[4] *Id.*
[5] See I.R.C. § 162(a).
[6] See I.R.C. § 1221(a).
[7] I.R.C. § 1231(b)(1).
[8] *Id.*
[9] See Rev. Rul. 70-64, 1970-1 C.B. 36.
[10] Farmland Industries v. Comm'r, T.C. Memo. 1999-388.
[11] *Id.*
[12] *Id.*
[13] Rev. Rul. 74-24, 1974-1 C.B. 244; Rev. Rul. 71-439, 1971-2 C.B. 321.
[14] See I.R.C. § 1221(a).
[15] I.R.C. § 165(g).
[16] I.R.C. § 166(a).
[17] I.R.C. § 166(e).
[18] Morton v. Comm'r, 38 B.T.A. 1270, Dec. 10,517 (non-acq.); Peake v. Comm'r, 10 TCM 577 (1951).
[19] I.R.C. § 165(g)(1). See Treas. Reg. § 1.165-5(c) (requiring that the security be "wholly worthless at any time during the taxable year").
[20] *Id.*
[21] Treas. Reg. § 1.165-5(c).
[22] Treas. Reg. § 1.165-5(b).
[23] Treas. Reg. § 1.165-5(c).
[24] I.R.C. § 1221(a).
[25] 1970-1 C.B. 36.
[26] *Id.*
[27] *Id.*
[28] *Id.*
[29] See Arkansas Best Corp. v. Comm'r, 485 U.S. 212 (1988).
[30] I.R.C. § 165(g).
[31] I.R.C. § 166(a).
[32] I.R.C. § 166(a)(1).
[33] Treas. Reg. § 1.166-1(c).
[34] *Id.*
[35] I.R.C. § 166(a)(2).
[36] Treas. Reg. § 1.166-5(a). See, e.g., Scagliotta v. Comm'r, T.C. Memo. 1996-498 (taxpayer expected to receive some distribution from bankruptcy estate; not worthless in year at issue).
[37] See I.R.C. § 166(d)(2). See 5 Harl, *Agricultural Law* § 39.05[3][b] (2002).
[38] I.R.C. § 166(d)(2).
[39] Note 37 *supra* and accompanying text.
[40] Treas. Reg. § 1.166-5(a).
[41] Treas. Reg. § 1.165-5(c).
[42] See I.R.C. § 166(d)(2).
[43] Treas. Reg. § 1.166-5(a).
[44] I.R.C. § 166(a)(2).
[45] Treas. Reg. § 1.166-2(c).
[46] *Id.*
[47] I.R.C. § 166(a)(2).

CASES, REGULATIONS AND STATUTES

by Robert P. Achenbach, Jr.

ADVERSE POSSESSION

ABANDONED RIGHT-OF-WAY. The parties' lands were separated by a railroad right-of-way. The defendant's title covered land on both sides of the right-of-way, including a small strip on the plaintiff's side. The plaintiffs and their predecessors in interest had farmed all the land up to the right-of-way for over 20 years when the railroad abandoned the tracks and right-of-way. The railroad abandoned the tracks five years before the defendant purchased the defendant's land and the defendant discovered the true boundary a few years later. The defendant argued that the plaintiff could not acquire title to the disputed land because the plaintiff had no idea that the land did not belong to the plaintiff. Essentially, the defendant argued that the plaintiff needed a specific intent to claim ownership of land which the plaintiff knew belonged to someone else in order for the plaintiff's possession to be hostile and give rise to passage of title by adverse possession. The court held that no such specific intent was required in Missouri. The plaintiff was only required to treat the land as the plaintiffs' for the specified time, 10 years, in order for hostile possession to occur. In addition, because the plaintiff had adversely possessed the disputed land for more than 10 years before the right-of-way was abandoned, the plaintiff also acquired one-half of the right-of-way. **Kohler v. Bolinger, 70 S.W.2d 616 (Mo. Ct. App. 2002)**.

BANKRUPTCY

GENERAL-*ALM* § 13.03.*

DISCHARGE. The debtor entered into an agreement with a creditor to allow the creditor to cut timber from the debtor's land in exchange for money. After the creditor cut a substantial amount of timber, the debtor claimed that the contract limited the cutting to 119 trees and prevented the creditor from cutting any more trees. The creditor sued in state court and obtained a judgment in the creditor's favor. After the debtor filed for bankruptcy, the creditor sought to have the judgment declared nondischargeable, under Section 523(a)(2)(A), as obtained through fraud. The court held that the claim was based upon a breach of contract dispute and lacked any intent to defraud the creditor; therefore, the judgment was not nondischargeable. ***In re* Smith, 281 B.R. 613 (Bankr. W.D. 2002)**.

