

CASES, REGULATIONS AND STATUTES

by Robert P. Achenbach, Jr

BANKRUPTCY

GENERAL

DISCHARGE. A creditor had issued four Forms 1099-C listing discharge of indebtedness income amounts forgiven on loans to the debtor. The debtor filed for bankruptcy just after two of the forms were issued and more than six months after the other two forms were issued. The debtor argued that the loans were not allowed as bankruptcy claims because the Forms 1099-C demonstrated that the loans were forgiven prior to the bankruptcy case. The court held that the Forms 1099-C were not sufficient alone to prove forgiveness of the loans prior to the bankruptcy filing. *In re Zilka*, 2009-2 U.S. Tax Cas. (CCH) ¶ 50,589 (Bankr. W. D. Pa. 2009).

ESTATE PROPERTY. The debtor's father had purchased farm land with the father's own funds but had the debtor and the debtor's brother placed on the title as joint tenants with right of survivorship in order to facilitate passage of title in the event of the father's death. The father leased the land to tenants and received all income from the property and paid all expenses. The debtor listed a one-third interest in the property in the bankruptcy schedules and admitted the same interest in a creditors' meeting. The court held that the debtor held only bare legal title in the land and that the father held all equitable title; therefore, no interest in the land passed to the debtor's bankruptcy estate. *In re Kasperek*, 2009 Bankr. LEXIS 2140 (Bankr. D. Kan. 2009).

CHAPTER 12

ELIGIBILITY. The debtors, husband and wife, owned 50 acres on which existed a residence, barns and indoor horse arena. The debtors operated a horse breeding, raising, training and selling operation and also boarded horses belonging to others. The debtors also raised cattle on the property and property leased from others. The FSA objected to the debtors' filing for Chapter 12, arguing that the debtors did not meet the definition of family farmer because most of their income came from the boarding and training of horses. The court acknowledged a split of authority on the issue but held that the raising of horses met the definition of farming operation because the debtor faced the same inherent risks of someone who raised other types of livestock. However, the court held that the training and boarding of horses provided more of a service and was not subject to the same risks as raising of livestock; therefore, the debtors failed to qualify for Chapter 12 because most of their income came from the training and boarding of horses and other non-farm wages. *In re Poe*, 2009 Bankr. LEXIS 2068 (Bankr. N.D. W.V. 2009).

FEDERAL FARM PROGRAMS

NATIONAL AQUATIC ANIMAL HEALTH PLAN. The APHIS has announced that a National Aquatic Animal Health Plan (NAAHP) for the United States is being made available for public review and comment. The NAAHP was developed by a Task Force led by the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department Agriculture, the Fish and Wildlife Service (FWS) of the U.S. Department of the Interior, and the National Marine Fisheries Service (NMFS) of the National Oceanic and Atmospheric Administration of the U.S. Department of Commerce. It is anticipated that this plan will provide a framework for how APHIS, FWS, and NMFS should develop programs for diseases that affect the health of aquatic animals such as finfish, crustaceans, and mollusks. **74 Fed. Reg. 42225 (Aug. 21, 2009).**

STORAGE FACILITY LOANS. The CCC has adopted as final regulations amending the Farm Storage Facility Loan (FSFL) and Sugar Storage Facility Loan (SSFL) regulations to implement provisions of the Food, Conservation, and Energy Act of 2008 (the 2008 Farm Bill). The 2008 Farm Bill adds hay and renewable biomass as eligible FSFL commodities, extends the maximum loan term to 12 years, and increases the maximum loan amount to \$500,000. The regulations also add fruits and vegetables (including nuts) as eligible facility loan commodities and add cold storage facilities as eligible facilities pursuant to discretionary authority in the 2008 Farm Bill. The final regulations amend the regulations to clarify requirements for loan security and to allow for a partial loan disbursement during construction if certain conditions are met. **74 Fed. Reg. 41581 (Aug. 18, 2009).**

FEDERAL ESTATE AND GIFT TAXATION

ESTATE PROPERTY. The decedent had wanted to shield the decedent's bequests to children from possible loss to divorces and other claims. The decedent formed a family limited partnership (FLP) and had all but completed funding of the partnership with bonds when the decedent died. Although the estate filed an estate tax return which included the bonds in the decedent's estate, the estate sought a refund based on the bonds actually transferred to the FLP. The court held that the transfer of the bonds was completed under state law; therefore, the bonds were FLP property and not included in the estate. The court also held that the transfer was for full and adequate consideration and was made for a legitimate business purpose, the protection of family

assets; therefore, the bonds were not included in the estate under I.R.C. §§ 2036, 2038. **Keller v. United States, 2009-2 U.S. Tax Cas. (CCH) ¶ 60,579 (S.D. Texas 2009).**

