

12-19-1997

Index to Volume 8, Nos. 1-24

Agricultural Law Digest

Follow this and additional works at: <http://lib.dr.iastate.edu/aglawdigest>



Part of the [Agricultural and Resource Economics Commons](#), [Agricultural Economics Commons](#), [Agriculture Law Commons](#), and the [Public Economics Commons](#)

Recommended Citation

Agricultural Law Digest (1997) "Index to Volume 8, Nos. 1-24," *Agricultural Law Digest*: Vol. 8 : No. 24 , Article 3.
Available at: <http://lib.dr.iastate.edu/aglawdigest/vol8/iss24/3>

This Article is brought to you for free and open access by the Journals at Iowa State University Digital Repository. It has been accepted for inclusion in Agricultural Law Digest by an authorized editor of Iowa State University Digital Repository. For more information, please contact digirep@iastate.edu.

LIKE-KIND EXCHANGES. The taxpayer owned a one-third interest in real property, with the taxpayer's parent owning the other two-thirds. An unrelated third party contracted to purchase the full interest in the property and the taxpayer sought a suitable replacement property to create a like-kind exchange. The parent used the proceeds to purchase a second property which was used as a residence. The taxpayer was unable to find a suitable replacement property and restructured the sale of the original property as follows: (1) the taxpayer contracted to purchase the parent's property, (2) the taxpayer transferred all rights to the first property and the sales contract to a fourth unrelated party, (3) the taxpayer assigned the contract to purchase the parent's property to the fourth party, (4) the fourth party sold the first property to the third party, (5) the fourth party and the taxpayer paid the parent for the parent's property, and (6) the parent transferred the parent's property through the fourth party to the taxpayer. The IRS denied like-kind exchange treatment for the transaction, under I.R.C. § 1031(f), because the series of transactions was considered to be a sale between related parties, using the unrelated fourth party merely to change the form, but not the substance, of the transaction. Although the taxpayer stated that no tax avoidance was intended throughout the events involved, the IRS found that the sole purpose of the structure of the transactions was to qualify the taxpayer for like-kind exchange treatment for a related party sale which would otherwise not qualify. **Ltr. Rul. 9748006, Aug. 25, 1997.**

PENSION PLANS. For plans beginning in November 1997, the weighted average is 6.81 percent with the permissible range of 6.13 to 7.29 percent (90 to 109 percent permissible range) and 6.13 to 7.49 percent (90 to 110 percent permissible range) for purposes of determining the full funding limitation under I.R.C. § 412(c)(7). **Notice 97-69, I.R.B. 1997-48, 12.**

PREPRODUCTIVE EXPENSES. The IRS has announced that nursery plant growers, but not mere purchaser/resellers, may still take advantage of the farming business exception under I.R.C. § 263A(d). That statute allows growers of plants with preproductive periods of two years or less to deduct currently seed costs and preproductive costs and need not keep inventory and capitalized cost records. The announcement resulted from confusion which has arisen over whether nursery plant growers meet the definition of farmer under the proposed regulations under I.R.C. § 263A. The IRS stated that examples will be added to the regulations to illustrate these points. See p. 133 *supra*. **Ann. 97-120, I.R.B. 1997-50, ___.**

PRODUCTS LIABILITY

CATTLE FEED. The plaintiffs owned a dairy and purchased cattle feed from the defendant which the plaintiffs alleged caused health problems in their dairy herd. The plaintiffs sued for breach of implied warranty of merchantability, breach of the implied warranty of fitness for a particular purpose, strict liability and negligence. The plaintiffs claimed that the feed was moldy, damaged by insects and had too high a moisture content, causing the cows to become sick. The defendant claimed that the mold was a natural part of organic feed and that the problems were caused by the plaintiffs' poor management practices. The plaintiffs produced expert witnesses on the cause of the illnesses and the court found that the evidence demonstrated that the mold in the feed did cause some of the illnesses. The court held that the mold in the feed was a breach of the implied warranty of merchantability. The court also held that the moldy feed was not a breach of the implied warranty of fitness for a particular purpose because the feed was not specially formulated for the plaintiffs and the plaintiffs modified the feed with substances acquired from other sources. The court also denied the strict liability claim because the plaintiffs had seen the mold in the feed and had fed the feed to the cows after such notice and because mold was to be reasonably expected to exist in organic substances. The plaintiffs were awarded damages for the loss of cows, for the damage caused to the cow barn from the thrashing about of sick cows, and damages from emotional distress to the plaintiffs injured by sick cows. **Carpenter v. Land O'Lakes, Inc., 976 F. Supp. 968 (D. Or. 1997).**

