Or. 2007)**.

FEDERAL TAX

TAX RETURNS. The debtor filed for Chapter 13 on January 9, 2006, making the debtor subject to the 2005 Bankruptcy Act amendments. The trustee delayed the meeting of creditors under Section 1308(a) because the debtor had not yet filed the debtor's 2005 federal income tax return. The debtor argued that the delay was improper because the 2005 return was not required to be filed until April 15, 2006. The court held that Section 1308(a) applied to all returns required to be filed for the four tax years prior to the filing of the bankruptcy petition, even though the returns were not required to be filed before the bankruptcy petition; therefore, the trustee could delay the meeting of the creditors until the debtor filed the 2005 tax returns. ***In re*** **French, 354 B.R. 258 (Bankr. E.D. Wis. 2006)**.

FEDERAL AGRICULTURAL PROGRAMS

BRUCELLOSIS. The APHIS has adopted as final regulations amending the brucellosis regulations concerning the interstate movement of cattle by changing the classification of Wyoming from Class A to Class Free. **72 Fed. Reg. 13428 (March 22, 2007)**.

CROP INSURANCE. The FCIC has adopted as final regulations amending the Common Crop Insurance Regulations, Walnut Crop Insurance Provisions and Almond Crop Insurance Provisions to reduce the insurable age requirements for almonds and walnuts because of the new varieties available. The changes will be applicable for the 2007 and succeeding crop years. **72 Fed. Reg. 10908 (March 12, 2007)**.

GRADING. The AMS has adopted as final regulations increasing the fees and charges for federal voluntary egg,

poultry, and rabbit grading, certification, and audit services, and establishing a separate billing rate for the audit services. **72 Fed. Reg. 11773 (March 14, 2007)**.

FEDERAL ESTATE AND GIFT TAXATION

GIFT. The decedent had acquired stock in a corporation and transferred the stock to a brokerage account with the intent to sell the stock when it had increased in value. The brokerage account was a joint account with the decedent's son as the other owner. The son did not contribute any property to the account and did not access the account in any way. The stock was sold in several sales directed by the decedent and the decedent used the funds from the sales to purchase property and to make gifts to family members. The decedent claimed all of the gain from the sale on the decedent's income tax return. When the IRS characterized the gain from the sales as short-term gain, the estate argued that the decedent was taxable only on one-half of the gain because the son was a joint owner of the account. Under Texas law, the court noted that a presumption was allowed that a joint account owner owned one-half of the property in the account where the joint owner was a child of the other joint owner who contributed the property to the account. The court held that the presumption was overcome in this case because the son did not exercise any control over the account and the decedent had claimed all the gain from the stock sales on the decedent's income tax return. **Estate of Freedman v. Comm'r, T.C. Memo. 2007-61**.

FEDERAL INCOME TAXATION

ALTERNATIVE MINIMUM TAX. The taxpayer had received stock options which produced alternative minimum tax (AMT) income in the year the options were exercised. However, in subsequent years, the stock dropped in price and the taxpayer realized AMT capital losses when the stock was sold or forfeited. The taxpayer argued that the losses should be carried back as either net operating losses or ordinary losses to offset the AMT income from the year the options were exercised. The court cited several Tax Court and District Court cases involving similar facts and arguments and held that the taxpayer could not carry back the losses to offset previous AMT income in order to claim a refund of taxes based on the AMT income. **Guzak v. United States, 2007-1 U.S. Tax Cas. (CCH) ¶ 50,307 (Fed. Cls. 2007)**.

CAPITAL ASSETS. The IRS has announced that, pending the issuance of additional published guidance, the IRS will not challenge the inclusion of negative amounts in computing additional costs under I.R.C. § 263A or the permissibility of aggregate negative additional I.R.C. § 263A costs. These issues will not be raised in any taxable year ending on or before publication of the guidance, and, if already raised as an issue in examination or before the Tax Court in a taxable year ending on or before March 12, 2007, the issue will not be pursued by the IRS. In addition, pending further published guidance, the IRS will not deny consent for changes in method of accounting solely on the basis that the proposed method involves the inclusion of negative amounts in computing additional costs under I.R.C. § 263A or the permissibility of aggregate negative additional I.R.C. § 263A costs. However, the IRS will not grant a taxpayer permission to treat a cost as a negative additional I.R.C. § 263A cost unless the taxpayer already treats that cost as a I.R.C. § 471 cost. In other words, the IRS will not approve a change in method of accounting to change the costs capitalized under I.R.C. § 471 to begin capitalizing a cost under I.R.C. § 471 and to remove the same cost from ending inventory by treating it as a negative additional I.R.C. § 263A cost. In addition, any taxpayers granted consent to make these changes will be required to conform their methods of accounting to any future published guidance. **Notice 2007-29, I.R.B. 2007-14**.