GENERATION-SKIPPING TRANSFERS. The decedent and spouse had established an irrevocable trust for the benefit of their children and grandchildren. The trust authorized the trustee to divide any trust or trust share created under the trust “so that some portion thereof will have an inclusion ratio of zero and the other portion thereof an inclusion ratio of one for federal generation skipping transfer tax purposes, or such that the transferor or transferors of such portions, for federal generation skipping transfer tax purposes, may be deemed to be different persons.” The trust was funded with cash. An accounting firm prepared and timely filed the decedent’s Form 709, United States Gift (and Generation-Skipping Transfer) Tax reporting the transfer to the trust but failing to allocate the decedent’s GST exemption to the transfer. In preparing the Form 706 for the decedent’s estate, the accounting firm discovered the failure to allocate the decedent’s GST exemption to the transfer to the trust. It was represented that there were no GST transfers from the trust. The IRS granted an extension of time to make the election to allocate the decedent’s GST exemption to the transfer. **Ltr. Rul. 200934027, May 4, 2009.**

The decedent had created a inter vivos trust which became irrevocable on the decedent’s death, which occurred prior to December 27, 1995. The trust provided that, on the death of the decedent, the trust was to be split between a marital and family trust. Both trusts were funded and the executor elected to treat the marital trust as QTIP under I.R.C. § 2056(b)(7) but also elected a reverse QTIP election for purposes of GST. The estate’s estate tax return preparer allocated the GST exemption to both trusts. The return preparer also failed to advise the executor or the trustee of the marital trust to split the marital trust into a GST exempt and GST nonexempt marital trust and failed to advise the executor of the election provided in Treas. Reg. § 26.2652-2(c). The IRS granted an extension of time to make the election to split the marital trust into two trusts such that one of the trusts would have an exclusion ratio of zero. **Ltr. Rul. 200934036, April 29, 2009.**

VALUATION. The taxpayer established an LLC and did not elect to have the LLC taxed as a corporation for federal income tax purposes. After funding the LLC with cash and marketable securities, the taxpayer transferred a 9.5 percent interest in the LLC to trusts for the taxpayer’s children and sold a 40.5 percent interest in the LLC to the trusts in exchange for a promissory note. The taxpayer reported the gift of the LLC interests and discounted their value by 30 percent. The IRS rejected the valuation and treated the gifts as transfers of a 9.5 interest in the LLC assets because the LLC was a disregarded entity. The court held that the check-the-box regulations did not apply for gift tax purposes and upheld the taxpayer’s treatment of the gifts as transfers of interests in the LLC. **Pierre v. Comm’r, 133 T.C. No. 2 (2009).**

FEDERAL INCOME TAXATION

ACCOUNTING METHOD. The IRS has issued a revenue procedure which amplifies, clarifies, and modifies *Rev. Proc. 2008-52, 2008-2 C.B. 587*, which provides procedures for taxpayers to obtain automatic consent for the changes in method of accounting described in its appendix. This revenue procedure also clarifies and modifies *Rev. Proc. 97-27, 1997-1 C.B. 680*, as amplified and modified by *Rev. Proc. 2002-19, 2002-1 C.B. 696*, as amplified and clarified by *Rev. Proc. 2002-54, 2002-2 C.B. 432*, and as modified by *Rev. Proc. 2007-67, 2007-2 C.B. 1072*, which provides the general procedures for obtaining non-automatic consent for changes in method of accounting. **Rev. Proc. 2009-39, I.R.B. 2009-38.**

CAPITAL GAIN. The taxpayers were shareholders of an S corporation which sued another corporation for misappropriation of trade secrets and sought damages for lost profits, lost opportunities, operating losses and expenditures. The parties reached a settlement and the taxpayers claimed that the settlement proceeds were capital gains and not ordinary income because the settlement proceeds were compensation for injury to the corporation’s trade secret. The court held that the proceeds were ordinary income because the settlement represented payment for lost profits as identified in the lawsuit petition. **Freda v. Comm’r, T.C. Memo. 2009-191.**

