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Cases, Regulations, and Statutes

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[21] I.R.C. § 1022(d)(2).
[22] I.R.C. § 1022(b)(4).
[23] I.R.C. § 1022(b)(3)(A).
[24] I.R.C. § 1022(b)(3)(B).
[25] I.R.C. § 1022(d)(4)(A).
[26] I.R.C. § 1022(c)(2)(B).
[27] I.R.C. § 1022(c)(3).
[28] I.R.C. § 1022(c)(3)((A), (B).
[29] I.R.C. § 1022(c)(4)(C).
[30] I.R.C. § 1022(d)(1)(A).
[31] I.R.C. § 2040(b).
[32] I.R.C. § 1022(d)(1)(B)(i)(I).
[33] See I.R.C. § 2042(a).
[34] I.R.C. § 1022(d)(1)(B)(i)(II).
[35] E.g., Gallenstein v. United States, 975 F.2d 286 (6th Cir. 1992) (entire value entitled to new basis at death for husband-wife joint tenancy where husband provided consideration and preceded wife in death). See 5 Harl, *Agricultural Law* § 43.02[2][b][i] (2009); 1 Harl, *Farm Income Tax Manual* § 3.20[4][l][1][F][XIV][c] (2010 ed).
[36] Hahn v. Comm'r, 110 T.C. 140 (1998), *acq*. 2001-2 C.B. 319, AOD CC 2001-06.
[37] I.R.C. § 1022(d)(1)(B)(iv).
[38] I.R.C. § 1022(d)(1)(D).
[39] I.R.C. § 1022(d)(1)(B)(iii).
[40] I.R.C. § 1022(d)(1)(C).
[41] I.R.C. § 691(a).
[42] *Id*.
[43] I.R.C. § 1022(d)(1)(D)(i).
[44] I.R.C. § 1022(d)(1)(D)(ii).
[45] I.R.C. § 1022(d)(1)(D)(iii).
[46] I.R.C. § 1022(d)(1)(D)(iv).
[47] I.R.C. § 1022(g).
[48] I.R.C. § 121.
[49] I.R.C. § 121(d)(9).
[50] I.R.C. § 1040(a).

CASES, REGULATIONS AND STATUTES

by Robert P. Achenbach, Jr

ADVERSE POSSESSION

FENCE. The rural properties of the parties were separated by a crooked fence which was built as much as 30 feet on to the plaintiff's property such that more than 19 acres of the plaintiff's titled land was on the defendant's side of the fence. The evidence did not show when or by whom the fence was constructed, but the evidence did show that the fence had existed for over 70 years and that all previous property owners used their land up to the fence. The plaintiff had the plaintiff's property surveyed six years after purchasing the property and discovered the error in placement of the fence. When the defendant refused to allow the fenced to be moved to the actual property line, the plaintiff sued for quiet of title. The defendant argued that title had passed by boundary by agreement from the conduct of the previous and current owners who used their land up to the fence for various farming activities. The court agreed with the defendant and quieted title with the defendant based on the conduct of the owners of both properties over 70 years. **Flying Elk Investment, LLC v. Cornwall, 2010 Ida. LEXIS 72 (Idaho 2010)**.

BANKRUPTCY

FEDERAL TAXATION

IRS DISCLOSURES. The IRS has issued a Chief Counsel Notice advising, in question and answer format, employees in the Office of Chief Counsel on the scope of disclosures, under I.R.C. § 6103(h), of returns and return information, collectively "tax information," that may be made to the Department of Justice in bankruptcy cases. **CC-2010-009, May 11, 2010**.