FEDERAL TAX-*ALM* § 13.03[7].*

ADEQUATE PROTECTION. The debtor was in the construction business and sought permission to incur debt in

order to complete several construction projects. The debtor sought to borrow the money from a new creditor and provide that creditor with a priority security interest in the projects for the amount of the loan. The IRS had filed tax liens against the debtor's property and had a priority security interest in the project properties. The IRS objected to the additional credit request because it did not adequately protect the IRS lien. The court held that the additional credit and security interest could not be allowed because the debtor did not provide the IRS with an equivalent of the IRS' priority tax lien after the credit was obtained and the priority security interest was granted. The court noted that the debtor did not provide any cash payments or substitute liens to compensate the IRS for the loss. ***In re* Seth, 281 B.R. 150 (Bankr. D. Conn. 2002)**.

ENVIRONMENTAL LAW

CLEAN WATER ACT. The defendants owned and operated several salmon farms near the Maine coast. The plaintiffs brought an action under the Clean Water Act (CWA) alleging that the defendants' farms released pollutants such as non-North American native salmon, salmon feces, salmon urine, fish feed, cypermethrin, copper, pathogens, parasites, and antibiotics into waters covered by the CWA without a National Pollution Discharge Elimination System (NPDES) permit. The court held that the above substances qualified as pollutants and the farms were concentrated aquatic animal production facilities prohibited from discharging pollutants without a NDPES permit in violation of the CWA. **United States Public Interest Research Group v. Atlantic Salmon of Maine, LLC, 215 F. Supp.2d 239 (D. Me. 2002)**.

FEDERAL AGRICULTURAL PROGRAMS

BEEF CHECKOFF. The plaintiffs were cattle ranchers who produced grass-fed beef which is free of hormones, subtheraputic antibiotics, chemical additives, extra water and irradiation. The plaintiffs objected to having to pay checkoff assessments required by the Beef Promotion and Research Act, 7 U.S.C. §§ 2901-11, and regulations, 7 C.F.R. § 1260, in that the advertisements funded by the program did not differentiate between beef products produced by the plaintiffs' method and beef produced by other methods. The plaintiffs argued that the checkoff program constituted compelled speech and compelled association in violation of the plaintiffs' First Amendment rights. The defendants argued that the advertisements were government speech and not subject to constitutional scrutiny. The court noted the pervasive regulation and management of the beef check off and advertising and research programs by the USDA and held that the USDA had sufficient control over the advertising to make it government speech. The court also held that the beef promotion advertising was non-ideological, content-oriented government speech which did not violate free speech or free association rights. The court held that the government could use private individuals and entities to disseminate government speech. As an alternate holding, the court held that, if the advertising was not government speech but was merely commercial speech, the advertising was constitutional because (1) it was not misleading, (2) involved a substantial governmental purpose, (3) advanced the governmental purpose, and (4) was no more extensive than reasonably needed to promote the governmental purpose. Finally, the court noted that the advertising program provided for alternative advertising proposals, such as advertising beef produced by the plaintiffs' methods. The plaintiffs would have rights of redress within the program's regulations if the proposal was improperly denied. **Charter v. USDA, No. CV 00-198-BLG-RFC (D. Mont. Nov. 1, 2002)**.

DISASTER ASSISTANCE. The plaintiffs were farmers who suffered livestock losses and applied for disaster livestock assistance for 1997. The plaintiffs also owned interests in partnerships and corporation which owned and operated tobacco warehouses. The warehouses sold tobacco for other producers under bailments. Under 7 C.F.R. § 1477.106(f) disaster assistance was not available if a producer had more than $2.5 million in gross revenue, and the regulations included in that revenue, "pass-through funds" such as the plaintiffs received from the sale of the tobacco and passed through to the producer. The plaintiffs challenged the regulations as exceeding the statutory authority and as unreasonable, arbitrary, and capricious. The court held that the Congress provided broad authority to the USDA to promulgate regulations that determined the eligibility of farmers for the disaster aid. Although the court recognized that there were other methods of determining qualifying income levels, the court upheld the regulations as permissible within the broad statutory criteria. The court pointed out that the gross revenue definition was easier to administer and prevented fraud. **McDaniels v. United States, 300 F.3d 407 (4th Cir. 2002)**.