CHARITABLE DEDUCTION. The IRS has published the top ten things the IRS wants every taxpayer to know before deducting charitable donations:

- Charitable contributions must be made to qualified organizations to be deductible. You can ask any organization whether it is a qualified organization and most will be able to tell you. You can also check IRS Publication 78, which lists most qualified organizations. IRS Publication 78 is available at IRS.gov.
- Charitable contributions are deductible only if you itemize deductions using Form 1040, Schedule A.
- You generally can deduct your cash contributions and the fair market value of most property you donate to a qualified organization. Special rules apply to several types of donated property, including clothing or household items, cars and boats.
 - If your contribution entitles you to receive merchandise, goods, or services in return – such as admission to a charity banquet or sporting event – you can deduct only the amount that exceeds the fair market value of the benefit received.
 - Be sure to keep good records of any contribution you make, regardless of the amount. For any contribution made in cash, you must maintain a record of the contribution such as a bank record – including a cancelled check or a bank or credit card statement – a written record from the charity containing the date and amount of the contribution and the donor’s name, or a payroll deduction record.
 - Only contributions actually made during the tax year are deductible. For example, if you pledged \$500 in September but paid the charity only \$200 by Dec. 31, your deduction would be

\$200.

- Include credit card charges and payments by check in the year they are given to the charity, even though you may not pay the credit card bill or have your bank account debited until the next year.

- For any contribution of \$250 or more, you must have written acknowledgment from the organization to substantiate your donation. This written proof must include the amount of cash and a description of any property you contributed, and whether the organization provided any goods or services in exchange for the gift.

- To deduct charitable contributions of items valued at \$500 or more you must complete a Form 8283, Noncash Charitable Contributions, and attached the form to your return.

- An appraisal generally must be obtained if you claim a deduction for a contribution of noncash property worth more than \$5,000. In that case, you must also fill out Section B of Form 8283 and attach the form to your return.

For more information see IRS Publication 526, Charitable Contributions, and for information on determining value, refer to Publication 561, Determining the Value of Donated Property. These publications are available on the IRS Web site, IRS.gov or by calling 800-TAX-FORM (800-829-3676). **Summertime Tax Tip 2009-21.**

CASUALTY AND THEFT LOSSES. Here are ten things the IRS wants you to know about deducting casualty or theft losses.

- You may not deduct casualty and theft losses covered by insurance unless you file a timely claim for reimbursement. You must reduce your loss by the amount of the reimbursement.

- A casualty does not include normal wear and tear or progressive deterioration from age or termite damage.

- The damage must be caused by a sudden, unexpected or unusual event like a car accident, fire, earthquake, flood or vandalism.

- If your property is not completely destroyed or if it is personal-use property, the amount of your casualty or theft loss is the lesser of the adjusted basis of your property, or the decrease in fair market value of your property as a result of the casualty or theft, reduced by any insurance or other reimbursement you receive or expect to receive.

- If business or income-producing property, such as rental property, is completely destroyed, the amount of your loss is your adjusted basis in the property minus any salvage value, and minus any insurance or other reimbursement you receive or expect to receive.

- To claim a casualty or theft loss, you must complete Form 4684, Casualties and Thefts, and attach it to your return. Generally, you may claim casualty or theft loss of personal use property only if you itemize deductions on Form 1040, Schedule A. However, you can deduct a 2008 or 2009 net disaster loss from a federally-declared disaster even if you do not itemize your deductions.

- If the property was held by you for personal use, you must further reduce your loss by \$100. This \$100 reduction for losses of personal-use property applies to each casualty or theft event that occurred during the year other than 2009. For 2009,

individuals must reduce their casualty and theft losses for personal-use property by \$500 instead of \$100. This \$500 reduction for losses of personal-use property applies to each casualty or theft event.

- The total of all your casualty and theft losses of personal-use property usually must be further reduced by 10 percent of your adjusted gross income. The 10 percent AGI limitation does not apply to net disaster losses resulting from federally declared disasters in 2008 and 2009.

- In figuring your loss, do not consider the loss of future profits or income due to the casualty.