WATER RIGHTS

DRAINAGE. The plaintiff owned the north half of a section of farm land separated by a gravel road from the southern half of the section owned by the defendants. After the plaintiffs' land was flooded by excessive rainfall, the plaintiffs sued to remove obstructions to the natural drainage across the two properties. The plaintiffs alleged that the defendants had blocked tubes located under the gravel road, increasing the flooding. The parties had agreed at trial to be bound by a survey of the properties and the plaintiffs sought a partial summary judgment that the survey demonstrated that the plaintiffs' property was the dominant drainage estate. The court held that the trial court's granting of the partial summary judgment was improper because the survey included only elevation figures and failed to answer all factual questions involving the natural drainage, the existence of prescriptive easements or permissive blockages. **Grace Hodgson Trust v. McClannahan, 569 N.W.2d 397 (Iowa Ct. App. 1997).**

Index to Volume 8, Nos. 1-24
Pages of current issue items and lead
articles by Harl in **bold.**

Adverse possession
Adverse Possession 163
Chain of title 17
Continuous possession 82

Permissive use 106, 179
Possession 98
Prescriptive easement 10
Animals

- Domesticated animals 124
 Horses 10, 66, 146, 163
 Res ipsa loquitur
Article by Harl 145
- Bankruptcy**
 General
 Automatic stay 74, 118, 130
 Avoidable liens 34
 Claims 139, 154
 Discharge 118
 Estate property 124
 Executory contracts 154
 Exemptions
 Avoidable liens 26, 98
 Cash 34
 Computer 124
 Earned income tax credit 26
 Homestead 66, 82, 170, 179
 Tools of the trade 26, 90
 Grain storage facility 66
 Liability of corporate officers 124
 Modification of plan 75
 Preferential transfers 26, 118
 Chapter 12
 Claim 83, 124
 Discharge 26, 34
 Dismissal 163
 Disposable income 2
 Eligibility 124, **186**
 Plan **186**
 Trustee 99
 Trustee fee 27, 35
 Chapter 13
 Disposable income 99
 Eligibility 179
 Federal taxation
 Administrative expenses 130
 Allocation of tax payments 50
 Assessment 10
 Avoidable lien 18, 179
 Automatic stay 2, 35, 58, 75, 83, 99, 107, 147, 155, 179
 Claims 18, 27, 35, 131
 Discharge 11, 19, 27, 35, 50, 58, 67, 75, 90, 99, 107, 124, 131, 147, 155, 164, 179
 Dismissal 3, 50, 67, 91, 99
 Estate property 11, 59, 67
 Jurisdiction 67
 Net operating losses 35
 Post-petition penalties and interest 155, 170
 Post-petition taxes 156
 Preferential transfers 139, **187**
 Refund 35, 156
 Returns 27, 125
 Setoff 3, 67, 99, 131, 170
 Tax lien 19, 156
- Contracts**
 Boars 75
 Breach of contract 131
 Breach of Warranty 139
 Hedge-to-arrive contracts 3, 83, 156, **187**
Article by Harl 153
 Infectious disease 35
 Nonacceptance of goods 50
 Nonconformance with contract 99
 Specific performance 180
- Cooperatives**
Article by Harl 169
 Piercing the corporate veil 147
 Securities 118
- Criminal law**
 Harassment of hunters 147
- Environment**
 Clean Water Act 107, 164
- Federal Agricultural Programs**
 Borrower's rights 19, 100