CORPORATIONS

REORGANIZATIONS. The IRS has issued temporary regulations amending the signing date rule for nonrecognition of gain and loss from reorganization of corporations. The temporary regulations are revisions of final regulations adopted in 2005, see 16 *Agric. L. Dig.* 141 (2005). The revisions include (1) the definition of fixed consideration under the signing date rule; (2) expansion of the definition of the contract modification rule; (3) expansion of the signing date rule to include contingent adjustments to the consideration received in the reorganization; and (4) provision for altering the signing date value of the issuing corporation's stock if the issuing corporation's capital structure is altered or the number of issuing shares is altered. **72 Fed. Reg. 12974 (March 20, 2007)**.

TELEPHONE EXCISE TAX REFUND. The IRS has announced that corporations required to file returns by March 15, 2007, should not use the interest factors on Form 8913 for calculating the interest on the telephone excise tax refund because the interest rate factors on the form are for noncorproate taxpayers who file by April 17, 2007. The IRS has issued factors for corporations at http://www.IRS.gov/pub/isr-dft/corp3-15.pdf. **IR-2007-56**.

DISASTER LOSSES. On March 3, 2007, the president determined that certain areas in Georgia are eligible for assistance from the government under the Disaster Relief and Emergency Assistance Act (42 U.S.C. § 5121) as a result of a severe storms and tornadoes, which began on March 1, 2007. **FEMA-1686-DR.** On March 3, 2007, the president determined that certain areas in Alabama are eligible for assistance from the government under the Act as a result of severe storms and tornadoes, which began on March 1, 2007. **FEMA-1687-DR.** Taxpayers who sustained losses attributable to these disasters may deduct the losses on their **2006** returns.

DOMESTIC PRODUCTION DEDUCTION. The IRS has adopted as final regulations a revision of previously issued final regulations to clarify that an agricultural or horticultural cooperative may apply the rules for cooperatives provided in I.R.C. § 199(d)(3) and Treas. Reg. § 1.199-6 to any portion of the I.R.C. § 199 deduction that is not passed through to its patrons. In addition, a cooperative's qualified production

activities income is computed without taking into account any deduction allowable under I.R.C. §§ 1382(b)) or 1382(c), relating to patronage dividends, per-unit retain allocations, and nonpatronage distributions. **72 Fed. Reg. 12969 (March 20, 2007**).

EMPLOYEES. The taxpayer corporation was owned by two people and owned a fleet of trucks which it leased to an unrelated company. The lease provided that the taxpayer would provide the trucks and drivers to haul loads provided by the lessee. The taxpayer hired truck drivers under an employment agreement which stipulated that the drivers were independent contractors responsible for their own income, social security and unemployment taxes. The court held that the drivers were employees subject to income tax withholding because (1) the taxpayer was responsible for hiring drivers, overseeing their work and ensuring that the drivers held the requisite licenses; (2) the taxpayer determined which loads they would haul and when and where they would deliver such loads, and had the power to discharge drivers; (3) the drivers did not pay any part of the costs of acquiring or maintaining the fleet of trucks, any of the fuel, permits or road fuel taxes associated with operating the trucks, or transporting the freight; (4) the drivers performed a service essential to the operation of the taxpayer's business, and worked in the ordinary course of the taxpayer's business; and (5) the drivers were paid a percentage of the company's receipts for each load hauled but did not assume any risk of loss. **Peno Trucking, Inc. v. Comm'r, T.C. Memo. 2007-66**.

HYBRID VEHICLE TAX CREDIT. The IRS has announced the hybrid vehicle certifications and the credit amounts for:

Year and Model	Credit Amount
2007 Saturn Aura	$1,300

See Harl, "Additional Items in the Energy Policy Act of 2005, 16 *Agric. L. Dig.* 131 (2005). **IR-2007-64**.