CHILD TAX CREDIT. The debtor, a single parent with one minor child, filed for Chapter 7 on January 4, 2010 and filed the 2009 income tax return on February 24, 2010, claiming a refund. The refund was estate property except to the extent of any exemptions and the debtor sought to exclude the portion of the refund attributable to the child tax credit, arguing that the credit was received in trust for the debtor's child. The court rejected the treatment of the credit as held in trust, noting that no provision of bankruptcy law treated the credit as a trust. In addition, the court noted that the credit was already received by the debtor in that it reduced the tax liability; therefore, to exempt the credit from the refund would result in a double benefit to the debtor. The court held that the amount of the credit was not allowed as an exemption from the refund. ***In re* Parisi, 2010-1 U.S. Tax Cas. (CCH) ¶ 50,403 (Bankr. E.D. New York 2010)**.

CONTRACTS

HEDGE-TO-ARRIVE CONTRACTS. The plaintiff was a grain farmer who entered into four hedge-to-arrive (HTA) contracts for the sale of grain. The contracts stated the price, type and quantity of grain to be sold but did not provide for a specific delivery date or fees for rolling over the contracts to subsequent crop years. The plaintiff did roll over the HTAs several times and paid a fee for each extension but eventually failed to deliver any grain. The plaintiff sought a ruling that the HTAs were invalid futures contracts because they were not traded through an exchange registered by the Commodity Futures Trading Commission. The court found that, because the plaintiff was assessed a fee for rolling over the contracts and that such a fee would eventually force delivery, the parties intended for the crop to be delivered; therefore, the HTAs were not invalid as futures contracts. **Farmers Elevator Co. of Oakville, Inc. v. Hamilton, 2010 Ind. App. LEXIS 701 (Ind. Ct.**

App. 2010).

FEDERAL FARM PROGRAMS

CONSERVATION RESERVE PROGRAM. The CCC has issued interim regulations amending the Conservation Reserve Program (CRP) regulations to add provisions for incentives to retired or retiring owners or operators to transition land enrolled in CRP to a beginning or socially disadvantaged farmer or rancher for production. The Transition Incentives Program involves new and mandatory provisions for CRP authorized by the Food, Conservation, and Energy Act of 2008 (2008 Farm Bill). Retired or retiring owners or operators of land enrolled in an expiring CRP contract who sell or lease their expiring CRP land to a beginning or socially disadvantaged farmer or rancher for the purpose of returning some or all of the land into production using sustainable grazing or crop production methods in compliance with the required conservation plan will, if otherwise approved for the Transition Incentives Program, receive CRP payments for an additional two years after the contract expires if the new or socially disadvantaged farmer is not a family member. **75 Fed. Reg. 27165 (May 14, 2010)**.

FARM CREDIT. The Farm Credit Administration has issued proposed regulations amending its rules on loan policies and operations to permit FCS institutions with direct lending authority to purchase from the FDIC loans to farmers, ranchers, producers or harvesters of aquatic products and cooperatives that meet eligibility and scope of financing requirements. This action would allow the FCS to provide liquidity and a stable source of funding and credit for borrowers in rural areas affected by the failure of their lending institution. **75 Fed. Reg. 27660 (May 18, 2010)**.

TREE ASSISTANCE PROGRAM. The CCC has adopted as final regulations implementing specific requirements for the Tree Assistance Program (TAP) authorized by the Food, Conservation, and Energy Act of 2008 (the 2008 Farm Bill). TAP provides disaster assistance to eligible orchardists and nursery tree growers to replant or rehabilitate trees, bushes, and vines that were lost due to natural disaster. Orchardists and nursery tree growers who commercially raise trees, bushes, and vines for which there were mortality losses in excess of 15 percent, after adjustment for normal mortality, are eligible for TAP payments. Eligible losses must have occurred between January 1, 2008, and September 30, 2011. The final rule specifies how the TAP payments are calculated and when producers may apply for benefits and also removes regulations for prior tree disaster assistance programs. **75 Fed. Reg. 25103 (May 7, 2010)**.

FEDERAL ESTATE AND GIFT TAXATION

ALTERNATE VALUATION. The decedent's estate hired an accountant to prepare the estate tax return. The accountant did not file the return with any election to use the alternate valuation date election under I.R.C. § 2032. Within one year after the filing of the return, the accountant discovered the error and an amended return with the election was filed. The IRS granted an extension of time to file the election. **Ltr. Rul. 201019002, Dec. 15, 2009**.

