

sheeting to allow air to flow through the barn to dry and cure tobacco. The evidence at trial was conflicting as to the ease with which the barns could be moved, although the debtor testified that the debtor intended to move the barns if the debtor ever stopped growing tobacco. Both barns were destroyed by a wind storm. The debtor received insurance proceeds for the casualty loss which were made payable to the mortgagee bank and the operating loan bank. A third creditor obtained a judgment on a loan on which the debtor defaulted. All three creditors argued that the loan proceeds were subject to their security interests. The mortgagee bank argued that the barns were fixtures and part of the real property subject to the mortgage and the operating loan bank argued that the barns were personal property farm equipment. The court stated that the test for determining whether something was a fixture required analysis as to whether the item was (1) annexed, either actually or constructively, to the property; (2) adapted to the use/purpose of the property to which it is connected so as to materially affect its use; and (3) intentionally made a permanent part of the property to which it was annexed. The court held that the barns were fixtures and subject to the mortgage as real property because (1) the barns were attached to the property by concrete foundations, (2) the barns contributed to value and operation of the property as a farm, and (3) the debtor indicated that the barns were real property by listing them under

real property in the insurance policy. *In re Smith*, 2017 Bankr. LEXIS 4152 (Bankr. W.D. Ky. 2017).

IN THE NEWS

GOVERNMENT SHUTDOWN. The Office of the Federal Register (OFR) has announced that, in the event of an appropriations lapse, the OFR would be required to publish documents directly related to the performance of governmental functions necessary to address imminent threats to the safety of human life or protection of property. The OFR stated that, since it would be impracticable for the OFR to make case-by-case determinations as to whether certain documents are directly related to activities that qualify for an exemption under the Antideficiency Act, the OFR will place responsibility on agencies submitting documents to certify that their documents relate to emergency activities authorized under the Act. **82 Fed. Reg. 58028 (Dec. 8, 2017).**

Index to Volume 28

Adverse Possession

Boundary **59**
Fence **114**
Right-of-way **74**

Animals

Animal abuse **122**
Horses **10, 26, 90, 114**

Bankruptcy

General

Automatic stay **42, 178**
Avoidable transfers **91**
Conversion **106**
Discharge **10, 122**
Exemptions

Homestead **74**

Marshalling **130, 138**

Chapter 12

Automatic stay **34**
Cash collateral **83**
Discharge **11**
Dismissal **34, 130, 146**
Eligibility **83, 147**
Plan **147**

Sale of Chapter 12 property **170**

Federal Tax

Discharge **2**

Federal Estate and Gift Taxation

Allocation of basis for deaths in 2010 **19, 50, 147**
Applicable exclusion amount **19**
Closing letters **11**
GSTT **50**
Gift **35, 67, 123, 138**

Income-in-respect-of-decedent

Article by Harl **145**

IRA **36, 147**

Late-filed return penalty **43**

Life estates

Article by Harl **129**

Portability **3, 11, 20, 27, 36, 43, 51, 59, 67, 75, 83, 91, 98, 106, 115, 123, 131, 138, 147, 154**