- Casualty losses are normally deductible only in the year the casualty occurred. But if you have a deductible loss from a federally declared disaster you can choose to deduct that loss on your tax return for the previous year. If you have already filed your return for the preceding year, you can claim the loss on the previous year tax return by filing an amended return. See Publication 547, *Casualties, Disasters and Thefts*. **Summertime Tax Tip 2009-17.**

DEPRECIATION. The IRS has issued a notice of a proposed revenue ruling concerning the depreciation of tangible assets that are used in converting corn to fuel grade ethanol. The proposed revenue ruling concludes that the appropriate depreciation classification for these assets is asset class 49.5, Waste Reduction and Resource Recovery Plants, of *Rev. Proc. 87-56, 1987-2 C.B. 674*, as clarified and modified by *Rev. Proc. 88-22, 1988-1 C.B. 785*, for purposes of determining depreciation under I.R.C. § 168. This conclusion is based on the asset class description, the applicable definition of biomass, and the fact that conversion of biomass into a liquid fuel is the primary business activity and use of the facility. It is expected that this depreciation classification would apply to assets placed in service on or after the publication of a final revenue ruling. Consequently, the IRS will not require taxpayers to adopt this depreciation classification for tangible assets used in converting biomass to a liquid fuel such as fuel grade ethanol that are placed in service prior to the publication of a final revenue ruling. **Notice 2009-64, I.R.B. 2009-36.**

DISASTER LOSSES. On August 13, 2009, the President determined that certain areas in Iowa 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 storm which began on July 10, 2009. **FEMA-1854-DR.** On August 14, 2009, the President determined that certain areas in Kentucky are eligible for assistance from the government under the Act as a result of severe storms and flooding, which began on August 4, 2009. **FEMA-1855-DR.** Accordingly, taxpayers in the areas may deduct the losses on their 2008 federal income tax returns. See I.R.C. § 165(i).

DISCHARGE OF INDEBTEDNESS. The IRS has issued a revenue procedure providing guidance under Section 1231 of the American Recovery and Reinvestment Tax Act of 2009 that allows a taxpayer to defer recognizing cancellation of indebtedness income from the reacquisition of an applicable debt instrument in 2009 or 2010. An electing taxpayer defers the income for up to five taxable years and recognizes the income ratably over the next five taxable years. If a taxpayer makes the election and acquires the applicable debt instrument generating the COD income for a new debt instrument with original issue discount, interest deductions

for the OID generally also are deferred. The revenue procedure tells taxpayers the time and manner for making the election and includes specific procedures for partnerships, S corporations, tiered pass-through entities, and foreign entities. **Rev. Proc. 2009-37, I.R.B. 2009-36.**

INTEREST RATE. The IRS has announced that, for the period October 1, 2009 through December 31, 2009, the interest rate paid on tax overpayments remains at 4 percent (3 percent in the case of a corporation) and for underpayments remains at 4 percent. The interest rate for underpayments by large corporations remains at 6 percent. The overpayment rate for the portion of a corporate overpayment exceeding \$10,000 remains at 1.5 percent. **Rev. Rul. 2009-27, I.R.B. 2009-39.**

NET OPERATING LOSSES. The IRS has published a reminder that time is running out for many small businesses wishing to take advantage of the expanded business loss carryback option included in this year's recovery law. Eligible individuals have until Oct. 15 to choose this expanded carryback option. Eligible calendar-year corporations have until Sept. 15. This carryback provision offers small businesses that lost money in 2008 a way to quickly get some much needed cash if they were profitable in previous years. This option is only available for a limited time, so small businesses should consider it carefully and act before it's too late. Under the American Recovery and Reinvestment Act (ARRA), enacted in February, many small businesses that had expenses exceeding their income for 2008 can choose to carry the resulting loss back for up to five years, instead of the usual two. This means that a business that had a net operating loss (NOL) in 2008 could carry that loss as far back as tax-year 2003, rather than the usual 2006. Not only could this mean a special tax refund, but the refund could be larger, because the loss is being spread over as many as five tax years, rather than just two. This option may be particularly helpful to any eligible small business with a large loss in 2008. A small business that chooses this option can benefit by: (1) offsetting the loss against income earned in up to five prior tax years, (2) getting a refund of taxes paid up to five years ago, (3) using up part or all of the loss now, rather than waiting to claim it on future tax returns. Under ARRA, eligible taxpayers can choose to carry back a NOL arising in a taxable year beginning or ending in 2008 for three, four or five years instead of two. The option is available for an eligible small business (ESB) that has no more than an average of \$15 million in gross receipts over a three-year period ending with the tax year of the NOL. This choice may be made for only one tax year. Most taxpayers still have time to choose this special carryback and get a refund. A calendar-year corporation that qualifies as an ESB must file a claim by Sept. 15, 2009. For individuals, the deadline is Oct. 15, 2009. This includes a sole proprietor that qualifies as an ESB, an individual partner in a partnership that qualifies as an ESB and a shareholder in an S corporation that qualifies as an ESB. Deadlines vary for fiscal-year taxpayers, depending upon when their fiscal year ends and whether they are making the choice for the tax year that ends or begins in 2008. Individuals can accelerate a refund by filing Form 1045, *Application for Tentative Refund*. Similarly, corporations with NOLs may also accelerate a refund by using Form 1139, *Corporation Application for Tentative Refund*. Normally, refunds are issued within 45 days. These forms, along