 Brucellosis 19, 27, 36, 107, 125, 148, 164, 180, **187**
 Conservation 36, 91
 Commodity futures 19
 Community loans 156
 Crop insurance 11, 20, 27, 36, 59, 67, 76, 83, 91, 100, 107, 125, 140, 148, 170, 180, **187**
 Disaster assistance 125, 131, 156, 164
 Disaster payments 36
 Farm Credit Administration **187**
 Farmland Protection Act 91
 Grain standards 36, 125, **187**
 Growth retardant 148
 Gypsy moth 107
 Herbicide 148
 Imports 27
 Meat and poultry inspection 36
 Milk marketing orders 170
 PACA 3, 51, 59, 107, 180
 Packers and Stockyards Act 100
 Peanuts 84, 148, 180, **188**
 Pesticides 91, 140, 164
 Plant quarantine 125
 Production loans 164
 Records 171
 Sugar 60, 108, 180
 Tobacco 51, 60, 84, 92, 101, 131
 Tuberculosis 3, 60, 84, 125, 148
 Warehouses 171
 Wetlands 37
- Federal Estate and Gift Tax**
 Administrative expenses 27, 125, 148
 Alimony payments 11
 Annual exclusion 84, 140
 Basis **188**
 Capital assets 140
 Charitable deduction 37, 68, 108, 119
 Claims against the estate 84
 Conservation easements 28
 Disclaimers 3, 37, 51, 68, 131, 165, 171, **188**
 Distributable net income 165
 Estate income 157
 Executor liability 28
 Family-owned business exclusion
Articles by Harl 137, 161, **185**
 Generation skipping transfers 60, 92, 171
 Gift 28, 68, 108, 140, 157
 Gross estate 28, 37, 51, 92, 101, 125
 Income in respect of decedent 84
 Installment payment of estate tax 76
- Insurance 181
 Interest 37
 IRA 52, 60, 101, 140, 171, 181
 Joint tenancy property 108
 Life insurance 28
 Marital deduction 11, 28, 37, 52, 76, 84, 92, 132, 140, 157
 Power of appointment 61, 92, 108, 125, 141, 157, 165, 172, 181
 Power of attorney 76
 Refund 85
 Returns 77
 Revocable transfers 141
 Special use valuation 29, 38, 68, 77, 85, 92, 101
Article by Harl 89
 Stepped-up basis 172
 Succession plan
Article by Harl 129
 Tax rate 126, 157
 Transferee liability 61
 Transfers with retained interests 77, 92, 108, 165
 Transfers with retained powers 141
 Trusts 69, 77, 141, 157, 165, 172
Article by Harl 57, 65, 105
 Unified credit 29
 Valuation 29, 38, 69, 77, 85, 93, 102, 109, 132, 142, 148
 Valuation of stock 172
- Federal Income Taxation**
 Accounting method 85
 Adoption expenses 12
 Allocation of basis 20
 Alternative minimum tax 132
Article by Harl 25
 Bad debt 61, 69, 102, 132, 149
 Below market interest loans 52
 Business expenses 61, 78, 93, 102, 132, 172
 C corporations
 Accounting method 38
 Accumulated earnings tax 181
 Constructive dividends 109, 166
 Contributions 93
 Definition 4, **188**
 Debentures
Article by Harl 97
 Reorganizations 4, 12, 38, 109
 Stock redemption 109
 Capital assets 12
 Capital expenses 85
 Capital gains 29, 85, 172
 Casualty losses 20, 29, 61, 69, 78, 109, 132, 181
Article by Harl 1
 Charitable deduction 38, 102, 119, 132
 Conservation easements 142, **188**
 Constructive dividends 30
 Constructive receipt 4
Article by Harl 9
 Cooperatives 20, 78, 132
 Court awards and settlements 12, 30, 53, 85, 119, 126, 133, 142, 157
 Depreciation 20, 61, 85, 109, **188**
Article by Harl 33

