FOOTNOTES

[1] Treas. Reg. § 25.2518-2(c)(4). See generally 6 Harl, Agricultural Law § 46.08 (1992).

[2] See Est. of Dancy v. Comm'r, 872 F.2d 84 (4th Cir. 1989) (surviving joint tenant disclaimed interest in money market account, stocks, bonds, and certificates of deposit).

[3] E.g., Ltr. Rul. 9106016, Nov. 8, 1990. See McDonald v. Comm'r, 853 F.2d 1494 (8th Cir. 1988) (relevant transfer for joint tenancy in land occurred at death of first joint tenant to die). See also Kennedy v. Comm'r, 804 F.2d 1332 (7th Cir. 1986) (joint tenancy in land acquired in 1953 when joint tenancy acquisitions constituted gift to non contributing joint tenant).

[4] Dec. 27, 1989.

[5] Jan. 25, 1989.

[6] Rev. Rul. 69-148, 1969-1 C.B. 226.

[7] *Id.*

[8] Ltr. Rul. 9218015, Feb. 5, 1992, see p. 91 *infra*; Ltr. Rul. 9140005, June 25, 1991; Ltr. Rul. 9135043, June 3, 1991; Ltr. Rul. 9135044, June 3, 1991 (ruling under reconsideration and IRS has indicated that it will issue a private letter ruling in early 1992 that will reverse Ltr. Rul. 9135044 although no such ruling has appeared); Ltr. Rul. 9106016, Nov. 8, 1990; Ltr. Rul. 9017026, Jan. 26, 1990.

[9] *Supra* note 3.

[10] Private communication, Garry Pearson, Grand Forks, North Dakota, March 2, 1992.

[11] April 18, 1988.

[12] *Id.*

[13] Treas. Reg. § 25.2511-1(h)(4). See Ltr. Rul. 8302020, Oct. 5, 1982.

[14] Treas. Reg. § 25.2511-1(h)(4). See Rev. Rul. 68-269, 1968-1 C.B. 399.

[15] Treas. Reg. § 25.2515-1(b).

[16] Treas. Reg. § 25.2515-2(a).

[17] I.R.C. § 2040(a).

[18] I.R.C. § 2040(b).

[19] Gollenstein v. U.S., 91-1 U.S. Tax Cas. (CCH) ¶ 60,088 (E.D. Ky. 1991).

[20] Treas. Reg. § 25.2518-2(c)(4)(i).

CASES, REGULATIONS AND STATUTES

by Robert P. Achenbach, Jr.

ADVERSE POSSESSION

POSSESSION. The disputed property was originally owned by a corporation which terminated in 1939. One of the remaining shareholders deeded the land to a son who rented and eventually deeded the property to the plaintiff. The plaintiff used the property as cattle pasture and allowed other ranchers to occasionally use the property as a resting place and for grazing. The court held that the plaintiff did not own the property through the deed from the corporation because the shareholder did not have the authority to transfer ownership. The court also held that the plaintiff had acquired title through adverse possession, continuous since the plaintiff started renting the property from the shareholder's son. The property so acquired included both the fenced and unfenced property because the only other uses of the unfenced property were by permission of the plaintiff. **Rice v. Hill City Stock Yards Co., 826 P.2d 1328 (Idaho Ct. App. 1990)**.

BANKRUPTCY

GENERAL

AVOIDABLE TRANSFERS. The debtor had inherited the right to receive payments under a promissory note and had assigned a number of those payments to a third party for cash. The debtor later assigned the remaining payments to the debtor's daughter for $10 while the debtor owed several creditors. The court held that the assignment of the remainder payments was a fraudulent transfer under state law and avoidable by the trustee. ***In re*** **Davis, 138 B.R. 106 (Bankr. M.D. Fla. 1992)**.

EXEMPTIONS.

OBJECTIONS. The debtor claimed exemptions for the debtor's interest in a profit sharing plan and an IRA. The trustee convened the first meeting of creditors on August 8, 1990, but at the end of the meeting, the trustee announced that the meeting was to be continued generally and reconvened at a later unspecified date. The trustee did not announce a date for another creditors' meeting and 15 months later filed objections to the debtor's exemption claims. The court held that a continued creditors' meeting was deemed concluded for Bankr. Rule 4003(b) purposes at the end of the meeting if the trustee, within 30 days after the creditors' meeting, does not set a specific date for a continuance. The court also held that a debtor's claimed exemptions would be allowed for failure of the trustee to object within 30 days after a creditors' meeting, even if the exemption claim does not have a good faith statutory basis. Note: the second holding was also reached by the U.S. Supreme Court in *Taylor v. Freeland & Kronz*, see p. 83 *supra*. ***In re*** **Levitt, 137 B.R. 881 (Bankr. D. Mass. 1992)**.