with answers to frequently-asked questions about this special carryback, and other details can be found on the IRS Web site. **IR-2009-072.**

PARTNERSHIPS

ADMINISTRATIVE ADJUSTMENTS. The IRS filed a final partnership administrative adjustment more than three years after the partnership filed its return but less than three years after the partners filed individual income tax returns claiming net operating loss carryforwards based on the partnership return. The partnership claimed that the FPAA was barred by the three year limitation period of I.R.C. § 6501. The court held that I.R.C. § 6229 did not limit the assessment period for partnership items for which an individual partners' tax year was still open for assessments. **Curr-Spec partners, L.P. v. Comm'r, 2009-2 U.S. Tax Cas. (CCH) ¶ 50,578 (5th Cir. 2009), aff'g, T.C. Memo. 2007-289.**

PENSION PLAN. The taxpayer owned an interest in a governmental employee thrift savings plan. The taxpayer received an early, pre-age 59 1/2 distribution from the plan during a time when the taxpayer was suffering from mental distress due to employment difficulties. The taxpayer argued that the distribution was not subject to the 10-percent early withdrawal addition to tax because the distribution was made as a "financial hardship in-service withdrawal." The court held that the 10-percent addition to tax applied because there was no exception for financial hardship distributions. The court also refused to allow a disability exception under I.R.C. § 72(t)(2)(A)(iii) because, although the taxpayer demonstrated some evidence of mental stress at the time, the taxpayer remained employed, participated in management of a farm and other rental property. **Dollander v. Comm'r, T.C. Memo. 2009-187.**

SAFE HARBOR INTEREST RATES

September 2009

	Annual	Semi-annual	Quarterly	Monthly
	Short-term			
AFR	0.84	0.84	0.84	0.84
110 percent AFR	0.92	0.92	0.92	0.92
120 percent AFR	1.01	1.01	1.01	1.01
	Mid-term			
AFR	2.87	2.85	2.84	2.83
110 percent AFR	3.16	3.14	3.13	3.12
120 percent AFR	3.45	3.42	3.41	3.40
	Long-term			
AFR	4.38	4.33	4.31	4.29
110 percent AFR	4.82	4.76	4.73	4.71
120 percent AFR	5.27	5.20	5.17	5.14

Rev. Rul. 2009-29, I.R.B. 2009-37.

S CORPORATIONS

SHAREHOLDER INCOME. The taxpayer was a majority owner of an S corporation. The taxpayer entered into personal sales contracts with several companies. The S corporation was not a party to those contracts. The taxpayer did not report income from the contracts as personal taxable income and claimed that the income belonged to the corporation. The court refused to believe the testimony of the taxpayer and held that the commissions were

taxable income to the taxpayer. **Van Ryswyk v. Comm’r, T.C. Memo. 2009-189.**

TAX NOTICES. The IRS has issued a Tax Tip for taxpayers who receive a letter from the IRS: “Here are eight things every taxpayer should know about IRS notices – just in case one shows up in your mailbox.

- Don’t panic. Many of these letters can be dealt with simply and painlessly.
- There are number of reasons the IRS sends notices to taxpayers. The notice may request payment of taxes, notify you of a change to your account or request additional information. The notice you receive normally covers a very specific issue about your account or tax return.
- Each letter and notice offers specific instructions on what you are asked to do to satisfy the inquiry.
- If you receive a correction notice, you should review the correspondence and compare it with the information on your return.
- If you agree with the correction to your account, usually no reply is necessary unless a payment is due.
- If you do not agree with the correction the IRS made, it is important that you respond as requested. Write to explain why you disagree. Include any documents and information you wish the IRS to consider, along with the bottom tear-off portion of the notice. Mail the information to the IRS address shown in the upper left-hand corner of the notice. Allow at least 30 days for a response.
- Most correspondence can be handled without calling or visiting an IRS office. However, if you have questions, call the telephone number in the upper right-hand corner of the notice. Have a copy of your tax return and the correspondence available when you call to help us respond to your inquiry.
- It’s important that you keep copies of any correspondence with your records.