GIFTS. The taxpayers, husband and wife, owned a vacation home and transferred each's one-half interest to two separate trusts. The taxpayers discounted the value of each interest by 30 percent for the partial interests. The court held that the value of each interest could be discounted 17 percent to account for the risk of marketabilty and costs of partition. **Ludwick v. Comm'r, T.C. Memo. 2010-104**.

The taxpayer owned $4.5 million in stocks, mutual funds and marketable securities and wanted to transfer them to a child and grandchild with minimal gift tax. The taxpayer formed a single-member family LLC and transferred the property to the LLC. The taxpayer then transferred a 9.5 percent interest in the LLC to each of two trusts, one for each heir. On the same day, the taxpayer sold the remaining interests to the trusts in exchange for promissiory notes, with the result that each trust owned 50 percent of the LLC. The gifted interests and sold interests were discounted 10 percent for lack of control and then 30 percent for lack of marketability, resulting in no gift tax liability after application of the applicable credit amount and GST exemption. The trusts made only interest payments on the notes, after the LLC distributed funds sufficient to make the interest payments. The court held that the transfer of the 9.5 interests and the sale of the remainder of the LLC interests were to be combined under the step transaction doctrine. The court also held that the 50 percent interests transferred to each trust was eligible for an 8 percent discount for lack of control and a 30 percent discount for lack of marketability. **Pierre v. Comm'r, T.C. Memo. 2010-106**.

TRUSTS. The taxpayer transferred a house to a trust which allowed the taxpayer to continue to use the house as a residence for the term of the trust, with the remainder to pass to the taxpayer's children. The trust was a qualified personal residence trust (QPRT). The taxpayer, as trustee, and the remainder beneficiaries, including the spouse and children, joined to amend the trust to give the remainder holders the power to restate the terms of the trust to give the taxpayer and/or spouse a term interest in the residence as a gift. The remainder holders, the taxpayer's two children, acted to restate the trust and grant the taxpayer a term interest in the residence. The spouse became the first remainder holder in the term interest, with the children receiving the term interest after the death of both parents. The IRS ruled that the special valuation rules of I.R.C. §§ 2702(a)(1) and (a)(2) did not apply to the amendment and restatement of the QPRT. The IRS ruled that special valuation rules did not apply to the trust amendment, provided that the amendment, pursuant to which a term interest in the residence would be transferred from the children to the settlor, was substantially similar to the sample in section 4 of *Rev. Proc. 2003-42, 2003-1 C.B. 993*; and (1) the trust was operated in a matter consistent with the terms of the trust instrument; (2) the trust was valid under applicable state law; and (3) the residence qualified as a personal residence trust under Treas. Reg. § 25.2702-5(c)(2). No opinion was expressed as to whether the transfer of the residence to the settlor, pursuant to the modification of the trust, would result in the residence being included in the settlor's gross estate under Code Sec. 2036. **Ltr. Rul. 201019012, Jan. 14, 2010**.

FEDERAL INCOME TAXATION

CHARITABLE ORGANIZATIONS. The IRS Commissioner has issued a statement encouraging small ($25,000 or less in annual receipts) non-profit organizations to file electronic Form 990-N even though the May 17, 2010 deadline has passed. The Commissioner stated that the IRS will help these organizations avoid loss of tax-exempt status. See "Annual Electronic Filing Requirement for Small Exempt Organizations — Form 990-N (e-Postcard)," available online at www.irs.gov/charities/article/0,,id=169250,00.html. **2010-ARD 098-2**.