PENSION PLAN. The debtor claimed an exemption under Ind. Code § 34-2-28-1(a)(6) in the debtor's interest in an ERISA qualified profit sharing plan. Under the plan the debtor had the right to distribution in case of termination of employment or financial hardship and could borrow from the vested amount. The court held that the debtor's interest in the plan was property of the estate because the plan did not qualify as a spendthrift trust where the debtor had such access rights. The court held that ERISA did not provide a federal nonbankruptcy law exemption. The court also held that the Indiana exemption was pre-empted by ERISA. **Matter of VanMeter, 137 B.R. 908 (Bankr. N.D. Ind. 1992)**.

The debtor claimed an exemption under Wis. Stat. § 815.18(31) in the debtor's interest in an ERISA qualified profit sharing plan. Under the plan the debtor had the right to distribution in case of termination of employment or financial hardship and could borrow from the vested amount. The court held that the interest in the plan was excluded from the estate under ERISA as a federal nonbankruptcy law exemption. ***In re*** **Shaker, 137 B.R. 930 (Bankr. W.D. Wis. 1992)**.

POST-PETITION INTEREST. The debtor had executed a promissory note which provided payment of 10 percent interest on unmatured principal and 18 percent on matured unpaid principal. The debtor's Chapter 11 plan provided payment on the obligation and arrearage at 10 percent. The bankruptcy court held that *United States v. Ron Pair Enterprises, Inc., 489 U.S. 235 (1989)* required that the post-petition interest rate on oversecured claims was not set by any agreement between the parties; therefore, the court held that the federal judgment rate of 18 percent applied. The appellate court reversed, holding that *Ron Pair* did not concern the rate of interest to be charged and that the agreement between the parties would determine the applicable interest rate unless the court found that the equities allowed a different rate. The case was remanded for a determination of any equity issue which might affect the agreed upon interest rate. **Matter of Laymon, 958 F.2d 72 (5th Cir. 1992),** ***rev'g and rem'g unpub. D. Ct. dec. aff'g*****, 117 B.R. 856 (Bankr. W.D. Tex. 1989)**.

FEDERAL TAXATION

DISCHARGE. The debtor owed a tax liability for 1972 and 1973 which was nondischargeable because the debtor was found to have filed a fraudulent return for those years. The debtor was also assessed penalties for those taxes. The court held that the penalties were dischargeable under Section 523(a)(7)(B) because the penalties were assessed for taxes accruing more than three years before the debtor filed bankruptcy. **McKay v. U.S., 957 F.2d 689 (9th Cir. 1992)**.

The debtors filed for Chapter 13 bankruptcy within 240 days after the IRS had made assessments for taxes for 1982, 1983, and 1984. The debtors obtained a dismissal of the case one and a half years later and refiled 58 days after the dismissal. The court held that the taxes retained their priority status because the 240 day limitation under Section 507(a)(7)(a) was extended by I.R.C. § 6503(b) until six months after the dismissal of the first bankruptcy case. ***In re*** **West, 137 B.R. 1012 (D. Or. 1992); In re Worthen, 137 B.R. 1016 (D. Or. 1992)**.

DISMISSAL. The debtor had participated in a number of tax protest activities, including filing false W-4 forms and failing to file income tax returns. After the debtor filed for Chapter 13 bankruptcy, the debtor made several omissions as to income, assets and obligations. The IRS sought dismissal for lack of good faith filing. The court held that the pre-petition tax protest activity of the debtor was not relevant to the good faith filing issue but upheld the bankruptcy court dismissal as not clearly erroneous, based on the omission of wages, assets and obligations in the debtor's schedules and plan. **Matter of Love, 957 F.2d 1350 (7th Cir. 1992)**.

FEDERAL AGRICULTURAL PROGRAMS

FARM LOANS. The FmHA has issued an interim rule amending the regulations involving the sale of repossessed farm property to allow for declaration of suitable inventory property surplus 12 months after the date the property was first published for sale to family-size farm operators. **57 Fed. Reg. 19526 (May 7, 1992)**.