INTEREST RATE. The IRS has announced that, for the period April 1, 2007 through June 30, 2007, the interest rate paid on tax overpayments remains at 8 percent (7 percent in the case of a corporation) and for underpayments remains at 8 percent. The interest rate for underpayments by large corporations remains at 10 percent. The overpayment rate for the portion of a corporate overpayment exceeding $10,000 remains at 5.5 percent. **Rev. Rul. 2007-16, I.R.B. 2007-13.**

LOSSES. The taxpayer had invested in several limited partnerships which were challenged by the IRS. The tax matters partner in each partnership reached a settlement with the IRS which resulted in a disallowance of deductions. The settlement provided that the deductions were not allowed because the partnerships lack economic substance. The partnerships were then terminated. The taxpayer claimed loss deductions under I.R.C. § 165(c)(2) based on the increase in basis from the disallowed deductions and the worthlessness of the partnerships when they were terminated. The IRS argued that Section 165(c)(2) was not applicable because the losses resulted from the partnerships which lacked economic substance. The court agreed with the IRS because the settlement agreement established the partnerships as lacking economic substance; therefore, the taxpayer could not use Section 165(c)(2) to claim any loss deduction from the termination of the partnerships. **Nault v. United States, 2007-1 U.S. Tax Cas. (CCH) ¶ 50,326 (D. N.H. 2007**).

RETURNS. The IRS has published guidance addressing a large number of frivolous arguments that taxpayers should avoid when filing their returns. **Notice 2007-30, I.R.B. 2007-14**. The IRS also issued a series of rulings on several of the frivolous arguments, including: (1) compensation received in exchange for personal services was taxable income; (2) all taxpayers are required to file tax returns and pay taxes; (3) the IRS is not required to provide the taxpayer with a summary record of assessment before acting to collect taxes due; and (4) all U.S. citizens and residents are subject to federal income tax. The IRS also reminded taxpayers that they are ultimately responsible for the contents of their returns; therefore, taxpayers should watch out for unscrupulous tax preparers and review their returns. Additional guidance regarding frivolous arguments, a document entitled "The Truth About Frivolous Arguments," can be found on the IRS web site at IRS.gov. **Rev. Rul. 2007-19, I.R.B. 2007-14**; **Rev. Rul. 2007-20, I.R.B. 2007-14; Rev. Rul. 2007-21, I.R.B. 2007-14; Rev. Rul. 2007-22, I.R.B. 2007-14.**

SAFE HARBOR INTEREST RATES
April 2007

	Annual	Semi-annual	Quarterly	Monthly
Short-term				
AFR	4.90	4.84	4.81	4.79
110 percent AFR	5.39	5.32	5.29	5.26
120 percent AFR	5.89	5.81	5.77	5.74
Mid-term				
AFR	4.61	4.56	4.53	4.52
110 percent AFR	5.08	5.02	4.99	4.97
120 percent AFR	5.54	5.47	5.4	5.41
Long-term				
AFR	4.81	4.75	4.72	4.70
110 percent AFR	5.30	5.23	5.20	5.17
120 percent AFR	5.78	5.70	5.66	5.63

Rev. Rul. 2007-23, I.R.B. 2007-15.

TAX COURT. The IRS has issued a Chief Counsel Notice that amends the procedures for filing answers with the Tax Court to reflect amended Rule 173(b) of the United States Tax Court's Rules of Practice and Procedure. Rule 173(b) requires the filing of answers in all small tax cases brought pursuant to I.R.C. § 7463 in which the petition is filed after March 13, 2007. Note: the original effective date, November 27, 2006, was extended in order to give the IRS time for comments and implementation. Previously, answers were not required to be filed in small tax cases unless the case presented an issue on which the IRS bore the burden of proof, such as cases in which the IRS determined fraud or relied upon an exception to the 3-year statute of limitations, or as otherwise directed by the court. Answers in small tax cases are to conform to the requirements applicable to answers generally as provided in Tax Court Rule 36. **Chief Counsel Notice CC-2007-009**.