CORPORATIONS

SUCCESSOR CORPORATION. The taxpayer was the sole shareholder of a corporation which owned and operated an amusement park. The taxpayer formed a second corporation for the purpose of operating the park. The second corporation paid rent to the first corporation. The second corporation incurred unpaid employment taxes before its lease and management agreements with the first corporation were terminated. The IRS sought to collect the unpaid employment taxes from the taxpayer and the first corporation which had resumed operation of the amusement park. The trial court held that the taxpayer and first corporation were liable for the second corporation's taxes as a successor corporation because the first corporation received all of the second corporation's assets and the taxpayer had common ownership in both corporations. The court noted that the first corporation retained the same managers and employees as the second corporation. The decision was affirmed in a decision designated as not for publication. **Stramaglia v. United States, 2010-1 U.S. Tax Cas. (CCH) ¶ 50,410 (6th Cir. 2010), *aff'g*, 2008-2 U.S. Tax Cas. (CCH) ¶ 50,695 (E.D. Mich. 2008)**.

COURT AWARDS AND SETTLEMENTS. A decedent's estate filed a wrongful death action against a company and received judgment. However, the state legislature passed an act to provide compensation for claims for wrongful death and physical injury against the company. The legislation voided all court judgments and precluded victims from filing personal claims against the company. The estate received compensation from the state under the legislation. The IRS ruled that the compensation received under the legislation would be excludible from estate income under I.R.C. § 104(a)(2). **Ltr. Rul. 201019005, Feb. 2, 2010**.

DEDUCTIONS. The taxpayers, husband and wife, claimed deductions for employee expenses, medical expenses and charitable contributions but failed to provide any written or oral evidence to support the deductions beyond those allowed by the IRS. The court held that the deductions were properly denied by the IRS for lack of substantiation. **Ramirez v. Comm'r, T.C. Memo. 2010-108**.

DISASTER LOSSES. On April 23, 2010, the President determined that certain areas in Connecticut 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 storms and flooding, which began on March 12, 2010. **FEMA-1904-DR.** On April 27, 2010, the President determined that certain areas in Virginia are eligible for assistance from the government under the Act as a result of severe winter storms which began on February 5, 2010. **FEMA-1905-DR.** On April 30, 2010, the President determined that certain areas in North Dakota are eligible for assistance from the government under the Act as a result of flooding which began on February 26, 2010. **FEMA-1907-DR.** On May 4, 2010, the President determined that certain areas in Tennessee are eligible for assistance from the government under the Act as a result of severe storms and flooding which began on April 30, 2010. **FEMA-1909-DR.** Accordingly, taxpayers in the areas may deduct the losses on their 2009 federal income tax returns. See I.R.C. § 165(i).

DEPRECIATION. The IRS has adopted as final regulations relating to qualified nonpersonal use vehicles as defined in I.R.C. §274(i). Qualified nonpersonal use vehicles are excepted from the substantiation requirements of I.R.C. § 274(d)(4) that apply to listed property as defined in I.R.C. § 280F(d)(4). The final regulations add clearly marked public safety officer vehicles as a new type of qualified non-personal use vehicle. The final regulations affect employers that provide their employees with qualified non-personal use vehicles and the employees who use such vehicles. **75 Fed. Reg. 27934 (May 19, 2010)**.