For more information about IRS notices and bills, see Publication 594, The IRS Collection Process. Information about penalties and interest charges is available in Publication 17, Your Federal Income Tax for Individuals. Both publications are available at IRS.gov or by calling 800-TAX-FORM (800-829-3676).” **Summertime Tax Tip 2009-22.**

TRAVEL EXPENSES. The General Services Administration has published the maximum per diem rates for locations within the continental United States for fiscal year 2010. The list increases or decreases the maximum lodging and meals and incidental expenses amounts in certain existing per diem localities, adds new per diem localities and removes some previously designated per diem localities. The standard lodging rate (where there is no specific rate listed) is \$70 per night; M&IE is \$46 per day (effective October 1, 2009). See <http://www.gsa.gov/perdiem>. **GSA Notice of Per Diem Bulletin 10-1, 2009 ARD 162-2 (Aug. 24, 2009).**

STATE REGULATION OF AGRICULTURE

VETERINARY MEDICINE. The plaintiff and defendant had entered into an oral contract to have the plaintiff perform heart

scans of thoroughbred horses that the defendant planned to purchase. The plaintiff charged that the defendant failed to pay the amounts agreed to when a horse scanned by the plaintiff won two major races and was sold for breeding. The defendant counterclaimed that the plaintiff violated Kentucky law by practicing veterinary medicine without a license. The issue was whether the performing of heart scans to provide advice as to the likelihood that a horse would perform well as a race horse was the practice of veterinary medicine under Kentucky law. The court held that the heart scans were not the practice of veterinary medicine because (1) the plaintiff never administered any medications; (2) the plaintiff was never involved in any treatment of a horse; (3) the plaintiff’s limited role was to identify racing prospects and advise which horses to buy and sell; (4) the defendant continued to retain other licensed individuals to handle all veterinarian related issues at the sales and elsewhere; and (5) heart scanning was extremely common in the horse racing industry, the Kentucky Board of Veterinary Licensure was aware of the practice, and has individuals at the thoroughbred auctions, but has never taken any administrative action to try to halt the practice. **Ramsey v. Lambert, 2009 Ky. App. LEXIS 125 (Ky. Ct. App. 2009).**

IN THE NEWS

IRS Features Recovery Tax Credits on YouTube, iTunes. The IRS announced the availability of video and audio products to help taxpayers take full advantage of the 2009 tax provisions in the American Recovery and Reinvestment Act. The IRS has launched a YouTube video site and an iTunes podcast site to better serve taxpayers. Taxpayers can visit the video site at www.youtube.com/irsvideos to view information about the Recovery, tax tips and how-to videos. These videos will be in English, Spanish, American Sign Language and other languages. The YouTube focus will be on the provisions of the American Recovery and Reinvestment Act. Videos will highlight the \$8,000 first-time homebuyer’s credit for those who purchase a house this year, the sales or excise tax deduction on new car purchases and the expanded credits for education and energy conservation. The IRS YouTube channel will debut with seven Recovery videos in English and ASL and eight in Spanish. Also, included will be a video on using the IRS Withholding Calculator. Many workers received the Making Work Pay tax credit in April through their tax withholding at work. However, people who have more than one job or working spouses should especially check their withholding to ensure neither too much nor too little is being withheld. Taxpayers can use the calculator to help determine if they should make adjustments. Taxpayers can visit the audio site at iTunes to listen to IRS podcasts about ARRA tax credits. Taxpayers without an iTunes account can hear those same podcasts, in English and Spanish, on IRS.gov’s Multimedia Center. **IR-2009-076.**



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.

Spend a week in Hawai'i in January 2010 and attend a world-class seminar on Farm Income Tax, Estate and Business Planning by Dr. Neil E. Harl. The seminar is scheduled for January 4-8, 2010 at Kailua-Kona, Big Island, Hawai'i, 12 miles south of the Kona International Airport.

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; involuntary 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 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@agrillawpress.com.