The FmHA has issued an interim rule amending the regulations involving the sale of repossessed farm property to define "beginning farmer or rancher" to give farm loan priority to qualified beginning farmers or ranchers who are also socially disadvantaged. **57 Fed. Reg. 19520 (May 7, 1992)**.

PESTICIDES. The AMS has issued proposed regulations adding new requirements for recordkeeping by certified applicators of federally restricted pesticides. **57 Fed. Reg. 20380 (May 12, 1992)**.

TUBERCULOSIS. The APHIS has issued interim regulations changing the status of Tennessee from a modified accredited state to an accredited-free state for purposes of the cattle and bison tuberculosis regulations. **57 Fed. Reg. 20193 (May 12, 1992)**.

FEDERAL ESTATE AND GIFT TAX

DISCLAIMERS. The decedent and surviving spouse had established a revocable trust, funded with community property, which was to pay the surviving spouse income and principal necessary for the care, maintenance and support of the surviving spouse. The parties also established a joint brokerage account, also funded with community property. The parties did not execute an agreement to divide the community property into separate property under Texas law. Since the date of the decedent's death, the spouse had not exercised any control over the brokerage account by directing sales or acquisitions of the account property. Within nine months after the decedent's death, the surviving spouse disclaimed the decedent's one-half interest in the account. The decedent's interest then passed to the trust and the surviving spouse disclaimed the power to alter, amend or revoke the trust and the general power of appointment as to this property. The IRS ruled that the disclaimers were effective. **Ltr. Rul. 9218015, Feb. 5, 1992**.

GENERATION SKIPPING TRANSFER TAX. In 1989, the grantor created irrevocable trusts for grandchildren. Each trust provided for distribution of all trust income annually to the beneficiary, with some distribution of corpus when the beneficiary reached age 40, 50 and 60. The beneficiaries had a general testamentary power of appointment over trust property. The grantor amended the trusts to allow the trustee discretion to purchase an automobile for each beneficiary every three years. The IRS ruled that the amendment would not subject the trusts to GSTT because the amendment would not alter the intended quality, quantity, or timing of interests under the original terms of the trust. **Ltr. Rul. 9218010, Feb. 2, 1992**.

The taxpayers established a trust with three equal shares, treated as separate trusts, for three grandchildren. The beneficiaries were to begin receiving trust income at age 21 and the trust terminated when each beneficiary reached age 30. The beneficiaries had the right to withdraw contributions to the trust, up to the annual exclusion amount, within 30 days after a contribution. As originally executed, the trust provided that if a beneficiary died before the trust share terminated, the beneficiary's share passed to other surviving grandchildren. The taxpayers had the trust amended to provide that the share of a deceased beneficiary passed to the beneficiary's estate. The IRS ruled that prior to the amendment, contributions to the trust were subject to GSTT; however, after the amendment, contributions equal to or less than the annual exclusion amount were not subject to GSTT. **Ltr. Rul. 9218040, Jan. 30, 1992**.

The decedents established in 1962 an irrevocable trust for themselves with a remainder to their daughter in the form of a fixed annuity. Although the annuity was intended to eventually consume the trust corpus, the remainder of the trust passed to the annuitant's children. The trust provided that the purpose of the trust was to provide for the security of the annuitant. The trustee obtained a state court construction of the trust to allow the trustee to increase payments to the annuitant and to pay the annuitant's substantial medical cost. The construction was granted because of the substantial increase in the trust corpus and the erosion of the purchasing power of the annuity payments from inflation. The IRS ruled that the construction of the trust allowing the increased payments would not cause the trust to be subject to GSTT because the construction did not alter the intended quality, quantity, or timing of interests under the original terms of the trust. **Ltr. Rul. 9218053, Jan. 30, 1992**.

A decedent had established two irrevocable trusts, in 1929 and 1950, which provided for equal shares of trust income and principal to three beneficiaries, the decedent's grandchildren, with remainders to the beneficiaries' issue. The trustee amended the trusts to partition the trusts into six equal trusts and retaining all other provisions of the original trusts. The IRS ruled that the partition of the trusts did not subject the trusts to GSTT and did not require recognition of gain or loss from division of the trusts' assets into the six separate trusts. **Ltr. Rul. 9218075, Jan. 31, 1992**.