ENVIRONMENTAL REMEDIATION EXPENSES. The taxpayer developed and manufactured products, and as a result of environmental damage resulting from the manufacture of these products, the taxpayer incurred environmental remediation expenditures. Under *Rev. Rul. 94-38, 1994-1 C.B. 35*, expenses incurred to remediate contamination caused by manufacturing activities represent ordinary and necessary business expenses deductible under I.R.C. § 162. I.R.C. § 172 allows the portion of a net operating loss (NOL) that is a specified liability loss to be carried back to each of the ten preceding years. A specified liability loss is the portion of the NOL that is comprised of certain deductions, including any amount allowable as a deduction that is in satisfaction of a liability under a federal or state law requiring the remediation of environmental contamination if the act (or failure to act) giving rise to the liability occurs at least three years before the beginning of the taxable year and the taxpayer used an accrual method of accounting during the period the act (or failure to act) occurred. *Rev. Rul. 2004-18, 2004-1 C.B. 509*, concludes that, under Treas. Reg. § 1.263A-1(c)(3), environmental remediation costs incurred to clean up land contaminated during the ordinary business operations of manufacturing inventory are properly allocable to the inventory that the taxpayer produces, and therefore, are recovered through "cost of goods sold." Following the issuance of *Rev. Rul. 2004-18*, the taxpayer concluded that because its environmental remediation costs had to be included as part of cost of goods sold, such costs were not allowable as a deduction and, therefore, could not qualify for the 10-year carryback as part of a specified liability loss under I.R.C. § 172(f). Consequently, the taxpayer made a I.R.C. § 59(e) election to limit its NOL for a tax year to an amount equal to its specified liability loss not required to be included as part of cost of goods sold. Subsequently, the IRS modified its view and concluded that environmental remediation costs that are allocated to production activities under I.R.C. § 263A and recovered through cost of goods sold constitute specified liability losses to the extent that they are taken into account in computing an NOL for the taxable year. The taxpayer requested IRS consent to revoke its I.R.C. § 59(e) election. The IRS permitted the taxpayer to revoke the election. **Ltr. Rul. 201018001, Oct. 20, 2009**.

EMPLOYEE BENEFITS. The IRS has issued a notice providing guidance for I.R.C. § 45R which offers a tax credit to certain small employers that provide health insurance coverage to their employees. I.R.C. § 45R was added to the Code by section 1421 of the Patient Protection and Affordable Care Act (Affordable Care Act), enacted March 23, 2010, Pub. L. No. 111-148. It is effective for taxable years beginning in 2010. Both taxable employers and employers that are organizations described in I.R.C. § 501(c) that are exempt from tax may be eligible for the I.R.C. § 45R credit. The notice also includes transition relief for taxable years beginning in 2010 with respect to the requirements for a qualifying arrangement under I.R.C. § 45R. **Notice 2010-44, I.R.B. 2010-22**.

FAILURE TO PROSECUTE TAX CASE. The taxpayer filed a Tax Court case to appeal the IRS administrative appeal decision that taxes were properly assessed. The taxpayer failed to timely respond to court orders for appearances and documents. The Tax Court dismissed the case for failure to timely prosecute the taxpayer's case. The Tax Court assessed the taxpayer $4,000 for filing a frivolous appeal. The appellate court affirmed in a decision designated as not for publication. **Fisher v. Comm'r, 2010-1 U.S. Tax Cas. (CCH) ¶ 50,400 (7th Cir. 2010)**.

FORMS. The IRS has posted on its web site, www.irs.gov, the newly-revised payroll tax form that most eligible employers can use to claim the special payroll tax exemption that applies to many new workers hired during 2010, created by the Hiring Incentives to Restore Employment (HIRE) Act. Employers who hire unemployed workers this year (after Feb. 3, 2010, and before Jan. 1, 2011) may qualify for a 6.2 percent payroll tax incentive, in effect exempting them from the employer's share of Social Security tax on wages paid to these workers after March 18. This reduction will have no effect on the employee's future Social Security benefits. The employee's 6.2 percent share of Social Security tax and the employer and employee's shares of Medicare tax still apply to all wages. In addition, for each qualified employee retained for at least a year whose wages did not significantly decrease in the second half of the year, businesses may claim a new hire retention credit of up to $1,000 per worker on their income tax return. *How to Claim the Payroll Tax Exemption*: Form 941, Employer's Quarterly Federal Tax Return, revised for use beginning with the second calendar quarter of 2010, is to be filed by most employers claiming the payroll tax exemption for wages paid to qualified employees. The HIRE Act does not allow employers to claim the exemption for wages paid in the first quarter but provides for a credit in the second quarter. The instructions for the new Form 941 explain how this credit for wages paid from March 19 through March 31 can be claimed on the second quarter return. The HIRE Act requires that employers get a signed statement from each eligible new hire, certifying under penalties of perjury, that he or she was not employed for more than 40 hours during the 60 days before beginning employment with that employer. Employers can use new Form W-11, Hiring Incentives to Restore Employment (HIRE) Act Employee Affidavit, released last month, to meet this requirement. Though employers need this certification to claim both the payroll tax exemption and the new hire retention credit, they do not file these statements with the IRS. Instead, they must retain them along with other payroll and income tax records. New hires filling existing positions also qualify as long as they are replacing workers who left voluntarily or who were terminated for cause and otherwise are qualified employees. Family members and other relatives do not qualify for either of these tax benefits. Businesses, agricultural employers, tax-exempt organizations, tribal governments and public colleges and universities all qualify to claim the payroll tax exemption for eligible newly-hired employees. Household employers and federal, state and local government employers, other than public colleges and universities, are not eligible. **IR-2010-064**.