TAX SCAMS. The IRS has issued a warning to taxpayers

regarding website and e-mail scams. Concern over the increase in websites purporting to be official websites prompted the IRS to alert taxpayers and remind them that the address for the official IRS website is www.irs.gov. The IRS warns that these phony websites look very much like the official IRS website; however, they prompt taxpayers to enter personal and financial data, which will then be used to steal the taxpayer's identity. Taxpayers are urged to closely check the address of the website. The phony addresses end with .net or .com; however, only irs.gov is the legitimate address. The IRS further warned of e-mail phishing scams that lead the victim to one of these phony sites. Taxpayers have received e-mails, claiming to be from the IRS, advising them of a federal tax refund and directing them to open a link that takes them to one of these websites. Taxpayers are advised not to open unsolicited e-mail claiming to be from the IRS, or open any attachments or provide any personal information. **IR-2007-58**.

INSURANCE LAW

EXCLUSION. The insured operated a farm and lived with the parent of the injured person. The injured person was aged 16 at the time of the accident which occurred on the farm while the person was operating a corn chopper. The insurance company refused to defend or indemnify the insured against the claims of the injured person because the insurance policy excluded coverage for "any . . . person under the age of twenty-one in [the] care [of an insured] or in the care of [an insured's] resident relatives . . ." The court held that the insurance policy covered the insured's liability in this case because the testimony of the injured person, the parent and the insured demonstrated that the insured had no control over or care of the injured person at the time of the accident. **Chautauqua Patrons Ins. Ass'n v. Ross, 2007 N.Y. App. Div. LEXIS 3366 (Sup. Ct. N.Y. 2007)**.

LANDLORD AND TENANT

STATUTE OF LIMITATIONS ON RENT. The debtor leased farm land from a trust established for the debtor's children. The trust was administered by the debtor's ex-spouse and ran from 1992 through 2003. The debtor was behind in rent payments for all of the lease terms and the trustee applied any rent payments first to the earliest unpaid rent and then to the following years. The court noted that such accounting method for rent was allowed in Kansas as "an account usually and properly kept in writing, wherein are set down, by express or implied agreement of the parties concerned, a connected series of debit and credit entries or reciprocal charges and allowances, and where the parties intend that the individual items of the account shall not be considered independently, but as a continuation of a related series." *Spencer v. Sowers, 234 P. 972, 974 (1925)*. In addition, such accounting was allowed where the lessee providing continuing services to the lessor, such as repairs or products. In this case, the court found that no agreement was entered into by the parties for this method of accounting of the rent and no services were provided by the debtor to the trust; therefore, the rent payments were more properly applied to the current rent due when the rent was paid, resulting in past overdue rent collection being barred by the statute of limitations. Thus, the trust's claim for unpaid rent could not include unpaid rent due more than three or five years before the bankruptcy filing. **In re Torline, 2007 Bankr. LEXIS 396 (Bankr. D. Kan. 2007)**.

PRODUCT LIABILITY

ANIMAL FEED. The defendant was a farmer who purchased livestock feed from the plaintiff. The plaintiff sued for failure to pay for the feed delivered and the defendant counterclaimed in recoupment for the loss of livestock due to contaminated feed. The defendant presented evidence that animals became sick after eating the feed and recovered after the feed was removed. The defendant also presented expert testimony that the cause of death of livestock was contaminated feed. The plaintiff argued that the expert testimony should not have been allowed because it was not based on scientific testing. The court held that the non-expert evidence was sufficient to raise a material issue of fact as to whether the feed was contaminated. **L.E. Sommer Kidron, Inc. v. Kohler, 2007 Ohio App. LEXIS 821 (Ohio Ct. App. 2007)**.

SECURED TRANSACTIONS

PERFECTION. The debtor had granted to a bank a blanket security interest in the debtor's personal property. The debtor also purchased two pieces of farm equipment from a dealer and granted the dealer a security interest in the equipment. The dealer filed financing statements but listed the name of the debtor as "Mike Borden" instead of the debtor's full name of "Michael Borden." The bank argued that the dealer's security interest was unperfected because the financing statement included a misleading name in using Mike instead of Michael. The evidence showed that the debtor often signed legal documents with the name Mike. The court noted that the state's web-based U.C.C. search system did not allow for generic character searches to account for all variations of a debtor's name. The court held that the full legal name of a debtor was required for perfection of a financing statement, placing the burden on a filing creditor to determine the debtor's legal name and not on a searching creditor who would have to guess at the possible legal name. ***In re* Borden, 353 B.R. 886 (Bankr. D. Neb. 2006)**.