- Disaster areas 53, 149
 - Discharge of indebtedness 5, 12, 62, 110
 - Earned income tax credit 102
 - Article by Harl** 41, 73
 - Education expenses 5
 - Environmental cleanup costs 20, 53
 - Employer 69
 - Expenses 173
 - Exempt organizations 126
 - Farm Credit System 20
 - Field service advice memoranda 119
 - Gross income 62
 - Hedging 94
 - Hobby losses 30, 39, 53, 149, 157
 - Home office 133
 - Imputed interest 13
 - Income averaging 39
 - Article by Harl** 177
 - Installment reporting 5, 20
 - Article by Harl** 17
 - Insurance 5
 - Article by Harl** 49
 - Investment tax credit 86, 102
 - Involuntary conversions 110
 - Interest rate 93, 149, **189**
 - IRA 13, 21, 94, 150
 - Legal fee 174
 - Letter rulings 21, 53
 - Levy 53, **189**
 - Like-kind exchange 102, 166, 181, **189**
 - Listed property
 - Article by Harl** 81
 - Medicaid avoidance trusts 150
 - Mileage deduction 13
 - Net operating losses 21, 103
 - Partnerships
 - Definition 5, 69, 158
 - Discharge of indebtedness 158
 - Election 174
 - Limited liability companies 150
 - Partner's distributive share 133
 - Partner's basis 126
 - Partnership losses 78
 - Sale of partnership interest 69
 - Tax liens 78
 - Tax matters partner 5
 - Termination 86
 - Penalties 5, 13
 - Pension plans 6, 13, 30, 94, 103, 110, 126, 142, 150, 174, **189**
 - Prepaid expenses 110
 - Preproductive expenses 133, 182, **189**
 - Qualified debt instruments 13
 - Reporting 174
 - Research and development expenses 174
 - Returns 6, 14, 21, 30, 39, 53, 70, 126, 142
 - Return preparer liability 182
 - Returns 182
 - Safe harbor interest rates
 - January 1996 6
 - February 1996 22
 - March 1997 39
 - April 1997 62
 - May 1997 79
 - June 1997 94
 - July 1997 111
 - August 1997 119
 - September 1997 135
 - October 1997 150
 - November 1997 167
 - December 1997 183
 - S corporations
 - Accounting method 6
 - Banks 39
 - Basis 110
 - Built-in gains 62, 94, 110, 119, 126
 - Definition 6
 - Discharge of indebtedness 110, 150
 - Election 70, 126, 166, 174
 - Eligibility 175
 - Expenses 14
 - Hedging 94
 - Income and loss 158
 - Liquidation 182
 - Passive investment income 21, 54, 86, 94, 126
 - Reorganization 30, 62
 - Second class of stock 126, 142, 182
 - Self-employment income 158
 - Shareholders 14
 - Shareholder interest 6
 - Shareholder share 21
 - Shareholder's basis 127
 - Stock redemption 127
 - Termination 86
 - Trusts 54
 - Sale of residence 21, 30, 70, 78, 127, 150, 174
 - Sale or exchange 94
 - Self-employment income 6, 22, 70, 135
 - Social security benefits 70
 - Social security taxes 14, 182
 - Tax Court 22
 - Tax lien 62, 166
 - Taxpayer Relief Act of 1997
 - Article by Harl** 113, 121
 - Tax preparer 23
 - Tax rates 6
 - Tax shelter 111
 - Taxpayer rights 7
 - Travel expenses 14, 63, 70, 79, 86, 175, 183
 - Trusts 54, 70, 79, 86, 103
 - Water conservation systems 30
 - Withholding 111
- Labor**
- Agricultural exemption 151
 - Migrant agricultural labor 175
 - Wrongful discharge 111
- Landlord and Tenant**
- Breach of lease 23
 - Conservation reserve payments 14
 - Emblements 94
 - Lease 71, 183
 - Replacement lease 167
 - Termination 15
- Negligence**
- Attractive nuisance 159
 - Building 95
 - Electricity 54
 - Employer liability 127
 - Grain elevator 142
 - Safe workplace 31
 - Sale of livestock 86
 - Spread of plant virus 79
- Nuisance**
- Drains 79
 - Hog confinement facility 31
- Products Liability**
- Animal feed 167
 - Cattle feed 95, **189**
 - Corn head 175
 - Growth retardant 151
 - Herbicide 39, 103, 151
 - Pesticide 167
 - Pickup 86
 - Tractor 95
- Property**
- Boundaries 15
 - Easements 23
 - Partition 71
- Riparian Rights**
- Drainage 54
- Secured Transactions**
- Abandoned right-of-way 167
 - Attachment 7
 - Bailment 7
 - Continuation filing 87
 - Conservation reserve program payments 135
 - Conversion 87, 111
 - Deficiency 183
 - Federal farm products rule 63
 - Foreclosure sale 143
 - Landlord's lien 87
 - Pasture rents 127
 - Perfection 7, 55
 - Priority 143, 159, 183
 - Proceeds 63
 - Producer's lien 55
 - Warehouse 143
- State Regulation of Agriculture**
- Corporate ownership of agricultural land 127