GROSS ESTATE. Ten months before death, the decedent added the names of two daughters to the decedent's bank accounts. The daughters also opened a money market account in their and the decedent's names, but the decedent did not sign a signature card. The daughters wrote checks to each other and wrote several $10,000 checks to family members, although the checks were not delivered. The daughters served as executors and listed the $10,000 checks as debts of the estate. The court held that the bank accounts were included in the decedent's gross estate, the $10,000 checks were not deductible and the checks written by the daughters to each other were included in the gross estate because the checks were written without authorization from the decedent. **Est. of Stimson v. Comm'r, T.C. Memo. 1992-242**.

The decedent had established an intervivos revocable trust with the decedent as beneficiary. After the decedent became incompetent, the trustee had the trust amended to allow distributions to the decedent's spouse and heirs, and distributions were made within one year of the decedent's death. The IRS ruled that because the distributions were authorized by the trust, the distributions were included in the decedent's gross estate under I.R.C. §§ 2035(d)(2), 2038. **Ltr. Rul. 9219001, Jan. 24, 1992**.

MARITAL DEDUCTION. In filing Form 706 for an estate, the executor claimed a marital deduction for a trust eligible as QTIP and identified the trust but otherwise failed to properly complete Schedule M. The executor filed an amended Schedule M which properly made the election and filed for an extension of time to make the QTIP election. The IRS ruled that good cause and intent to originally make the election was shown and the extension was granted. **Ltr. Rul. 9218001, Oct. 1, 1991; Ltr. Rul. 9218025, Jan. 28, 1992; Ltr. Rul. 9218043, Jan. 30, 1992; Ltr. Rul. 9218044, Jan. 30, 1992; Ltr. Rul. 9218045, Jan. 30, 1992; Ltr. Rul. 9218048, Jan. 30, 1992; Ltr. Rul. 9218049, Jan. 30, 1992; Ltr. Rul. 9218050, Jan. 30, 1992; Ltr. Rul. 9218056, Jan. 30, 1992; Ltr. Rul. 9219028, Feb. 7, 1992**.

The decedent bequeathed a life estate in the decedent's share of the marital residence to the surviving spouse but the executor claimed the property as a regular marital deduction because the executor had believed that the property had passed in fee. The executor filed an amended Schedule M which properly made a QTIP election as to the property and filed for an extension of time to make the QTIP election. The IRS ruled that good cause and intent to originally make the election was shown and the extension was granted. **Ltr. Rul. 9218018, Jan. 23, 1992**.

The decedent bequeathed property in trust to the surviving spouse. The amount of property was limited to the amount "necessary to reduce the federal estate tax on the grantor's estate to zero if a qualified terminable interest election is made with respect to all of the property that passes to the marital trust." The IRS ruled that the funding of the marital trust was not contingent upon the trustee making a QTIP election; therefore, the marital trust was eligible for the marital deduction. **Ltr. Rul. 9218002, July 15, 1991**.

At the decedent's death, property in a revocable trust passed to a trust for the surviving spouse and a residuary trust for other heirs. The property in the marital trust was to equal one-third of the decedent's gross estate. The surviving spouse elected to take the statutory one-third share of the estate. The IRS ruled that the surviving spouse's interest in the trust was included in the statutory share for purposes of the marital deduction and that the entire elective share would be eligible for the marital deduction, even as to nontrust property. The estate used a state statutory presumption that the value of a surviving spouse's share of a trust was one-half the value of the entire trust. The IRS approved use of the statutory presumption where no adverse party objected. The IRS also ruled that the maintenance award by the probate court was not eligible for the marital deduction to the extent the award was not reasonable under the standards of *Est. of Radel v. Comm'r, 88 T.C. 1143 (1987), acq., 1987-2 C.B. 1.* **Ltr. Rul. 9219001, Jan. 24, 1992**.

The residue of the decedent's estate, less all allowed deductions for federal estate tax purposes except the martial deduction, passed to an intervivos trust. The surviving spouse was the beneficiary of one-half of the trust property, valued at one-half of the decedent's net estate. A portion of the decedent's estate consisted of income in respect of decedent. The IRS ruled that because the marital share was one-half of the net estate, the marital deduction was to be reduced by one-half of the IRD in computing the IRD deduction of I.R.C. § 691(c). **Ltr. Rul. 9219006, Jan. 31, 1992**.