INNOCENT SPOUSE. The taxpayer filed for equitable innocent spouse relief from taxes owed from a period when the taxpayer was married and filed a joint return. The taxes were owed from a period when the taxpayer did not have any taxable income or wages and the taxpayer's spouse controlled all the couple's finances. The court held that the taxpayer was entitled to equitable relief because (1) the taxpayer was divorced from the former spouse, (2) the divorce decree provided that the tax liability was the former spouse's responsibility, (3) the taxpayer had received no significant benefit from not paying the taxes, (4) the taxpayer had complied with all federal tax laws since the divorce, and (5) the taxpayer had suffered physical abuse from the former spouse during the time the tax returns were filed. **Venables v. Comm'r, T.C. Summary Op. 2010-62**.

The taxpayer sought innocent spouse relief from payment of taxes owed from years in which the taxpayer was married and filed joint tax returns with a former spouse. The income in those years came primarily from a construction business operated by the spouse. The taxpayer, who had accounting experience, filed some of the returns which included business deductions for which the taxpayer had no substantiation records. The court held that the taxpayer was not entitled to relief under I.R.C. § 6015(b) because the taxpayer's involvement in filing the returns demonstrated that the taxpayer had knowledge that the returns understated income by claiming unsubstantiated expenses. The court also held that the taxpayer was not entitled to equitable relief becuase the taxpayer had actual knowledge of the tax items giving rise to the tax deficiencies. **Demattos v. Comm'r, T.C. Mem. 2010-110**.

INTEREST RATE. The IRS has announced that, for the period July 1, 2010 through September 30, 2010, 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. 2010-14, I.R.B. 2010-26.**

LOSSES. The taxpayer had entered into a joint venture with a manufacturer under which the taxpayer supplied the funds for the manufacturer to manufacture a product for sale under an existing contract with a retail business. The taxpayer supplied $10,000 in 2004 and the product was delivered in February 2005. The manufacturer received payment but did not repay the taxpayer. The taxpayer claimed a loss deduction on the 2004 tax return, arguing that the manufacturer was bankrupt in 2004. The court held that the loss did not occur in 2004 because the manufacturer had no right to receive the funds for the product or to repay the taxpayer until the product was delivered in 2005. **Harris v. Comm'r, T.C. Summary Op. 2010-63**.

PARTNERSHIPS

FOREIGN PARTNERSHIPS. The IRS has issued a notice which provides that the Treasury Department and IRS intend to issue regulations under I.R.C. § 7701(a)(4) that will classify certain domestic partnerships as foreign, solely for the purpose of identifying which U.S. shareholder is required to include amounts in gross income under I.R.C. § 951(a). **Notice 2010-41, I.R.B. 2010-22**.