LAST MINUTE RESERVATIONS STILL AVAILABLE



2d ANNUAL SEMINAR IN PARADISE



FARM ESTATE AND BUSINESS PLANNING by Dr. Neil E. Harl

January 5-9, 1998

Feeling the chill of winter in your bones yet? Spend a week in Hawai'i in January 1998 and re-warm yourself! Balmy trade winds, 70-80 degrees, palm trees, white sand beaches and the rest of paradise can be yours; plus a world-class seminar on Farm Estate and Business Planning by Dr. Neil E. Harl. The seminar is scheduled for January 5-9, 1998 at the spectacular ocean-front Hilton Waikoloa Village Resort on the Big Island, Hawai'i.

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 Estate and Business Planning: Annotated Materials* which will be updated just prior to the seminar.

Here are the major topics to be covered:

- Introduction to estate and business planning.
- Liquidity planning with emphasis on 15-year installment payment of federal estate tax.
- Co-ownership of property, including discounts, taxation and special problems.
- Federal estate tax, including alternate valuation date, special use valuation, family-owned business exclusion, handling life insurance, marital deduction planning, disclaimers, planning to minimize tax over deaths of both spouses, and generation skipping transfer tax.

- Gifts and federal gift tax, including problems with future interests, handling estate freezes, and "hidden" gifts.
- Income tax aspects of property transfer, including income in respect of decedent, installment sales, private annuities, self-canceling installment notes, and part gift/part sale transactions.
- Using trusts, including funding of revocable living trusts.
- Organizing the farm business--one entity or two, corporations, general and limited partnerships and limited liability companies.
- Ethics (2 hours).

The Agricultural Law Press has made arrangements for **group discount air fares** on United Airlines, available through Sun Quest Vacations. In addition, attendees are eligible for **substantial discounts on hotel rooms at the Hilton Waikoloa Village Resort**, the site of the seminar. Early registration is important to obtain the lowest airfares and insure availability of convenient flights at a busy travel time of the year.

The seminar registration fee is \$645 for current subscribers to the *Agricultural Law Digest* or the *Agricultural Law Manual*.

Call Robert Achenbach at 1-541-302-1958.

Feedlots 63, 87
Fertilizer 23
Livestock exhibitions 71
Manure application agreements 31
Milk 24, 79
State Taxation
Agricultural Credit Association 95
Agricultural land 143
Agricultural use 183
Cooperatives 95

Inheritance taxes 31
Producer's lien 8, 23
Timberland 55
Valuation 39
Trespass
Damages 71
Timber trespass 103
Water Rights
Drainage 189
Noncontributory rights 15

Underground streams 71
Workers' Compensation
Agricultural employee 31
Zoning
Agricultural use 32, 151
Livestock confinement facilities 143
Nonconforming use 15