VALUATION. The taxpayers transferred improved real property to their children for partial consideration of a promissory note at 7 percent interest. The property was zoned agricultural and the taxpayers argued that the value of the land for gift tax purposes should be based on agricultural use. The court held that the value of the property was based on the highest and best use as industrial property because (1) the property could be conceivably rezoned, (2) the surrounding properties were rezoned and used as industrial property, (3) the area surrounding the property was experiencing rapid growth, and (4) no development plans were needed for a rezoning. The taxpayers also argued that the safe harbor rate of I.R.C. § 483 applied to the value of the promissory note. The court held, as it had in *Ballard v. Comm'r, T.C.Memo. 1987-128, rev'd, 854 F.2d 185 (7th Cir. 1988) and Krabbenhoft v. Comm'r, 94 T.C. 887 (1990), aff'd, 939 F.2d 529 (8th Cir. 1991), cert. denied, ___ S.Ct. ___ (1992)*, that Section 483 did not apply for gift tax purposes. Instead, the court used the applicable federal rate under I.R.C. § 7872. **Frazee v. Comm'r, 98 T.C. No. 37 (1992)**.

The stock of a family corporation was divided into voting preferred shares, owned by the older generation; voting common stock, owned by the active younger generation; and nonvoting common stock, owned by the nonactive younger generation. Under the shareholder agreement executed in 1980, only shareholders active in the management of the corporation could hold voting stock. Under a new agreement, the preferred stock holders transferred their voting rights by proxy to the active shareholders. The active younger shareholders also agreed to equalize their ownership shares. The IRS ruled that the change in the agreement did not substantially change the rights of the shareholders in the original agreement and the stock was not subject to I.R.C. § 2703. **Ltr. Rul. 9218074, Jan. 31, 1992**.

FEDERAL INCOME TAXATION

ACCOUNTING METHOD. The taxpayer was a partnership providing veterinary services. About 50 percent of the business gross receipts were derived from the sale of supplies, medications, pet foods and livestock antibiotic food additives. The IRS ruled that because the items were tangible personal property held for sale and were income producing factors, the partnership had to account for the items by using inventories under Treas. Reg. §§ 1.471-1, 1.446-1(a)(4)(i). The IRS also ruled that the partnership had to use accrual accounting because cash accounting would not accurately reflect income in that a substantial amount of gross receipts were made on credit. **Ltr. Rul. 9218008, Jan. 9, 1992**.

INSTALLMENT REPORTING. As part of a corporation liquidation, the shareholder received a five year promissory note and wanted to report the income on the installment method. The shareholder's accountant erroneously informed the shareholder that the installment reporting method was not allowed and the income tax return for the year of the liquidation included all of the income from the note. The IRS ruled that because the shareholder's intent to use the installment method was frustrated by the erroneous advice, the shareholder was allowed to revoke the election out. **Ltr. Rul. 9218012, Feb. 3, 1992**.

PASSIVE ACTIVITY LOSSES. The IRS has issued proposed regulations governing the definition of "activity" for purposes of applying the limitation on passive activity losses and credits. The proposed regulations are a substantial revision of the temporary regulations previously issued, *Temp. Treas. Reg. § 1.469-4T*. The proposed regulations are effective only for taxable years ending on or after May 10, 1992, although a taxpayer may elect to apply the temporary election rules for any taxable year which includes May 10, 1992.

A trade or business activity is defined as a trade or business as defined in I.R.C. § 162, an activity conducted in anticipation of the commencement of a trade or business, and an activity involving research or experimental expenditures deductible under I.R.C. § 174. A trade or business activity does not include rental activities treated under Temp. Treas. Reg. § 1.469-1T(e)(3)(vi)(B) as incidental to holding property for investment. **Prop. Treas. Reg. § 1.469-4(b)(1)**.

One or more trade or business activities or rental activities may be grouped as a single activity if the activities constitute an economic unit for the measurement of gain or loss under I.R.C. § 469. In determining whether activities may be grouped together, a taxpayer may use any reasonable method of applying the relevant facts and circumstances. The proposed regulations provide a nonexclusive list of factors for grouping activities:

(1) similarities and differences in the types of businesses;
(2) extent of common control;
(3) extent of common ownership;
(4) geographical location; and
(5) interdependence of the activities.