Article by Harl **97**

Powers of appointment **154**

Article by Harl **41**

Refund **139**

Repeal of estate tax

Article by Harl **33**

Special use valuation **3, 139, 179**

Setup in basis

Article by Harl **1**

Tax lien **163**

Transfers with retained interests **83**

Trusts **3, 84, 99, 179**

Article by Harl **121**

Valuation **171**

Article by Harl **49, 73, 81, 113**

Federal Farm Programs

Barley **75**

Beans **84**

Beef **91**

Beef standards **107**

Cauliflower **91**

Crop insurance **107**

Farm program payment limitation **42**

Grain standards **99**

Inspection services **84**

Lentils **84**

Lumber **91**

Organic food **18, 27, 84, 115, 179**

Packers and Stockyards Act **2, 27, 171**

PACA **2**

Peanuts **91**

Plant pests **18**

Federal Income Taxation

Accounting method **123, 148, 163, 180**

Accounting period **36, 59, 67**

Additional Medicare tax **43**

Administrative appeals **123**

Adoption tax credit **51**

Alimony **3, 36, 85**

Business expenses **4, 124, 140, 163, 180**

Capital assets **107**

Capital expenses **4**

Capital gains **36**

Certified professional employer

organizations **92**

Charitable deduction **43, 75, 92, 99,**

107, 115, 131, 140, 148, 171

Child and dependent care tax credit **51**

Child tax credit **4**

Charitable organizations **28**

Child tax credit **28**

Cooperatives **108**

Corporations

Distributions **4, 155**

Dividends **155**

Entity classification **51, 67, 92**

Reorganizations **60, 116**

Article by Harl **9, 89**

Returns **27**

Court awards and settlements **12, 75,**

99, 156, 164

Deductions **124**

Dependants **12, 28, 60, 75, 132,**

- 149, 172**
 Depreciation **4, 52, 68, 75, 85**
 Article by Harl **17**
 Disability payments **116**
 Disaster losses **5, 28, 37, 52, 68, 85, 108, 116, 124, 140, 149, 156, 172**
 Disaster relief **140, 149**
 Discharge of indebtedness **20, 44, 85, 181**
 Earned income tax credit **5, 20, 52, 76, 124**
 Education expenses **52, 76, 172**
 Educators' expenses **164**
 Electricity production credit **68**
 Employee **76**
 Employee expenses **12, 21, 53, 85, 92, 108**
 Employment taxes **108**
 Energy credits **44**
 Enrolled agents **124**
 Foreclosure of tax lien **93**
 Foreign income **5, 68**
 Fuel tax credit **21**
 Fuel tax scams **29**
 Gambling income and losses **12, 132, 156, 164**
 Health flexible spending arrangements **181**
 Health insurance **21, 44, 76, 141, 172**
 Health savings accounts **77**
 Highway use tax **132**
 Hobby losses **5, 12, 93, 100, 109, 133**
 Home office **60, 86, 93**
 Income **109**
 Income of minors **142**
 Identity theft **164**
 IRA **29, 109, 165**
 Inflation adjustments **173**
 Information returns **12, 181**
 Innocent spouse relief **5, 29, 61, 93, 109, 117, 124, 142, 156**
 IRS assistance **94**
 IRS notices **69**
 IRS publications **13**
 Job hunting expenses **142**
 Legal expenses **29, 77, 117**
 Letter rulings **13, 86, 94**
 Levy **149**
 Like-kind exchanges **142, 157**
 Limited liability companies **69**
 Losses **77**
 Mediation **53**
 Medical expenses **30, 45**
 Medical marijuana **21, 125, 173**
 Mileage deduction **6**
 Mortgage interest **45, 78**
 Moving expenses **53, 133**
 Net operating losses **6**
 Offer in compromise **78**
 Parsonage allowance deduction **165**
 Partnerships
 Administrative adjustments **46, 100**
 Definition **165**
 Article by Harl **177**
 Election to adjust basis **6, 30, 37, 46, 78, 86, 101, 125, 165, 173, 181**
 Partner's basis **30**
 Partner's distributive share **6**
 Returns **143, 150**
 Small partnership exception **101**
 Article by Harl **25, 157**
 Parsonage income **21**
 Passive activity losses **7, 21, 30, 37, 53, 78, 94, 110, 133, 157, 182**
 Payroll tax credit **61**
 Penalties **70**
 Pension plans **7, 13, 30, 53, 70, 86, 101, 117, 150, 158, 166, 173, 183**
 Qualified debt instruments **7**
 Quarterly interest rate **7, 46, 101, 151**
 Refund **143, 166**
 Regulations **117**
 Rehabilitation credit **110**
 Rental income **118**
 Research credit **78**
 Research credit scams **30**
 Refunds **54**
 Returns **13, 31, 37, 54, 70, 174, 183**
 S Corporations
 Assignment of income **13**
 Charitable contributions **46**
 Hobby losses **14**
 Passive investment income **101, 111**
 Passthrough deductions **22**
 Shareholder basis **46**
 Shareholder distributive share **54**
 Termination **62**
 Safe harbor interest rates
 January 2017 **7**
 February 2017 **22**
 March 2017 **38**
 April 2017 **54**
 May 2017 **71**
 June 2017 **87**
 July 2017 **102**
 August 2017 **125**
 September 2017 **134**
 October 2017 **158**
 November 2017 **174**
 December 2017 **183**
 Sale of residence **125, 143**
 Sale of stock **126**
 Saver's credit **62, 183**
 Self-employment tax **158, 174**
 Article by Harl **153, 169**
 Social security benefits **38**
 Summer jobs **118**
 Tax collection **46**
 Tax Fraud **94**
 Tax liens **159**
 Tax payments **86**
 Tax protester **38**
 Tax returns **126, 134**
 Tax return preparers **7, 102**
 Tax scams **31, 111**
 Tax shelters **7, 31, 94**
 Taxable income **62**
 Theft losses **87, 175**
 Tip income **62**
 Travel expenses **95, 126**
 Travel expenses **151**
 Unemployment benefits **47, 95, 127**
 Withholding taxes **38, 54, 62**
Insurance
 Coverage **55, 166**
 Covered vehicle **14**
 Employee **102**
Labor
 Agricultural employees **167**
 Seasonal and migrant agricultural workers **167**
Landlord and Tenant
 Agricultural lease **14**
 Damages **103**
 Sale of leasehold **63**
 Termination **47**
Negligence
 Landowner liability **95**
Nuisance
 Right-to-farm **103**
Probate
 Succession planning
 Article by Harl **161**
 Unharvested crop **175**
Property
 Boundary **15**
 Boundary Fences **135, 175**
 Foreclosure **87**
 Rule against perpetuities
 Article by Harl **105**
 Tax deeds **119**
 Trespass **175**
Secured Transactions
 Bailment versus financing arrangement **47**
 Lease or security interest **151**
 Mechanic's lien **47, 71**
 Priority **103**
State Regulation of Agriculture
 Property taxes **22**
State Taxation of Agriculture
 Feed trucks **55**
 Termination of agricultural use **87**
Trusts
 Ademption **79**
Veterinarians
 Negligence **31**
Workers Compensation
 Agricultural employee **135**
Zoning
 Agritourism **23**
 Nonconforming use **71**