FARM AND RANCH LANDS PROTECTION PROGRAM. The CCC has issued proposed regulations implementing the Farm and Ranch Lands Protection Program (FRPP). The Farm Security and Rural Investment Act of 2002 repealed the Farmland Protection Program (FPP), established by the Federal Agriculture Improvement and Reform Act of 1996, and authorized a new farmland protection program called the FRPP to both distinguish it from the repealed program and to better describe the types of land the program seeks to protect. Under the FRPP, the Secretary of Agriculture, acting through the Natural Resources Conservation Service (NRCS), is authorized, on behalf of the CCC and under its authorities, to purchase conservation easements for the purpose of protecting topsoil by limiting nonagricultural uses of the land. NRCS proposes to continue to administer FRPP using the same request for application process to announce funding availability that it has used since authorization of the Farmland Protection Program in 1996. **67 Fed. Reg. 65907 (Oct. 29, 2002)**.

FARM PROGRAMS. The CCC has issued final regulations which implement Section 1613 of the Farm Security and Rural Investment Act of 2002 relating to relief to participants in certain cases for certain FSA and CCC programs. The relief applies to cases where the applicant for relief took action to the

applicant's detriment based on incorrect information from departmental officials. Also, relief is provided where the applicant in good faith failed to fully comply with program requirements. The regulations also address changes in the so-called "90-day finality rule" that applies to some of the same programs, to implement the statutory requirement that the agencies provide relief to producers who took action to their detriment based on bad information from officials. **67 Fed. Reg. 66304 (Oct. 31, 2002)**.

MEAT. The plaintiffs were an individual and a farm sanctuary organization which sought a injunction under the Federal Meat Inspection Act (FMIA) against the slaughter of "downed livestock" and the sale of the meat from such animals. The plaintiffs alleged that these actions endangered them to exposure to bovine spongiform encephalopathy (BSE), commonly known as mad cow disease. The plaintiffs also alleged aesthetic injury from investigating allegations of cruelty to downed livestock. The court held that the alleged injuries were too remote and speculative to give the plaintiffs standing and that the alleged injuries were not within the zones of interest of the FMIA. **Farm Sanctuary, Inc. v. Veneman, 212 F. Supp.2d 280 (S.D. N.Y. 2002)**.

MILK. The CCC has announced that 200,000 metric tons of nonfat dry milk in CCC inventory will be made available for donation overseas under section 416(b) of the Agricultural Act of 1949, as amended during fiscal year 2003. **67 Fed. Reg. 66382 (Oct. 31, 2002)**.

PAYMENT LIMITATIONS. The CCC has issued proposed regulations which implement provisions of the Farm Security and Rural Investment Act of 2002 regarding limits on the income of persons eligible for program participation. The regulations set forth the criteria to be applied in determining whether certain income limits have been exceeded by an individual or entity and thus making such individual or entity ineligible for certain CCC commodity and conservation program benefits. The proposed rule provides that, for individuals, CCC will use the adjusted gross incomes reported by the individual in the prior three years to the IRS and a comparable amount for all other entities such as corporations, limited partnerships, and charitable institutions. **67 Fed. Reg. 65738 (Oct. 28, 2002)**.

PORK CHECKOFF. The plaintiffs were family farmers and associations of family farmers who objected to assessments for the federal and state pork checkoff program. The plaintiffs objected to being forced to participate in a program which benefited processors and retailers who did not contribute to the program and objected to being included with other producers who used methods of raising the hogs that the plaintiffs did not use. In particular the plaintiffs objected to the factory hog farms and the method used to make lean pork which was touted in the advertisements. Thus, the plaintiffs argued that the checkoff program violated their free speech and association rights under the First Amendment. The defendants argued that the pork advertisements were government speech not subject to constitution scrutiny. Although the court noted the same pervasive involvement of the USDA in the pork checkoff program, the court held that there was no government speech involved and that the program was a self-help process which was funded by the USDA checkoff program. The court held that the program was an unconstitutional infringement of the plaintiffs' free speech and association rights in that they were forced to pay for advertisements with content with which they had philosophical, political and commercial disagreement. The court granted an injunction against the checkoff program, subject to a 30 day delay to give the defendants an opportunity to file an appeal. **Michigan Pork Producers v. Veneman, No. 1:01-CV-34 (W.D. Mich. Oct. 25, 2002)**.