Prop. Treas. Reg. § 1.469-4(c)(2).

A rental activity may not be grouped with another trade or business activity unless either one of the activities is insubstantial in relation to the other. **Prop. Treas. Reg. § 1.469-4(d)**. A rental activity involving real property may not be grouped with a rental activity involving personal property, except where the rental of personal property is included in the rental of the real property. **Prop. Treas. Reg. § 1.469-4(e)**.

A limited partner may not group an activity described in I.R.C. § 465(c)(1) or in a revenue procedure issued under the proposed regulations, unless the partner is also a limited partner in the other activity or the grouping is appropriate under the facts and circumstances test. **Prop. Treas. Reg. § 1.469-4(f)**.

Once activities have been grouped together for purposes of the passive activity rules, the activities may not be regrouped unless the original grouping was inappropriate or a material change makes the original grouping inappropriate. **Prop. Treas. Reg. § 1.469-4(g)**.

Activities involving an S corporation or partnership are to be grouped by the S corporation or partnership first, then the shareholders or partners may make their own groupings based upon their personal involvement with other activities by other entities. **Prop. Treas. Reg. § 1.469-4(j)**. **57 Fed. Reg. 20802 (May 15, 1992)**.

SAFE HARBOR INTEREST RATES

JUNE 1992

	Annual	Semi-annual	Quarterly	Monthly
Short-term				
AFR	4.95	4.89	4.86	4.84
110% AFR	5.45	5.38	5.34	5.32
120% AFR	5.96	5.87	5.83	5.80
Mid-term				
AFR	7.04	6.92	6.86	6.82
110% AFR	7.75	7.61	7.54	7.49
120% AFR	8.47	8.30	8.22	8.16
Long-term				
AFR	7.89	7.74	7.67	7.62
110% AFR	8.69	8.51	8.42	8.36
120% AFR	9.51	9.29	9.18	9.12

S CORPORATIONS

INADVERTENT TERMINATION. The IRS waived as inadvertent, the termination of the taxpayer's S corporation status resulting from the shareholder's transfer of stock to a charitable corporation. The S corporation had redeemed the shares from the charitable corporation. Upon learning that the transfer caused a termination of S corporation status, the parties reversed all transactions and the shareholder did not claim a charitable deduction for the year of the transfer. **Ltr. Rul. 9218052, Jan. 30, 1992**.

RIPARIAN RIGHTS

WATER USE APPLICATION. The plaintiff was an association of water users and in 1976 applied for a permit to construct a water diversion project on the Platte River. The original project was intended for irrigation and storage of water for irrigation, but over the succeeding years, the project was revised several times and finally included additional uses for conservation, wildlife and aquifer recharging. The application was denied because the project no longer had a clear commitment to the original purpose. The court upheld the denial, finding substantial evidence of the plaintiff's uncertainty as to the scope and purposes of the project. ***In re* Applications A-14137, A-14138A, 480 N.W.2d 709 (Neb. 1992)**.

STATE REGULATION OF AGRICULTURE

HERBICIDES. The plaintiff filed suit against the defendant county Weed and Pest Board for application of herbicide which contaminated the plaintiff's well water. The plaintiff did not serve notice on the Board directly but filed notice with the county Commissioners. The court held that the Weed and Pest Board was an independent governmental agency requiring separate notice of the action and that notice of the action to the county Commissioners was insufficient. The court allowed an action against the county Commissioners on the theory of negligent hiring of the Weed and Pest Board members. The court also held that the action was allowed against the county Commissioners because the plaintiff alleged that the county had waived governmental immunity by obtaining liability insurance. **Cranston v. Weston County Weed & Pest Board, 826 P.2d 251 (Wyo. 1992)**.

STATE TAXATION

AGRICULTURAL USE. The plaintiffs sought assessment of their 22 acres as agricultural land. Most of the land was used to breed Dutch Warmblood jumping horses by a corporation owned by the plaintiff. Although the business was fairly new, the plaintiff had many years of experience breeding jumping horses. On the date of assessment, the plaintiff owned 10 horses, including three pregnant mares, and rented space for seven other horses. The court held that the breeding operation met all of the requirements of Fla. Stat. § 193.461 to be assessed as agricultural land. **Aitken v. Markham, 595 So.2d 159 (Fla. Ct. App. 1992)**.