SAFE HARBOR INTEREST RATES

June 2010

	Annual	Semi-annual	Quarterly	Monthly
		Short-term		
AFR	0.74	0.74	0.74	0.74
110 percent AFR	0.81	0.81	0.81	0.81
120 percent AFR	0.89	0.89	0.89	0.89
		Mid-term		
AFR	2.72	2.70	2.69	2.68
110 percent AFR	2.99	2.97	2.96	2.95
120 percent AFR	3.27	3.24	3.23	3.22
		Long-term		
AFR	4.30	4.25	4.23	4.21
110 percent AFR	4.73	4.68	4.65	4.64
120 percent AFR	5.17	5.10	5.07	5.05

Rev. Rul. 2010-15, I.R.B. 2010-23.

TAX RETURN PREPARERS. The taxpayer was an unenrolled income tax return preparer who used the social security numbers of incarcerated persons to file tax returns without the persons' knowledge or permission. The tax returns claimed refunds based on improper claims of income, credits and deductions. The refunds paid were deposited by the taxpayer in the taxpayer's personal account. The court issued a permanent injunction against the taxpayer from preparing or filing tax returns for other taxpayers. **United States v. Anderson, 2010-1 U.S. Tax Cas. (CCH) ¶ 50,391 (D. S.C. 2010)**.

TAX SHELTER PROMOTERS. The taxpayer was a CPA and attorney who promoted tax schemes involving sham companies and improper deductions. In particular, the taxpayer promoted a parallel C management company arrangement in which an operating company that elected Subchapter S status (pass-through entity) made purported management-fee payments pursuant to a recurring-item exception deduction under I.R.C. §461(h) to a management company with a staggered tax year. These "fees" were only sham journal entries, and the management company had no business purpose or economic substance. The court issued an injunction against the taxpayer from promoting any tax plans involving illegal tax schemes, plans or services. The court refused to issue an injunction to prevent the taxpayer from giving any advice or service involving tax laws because such an injunction would violate the taxpayer's right to non-commercial free speech. **United States v. Davison, 2010-1 U.S. Tax Cas. (CCH) ¶ 50,406 (W.D. Mo. 2010)**.

TAX STATISTICS. The IRS has published the spring 2010 issue of the Statistics of Income Bulletin, which features data on high-income individual income tax returns filed for tax year 2007, gift tax returns filed in 2008 and trust income from the 2002 through 2006 period. The Statistics of Income Bulletin is available from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7954. The annual subscription rate is $53 ($74.20 foreign), single issues cost $39 ($48.75 foreign) **IR-2010-062**.

SECURED TRANSACTIONS

PRIORITY. The debtor, a farrow-to-finish swine operation owner, obtained a loan from a bank and granted a security interest in the swine. The debtor also purchased feed and supplies from a supplier who perfected an agricultural supply dealer's lien under Iowa Code Ch. 570A after the bank lien was perfected. Under Iowa Code § 570A.5, an agricultural supply dealer's lien has equal priority with prior perfected liens (except for landlord and harvester liens). The bank argued, however, that the supplier's lien was not properly perfected because the supplier failed to send a certified request to the bank, including a statement of the purchase and terms of sale to the bank or a waiver of confidentiality signed by the debtor. The court held that, because the supplier failed to make the certified request, the bank had an affirmative defense that the supplier lien did not have priority over the prior perfected bank lien. ***In re* Crooked Creek Corp., 2010 Bankr. LEXIS 1317 (Bankr. N.D. Iowa 2010)**.

WORKERS' COMPENSATION

HORSE TRAINER. The plaintiff was hired as a horse trainer of trail horses for the defendant equestrian facility. The case does not state whether the trained horses were for use at the facility or for sale. The plaintiff also did some incidental horse feeding and maintenance. The plaintiff was injured while training one horse and filed for workers' compensation. The workers' compensation board ruled that the plaintiff was not an agricultural employee under Ind. Code § 22-3-2-9(a); therefore, the plaintiff was eligible for workers' compensation benefits. The court affirmed the board's ruling, holding that the recreational use of horses was not a farming activity. **Rocky River Farms, Inc. v. Porter, 2010 Ind. App. LEXIS 704 (Ind. Ct. App. 2010)**.