FEDERAL ESTATE AND GIFT TAX

GENERATION SKIPPING TRANSFERS. For calendar year 2003, the generation-skipping transfer tax exemption under I.R.C. § 2631, which is allowed in determining the "inclusion ratio" defined in I.R.C. § 2642, is $1,120,000. **Rev. Proc. 2002-70, I.R.B. 2002-46**.

GIFTS. For calendar year 2003, the first $11,000 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. **Rev. Proc. 2002-70, I.R.B. 2002-46**.

GROSS ESTATE. The decedent had owned stock in a closely-held corporation and transferred much of the stock by inter vivos gifts to the decedent heirs. The donees executed transferee liability agreements which set the gift tax value of the stock and under which the donees agreed to pay any additional gift tax if the stock was valued at an amount greater than the value set by the agreement. The remainder of the stock was redeemed by the company for a promissory note which was transferred to a trust. The note was also guaranteed by the donees. The note and trust provided for payment of any gift or income taxes resulting from the redemption and gifts. The gift taxes were paid by the trust. The IRS assessed additional gift taxes resulting from valuing the stock at a higher value. The additional taxes were also paid by the trust. The court held that the gift tax paid on the gifts of stock was included in the decedent's estate. The court also held that the gift tax was not reduced by any consideration received by the decedent because the donees' agreement to pay taxes was not bona fide. **Estate of Armstrong v. Comm'r, 119 T.C. No. 13 (2002)**.

INSTALLMENT PAYMENT OF ESTATE TAX. For an estate of a decedent dying in calendar year 2003, 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 $1,120,000. **Rev. Proc. 2002-70, I.R.B. 2002-46**.

MARITAL DEDUCTION. The decedent's will funded a credit shelter trust for the surviving spouse, funded with property equal in value to the remaining unified credit. The will also created a marital trust with the remainder of the estate. The estate executor made the QTIP election for both trusts on the estate tax forms. The estate sought a ruling that the QTIP election as to the credit shelter trust would be treated as a nullity by the IRS because the election was unnecessary since

the credit shelter trust would not be subject to tax. The IRS ruled that the QTIP election as to the credit shelter trust would be ignored for estate tax purposes. **Ltr. Rul. 200243030, July 25, 2002**.

SPECIAL USE VALUATION. For an estate of a decedent dying in calendar year 2003, 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 that is taken into account for purposes of the estate tax may not exceed $840,000. **Rev. Proc. 2002-70, I.R.B. 2002-46**.

FEDERAL INCOME TAXATION

ACCOUNTING METHOD. The IRS has adopted as final regulations amending the rules for using the unit livestock-price method of accounting. A taxpayer using the unit-livestock-price method must annually reevaluate its unit prices and must adjust the prices upward to reflect increases in the costs of raising livestock. The final regulations allow taxpayers to both increase and decrease unit prices without obtaining the consent of the Commissioner. The regulations also clarify that a livestock raiser that uses the unit-livestock-price method may elect to remove from inventory after maturity an animal raised for draft, breeding, or dairy purposes and treat the inventoriable cost of such animal as an asset subject to depreciation. **67 Fed. Reg. 65697 (Oct. 28, 2002), amending Treas. Reg. § 1.471-6**.

The IRS has issued a notice which clarifies and modifies certain provisions in Rev. Proc. 2002-37, I.R.B. 2002-22, 1030, Rev. Proc. 2002-38, I.R.B. 2002-22, 1037, and Rev. Proc. 2002-39, I.R.B. 2002-22, 1046, which provide procedures for obtaining approval of an adoption, change, or retention of an annual accounting period. The notice provides that: (1) certain entities with required taxable years that must concurrently change their annual accounting period as a term and condition for the approval of a related taxpayer's change of annual accounting period must do so under the applicable automatic approval procedures notwithstanding any limitations in those procedures to the contrary or any conflicting testing date provisions; (2) the IRS will not apply the rule in section 5.06 of Rev. Proc. 2002-38, under which less than 100 percent ownership of an S corporation by a tax-exempt entity is disregarded for purposes of determining the S corporation's ownership taxable year, to require any S corporation to change its annual accounting period in any taxable year beginning before January 1, 2003; (3) a partnership that is allowed, under section 4.01(5) of Rev. Proc. 2002-38, to retain its current taxable year for one year in the case of a minor, temporary percent change in ownership may also apply to retain its current year, or to change to any other taxable year for which it can establish a business purpose, under Rev. Proc. 2002-38 or Rev. Proc. 2002-39, whichever is applicable; (4) an interest in a pass-through entity that does not meet section 4.02(2)(c) of Rev. Proc. 2002-37 may still be disregarded under the de minimis test in section 4.02(2)(d) of that revenue procedure; and (5) the exception to the terms and conditions provided in each of the revenue procedures respecting record keeping and book conformity pertains to books and records kept for financial statement, and not tax, purposes. **Notice 2002-72, I.R.B. 2002-__**.