WORKERS' COMPENSATION

INJURY DURING EMPLOYMENT. The plaintiff was employed by a horse farm to care for the horses. The plaintiff alleged that the plaintiff was injured while unloading hay to be fed to the horses. The defendants owned the horse farm and argued that the plaintiff was injured while working on the plaintiff's own time and property. The defendants provided the plaintiff with a residence about one-half mile from the horse farm. The workers' compensation judge (WCJ) had found that the plaintiff was a 24-hour employee; therefore, it was irrelevant when or where the injury occurred for purposes of workers' compensation coverage. Although the court acknowledged that there were cases which supported the concept of a 24-hour employee, the court held that the concept was applied only where the employee resided on or near the business for the convenience of the employer and the employee was performing work duties at the time of the accident. The court held that the WCJ's ruling that the plaintiff was a 24-hour employee was improper because there were issues of fact as to whether the injury occurred in the course of employment and the residence was provided for the convenience of the employer. The court reviewed the evidence and found that the defendant provided the residence to the plaintiff here out of generosity and not for the convenience of the defendant and the injury occurred during the plaintiff's personal time and not during any work for the defendant. Therefore, the court held that the plaintiff's worker's compensation claim was denied because the injury was not work-related. **Miller v. Blacktype Farms, 2007 La. App. LEXIS 400 (La. Ct. App. 2007)**.

IN THE NEWS

GENETICALLY MODIFIED ORGANISMS. U.S. District Judge Charles Breyer of the Northern District of California, San Francisco, issued a temporary injunction on March 12, 2007, prohibiting farmers from buying alfalfa seed developed by Monsanto. Breyer's order said growers who have bought the seed, modified to withstand application of Monsanto's Roundup herbicide, have until March 30 to plant it. Some has already been planted. Farmers can harvest, use or sell the alfalfa for forage. Otherwise, the crop is off limits. Breyer ruled last month that the USDA improperly approved it for commercial sale. He allowed that it is safe for human and animal consumption but said it could "contaminate" non-biotech crops. Breyer will hold a hearing April 27 and then determine whether the injunction would become permanent. **St. Louis Dispatch, March 13, 2007**.

CITATION UPDATES

In re Zimmerman, 353 B.R. 310 (S.D. Fla. 2006) (dicharge of taxes) see 17 *Agric. L. Dig.* 163 (2006)**.**

FARM INCOME TAX, ESTATE AND BUSINESS PLANNING SEMINARS

by Neil E. Harl

Outrigger Keauhou Beach Resort, Big Island, Hawai'i.
January 8-12, 2008

Spend a week in Hawai'i in January 2008! Balmy trade winds, 70-80 degrees, palm trees, white sand beaches and the rest of paradise can be yours; plus a world-class seminar on Farm Income Tax, Estate and Business Planning by Dr. Neil E. Harl. The seminar is scheduled for January 8-12, 2008 at the spectacular ocean-front Outrigger Keauhou Beach Resort on Keauhou Bay, 12 miles south of the Kona International Airport on the Big Island, Hawai'i.

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- Farm income items and deductions.
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- 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.
- 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.
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SELECTED ISSUES IN FARM TAXATION

By Roger A. McEowen

June 11-12, 2007 Grand Ely Lodge, Ely, MN

The seminar is designed to provide attendees with a comprehensive and practical understanding of major agricultural income tax issues. In addition, the speaker is open to questions and responses from the attendees. Registrants may attend one or both days, with separate pricing for each combination. Your registration fee includes a comprehensive, annotated manual that will be updated just before the seminar. Break refreshments are included in the registration fee. NOTE: Register early due to space availability. Registration is limited to 70 participants.

The seminars are held on Monday from 1:00 am to 5:00 pm, and Tuesday from 8:00 am to noon. Registrants may attend one or both days. On Monday, Professor McEowen will speak about farm and ranch income tax. On Tuesday, Professor McEowen will cover farm and ranch estate and business planning. Your registration fee includes comprehensive annotated seminar materials for the days attended.

The seminar registration fees are $90 (one day) and $150 (two days). After February 28, 2007, the registration fees are $125 (one day) and $200 (two days). respectively.

These seminars are sponsored by Iowa State University. Full information is available online at www.extension.iastate.edu/agdm/wdlegalandtaxes.HTML. Contact Paula Beckman, Agricultural Law, Iowa State University, 206 Curtiss Hall, Ames, IA 50011-1050 Tel: 515-294-6924 Fax: 515-294-0700 E-mail: pbeckman@iastate.edu