CHARITABLE DEDUCTION. A charitable organization entered into an agreement with a for-profit car dealer to have the car dealer accept cars as donations to the charitable organization. The agreement makes the car dealer an agent of the organization for this purpose. The value of the cars is established by a pricing guide used in the used car industry. The IRS ruled that the donation of cars through the car dealer was eligible for a charitable deduction based on the value determined using the pricing guide. **Rev. Rul. 2002-67, I.R.B. 2002-__**.

CORPORATIONS-*ALM* § 7.02.*

CONTRIBUTIONS. The taxpayers were members of one family who had operated a farm as a joint venture. The taxpayers incorporated the farm, with each member contributing assets subject to liabilities. The corporation assumed the liabilities but the taxpayers retained personal liability for the liabilities assumed by the corporation. Because the assumed liabilities exceeded the taxpayers' basis in each asset, the IRS assessed tax for the gain, measured by the difference between the basis of each asset and the liability assumed by the corporation for that asset. The gain was long-term or short-term, depending upon the holding period for each asset. The taxpayers argued that the gain should not be recognized because the taxpayers remained personally liable for the corporate debt. The taxpayers sought to characterize the personal liability as similar to a loan to the corporation from the shareholders. The court rejected this characterization and held that the taxpayers recognized gain from the contribution of property to the corporation with assumed liabilities in excess of the taxpayers' basis. See Harl "Debt in Excess of Basis," 12 *Agric. L. Dig*. 105 (2001). **Seggerman Farms, Inc. v. Comm'r, 2002-2 U.S. Tax Cas. (CCH) ¶ 50,728 (7th Cir. 2002), *aff'g*, T.C. Memo. 2001-99**.

DUES. For taxable years beginning in 2003, 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 $122. **Rev. Proc. 2002-70, I.R.B. 2002-46**.

EDUCATION LOANS. . For taxable years beginning in 2003, the $2,500 maximum deduction for interest paid on qualified education loans under I.R.C. § 221 is reduced under I.R.C. § 221(b)(2)(B) when modified adjusted gross income exceeds $50,000 ($100,000 for joint returns), and is completely eliminated when modified adjusted gross income is $65,000 ($130,000 for joint returns). **Rev. Proc. 2002-70, I.R.B. 2002-46**.

INTEREST. The IRS has issued a reminder to taxpayers of the deductibility of some costs associated with home mortgages. For itemizing taxpayers, the "points" paid to obtain a home mortgage may be deductible as mortgage interest in the year paid. However, points paid solely to refinance a home

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mortgage usually must be deducted in the tax year paid over the life of the loan, determined by dividing the points paid by the number of payments to be made over the life of the loan. However, if part of the refinanced mortgage money was used to finance improvements to the home and if the taxpayer meets certain other requirements, the points associated with the home improvements may be fully deductible in the year the points were paid. Further, if a homeowner is refinancing a mortgage for a second time, the balance of points paid for the first refinanced mortgage may be fully deductible at pay off. Other closing costs, such as appraisal fees and other noninterest fees, are generally not deductible. Taxpayers also should note that the amount of their adjusted gross income can affect the amount of deductions they can take. For more information on deductions related to refinancing, taxpayers should visit www.irs.gov, Frequently Asked Questions (keyword: refinancing fees), or review Publication 936, "Home Mortgage Interest Deduction." Tax Topic 504, "Home Mortgage Points," and Tax Topic 505, "Interest Expenses," also provide valuable information. Note that *Huntsman v. Comm'r, 905 F.2d 1182 (8th Cir. 1990)* provided a limited opportunity for deducting points on refinancing of a home mortgage. However, IRS will not follow that case outside the Eighth Circuit Court of Appeal area. *AOD 1991-02*. **IR-2002-114.**

PENSION PLANS. For plans beginning in November 2002, the weighted average is 5.58 percent with the permissible range of 5.02 to 6.14 percent (90 to 120 percent permissible range) and 5.02 to 6.70 percent (90 to 110 percent permissible range) for purposes of determining the full funding limitation under I.R.C. § 412(c)(7). **Notice 2002-74, I.R.B. 2002-__**.

RETURNS. The IRS has announced the publication of Form 709-A (Rev. October 2002), United States Short Form Gift Tax Return; Form 1040 (Schedule E), Supplemental Income and Loss, and instructions; Form 1040 (Schedule F) (2002), Profit or Loss From Farming, and instructions; Form 1040 (Schedule H) (2002), Household Employment Taxes; Form 1040A (2002), U.S. Individual Income Tax Return, and instructions; and Form 1040EZ (2002), Income Tax Return for Single and Joint Filers With No Dependents, and instructions; Form 2688 (2002), Application for Additional Extension of Time To File U.S. Individual Income Tax Return; Form 4868 (2002), Application for Automatic Extension of Time To File U.S. Individual Income Tax Return; Form 4952 (2002), Investment Interest Expense Deduction; Form 8615 (2002), Tax for Children Under Age 14 With Investment Income of More Than $1,500, and instructions; Form 8810 (2002), Corporate Passive Activity Loss and Credit Limitations; Form 8829 (2002), Expenses for Business Use of Your Home. These publications can be obtained by calling 1-800-TAX-FORM (1-800-829-3676); they are also available on the IRS's web site at www.irs.gov.

TAX ON SOCIAL SECURITY BENEFITS-*ALM* § 4.06.* The taxpayer had wage income in 1999 and also received social security benefits in 1999. The taxpayer did not report the social security benefits as income nor pay any tax on the social security benefits. The taxpayer later learned that the taxpayer had received overpayments of the social security benefits and argued that the 1999 social security benefits should not be included in income because the benefits were subject to repayment. The court held that the possibility of repayment did not affect the taxpayer's obligation to report the 1999 social security benefits in 1999 income. The court noted that if the social security benefits are repaid by the taxpayer, a deduction could be available in the year repaid. **Purcell v. Comm'r, T.C. Summary Op. 2002-144**.

TAX RATES. The standard deductions for 2003 are $7,950 for joint filers, $7,000 for heads of households, $4,750 for single filers and $3,975 for married individuals who file separately. The income limit for the maximum earned income tax credit is $4,990 for taxpayers with no children, $7,490 for taxpayers with one child, and $10,510 for taxpayers with two or more children. The IRS also announced the inflation adjusted tax tables and other inflation adjusted figures for 2003. The personal exemption is $3,050. For taxable years beginning in 2003, the personal exemption amount begins to phase out at, and is completely phased out after, the following adjusted gross income amounts:

Filing Status	AGI – Beginning of Phaseout	AGI Above Which Exemption Fully Phased Out
I.R.C. § 1(a)	$209,250	$331,750
I.R.C. § 1(b)	$174,400	$296,900
I.R.C. § 1(c)	$139,500	$262,000
I.R.C. § 1(d)	$104,625	$165,875

Rev. Proc. 2002-70, I.R.B. 2002-46.

CITATION UPDATES

***In re* Forman Enterprises, Inc., 281 B.R. 600 (Bankr. W.D. Penn. 2002)** (net operating losses) see p. 163 *supra*.

***In re* Starlink Corn Products Liability Litigation, 212 F. Supp.2d 828 (N.D. Ill. 2002)** (genetically modified seed) see p. 167 *supra*.

IN THE NEWS

GENETICALLY MODIFIED ORGANISMS. Oregon voters soundly defeated, 70 percent to 30 percent, a voter initiative to require labeling of all non-restaurant foods that contain any genetically modified organisms (GMOs). The grocery industry has indicated that 70 percent of all processed foods contain some GMOs. The biotech food industry waged a $5 million media campaign against the labeling law. Supporters of the initiative spent only $200,000 and indicated that they would seek a similar initiative in two years. The initiative was also criticized for requiring labeling where the GMO content was as little as 0.1 percent. In Europe, GMO labeling is required where the GMO content is 1 percent or more, although Europe is considering reducing the requirement to 0.5 percent. **Register Guard, Eugene, OR (Nov. 6, 2002)**.

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