Cases, Regulations and Statutes

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efficient commercial building property, calculated on $1.80 per square foot, for an additional year (for property placed in service after December 31, 2013). **TIPA, § 158, amending I.R.C. § 179D(h)**

### Inflation adjustment for some civil penalties

The 2014 Act authorizes the adjustment for inflation of penalties including – (a) the $135 for failure to file a return or pay the tax under I.R.C. §6651; (b) failure to file information returns and other documents under I.R.C. § 6652(c); (c) assessable penalties under I.R.C. § 6695; (d) failure to file partnership returns (currently $195 per partner per month for up to 12 months); (e) failure to file S corporation returns (currently $195 per shareholder per month for up to 12 months); (f) failure to file correct information returns under I.R.C. § 6721(f)(1); failure to furnish correct payee statements under I.R.C. § 6722(f)(1). All of the amendments are effective for returns required to be filed after December 31, 2014. **TIPA, § 208**

### CASES, REGULATIONS AND STATUTES

*by Robert P. Achenbach, Jr*

#### FEDERAL TAX

**DISCHARGE.** The debtor filed tax returns late for the years 1998, 1999, 2000, 2003, 2005, 2006, 2007, 2008, 2009, reported the wrong taxable income amount for the years 1998, 1999, 2000, 2001, 2003, and has not paid the tax liabilities in full for any of the tax years 1998 through 2008. The debtor filed for Chapter 7 in 2009 and received a discharge in 2011. The IRS filed post-bankruptcy for collection of the unpaid taxes, arguing that the taxes were not discharged under Section 523 for willful attempt to evade the taxes. The debtor presented evidence that the debtor suffered from type II bipolar disorder which prevented the debtor from having any willful mental state. The trial court ruled that the taxes were not discharged in the bankruptcy case because, during the time the taxes were unpaid, the debtor purchased several luxury items, transferred title in real and personal property to the debtor’s spouse, filed returns late, and underreported income in many of those returns. On appeal, the appellate court affirmed in a decision designated as not for publication. *United States v. Stanley, 2015-1 U.S. Tax Cas. (CCH) ¶ 50,102 (5th Cir. 2014), aff’g, 2013-2 U.S. Tax Cas. (CCH) (D. Miss. 2013).*

#### FEDERAL FARM PROGRAMS

**DISASTER ASSISTANCE.** The CCC and FSA have issued interim regulations which implement changes to the Noninsured Crop Disaster Assistance Program (NAP) as required by the Agricultural Act of 2014 (the 2014 Farm Bill), including changes to eligible crops, provisions governing eligibility of native sod acreage, additional coverage levels, and waivers of service fees and premium reductions for beginning, limited resource, and socially disadvantaged producers. The rule also clarifies requirements for eligible types and causes of loss and expands coverage for eligible mollusk and other aquaculture losses. The rule clarifies that the Farm Service Agency (FSA) may set separate market prices for organic crops and for direct to consumer sales. The changes are relatively minor and do not change the core purpose of NAP, which is to provide financial assistance to producers of non-insurable crops when low yield, loss of inventory, or prevented planting occurs due to a natural disaster. *79 Fed. Reg. 74561 (Dec. 15, 2014).*

**ORGANIC FOOD.** The AMS has issued proposed regulations which modify the organic assessment exemption regulations under 23 federal marketing orders and 22 research and promotion programs. The current regulations would be amended to allow persons that produce, handle, market, or import certified organic products to be exempt from paying assessments associated with commodity promotion activities, including paid advertising, conducted under a commodity promotion program administered by the AMS. The revised exemption would cover all “organic” and “100 percent organic” products certified under the National Organic Program regardless of whether the person requesting the exemption also produces, handles, markets, or imports conventional or nonorganic products. Under the current exemption, only persons that exclusively produce and market products certified as 100 percent organic are eligible for an exemption from assessments under commodity promotion programs. *79 Fed. Reg. 75005 (Dec. 16, 2014).*

#### EXECUTOR LIABILITY FOR ESTATE TAX

*The decedent died in 2002 and the taxpayer was appointed executor. The executor hired an attorney to assist with administration of the estate. The estate was worth over $2.6 million. However, the estate tax return was not filed until 2008, although the taxpayer was informed by counsel in 2003 that the estate tax return was late. In 2008, the IRS filed assessments of over $2 million for income taxes, penalties and interest, most of which were paid. Between 2002 and 2008, the taxpayer made distributions from the estate which resulted in the estate not having sufficient funds to pay the remaining taxes, penalties and interest in excess of $52,000. The IRS sought to assessed the unpaid taxes against the taxpayer under I.R.C. § 6901(a)(1)(B). The taxpayer did not provide any evidence to rebut the IRS claim nor to prove that the taxpayer had reasonably relied on the advice of counsel; therefore, the court held that the taxpayer*
was personally liable for the unpaid estate tax, penalty and interest which remained unpaid. United States v. Stiles, 2014-2 U.S. Tax Cas. (CCH) ¶ 50,529 (W.D. Penn. 2014).

GENERATION SKIPPING TRANSFERS. Prior to September 25, 1985, the grantor created four trusts for three grandchildren and their heirs. The trusts petitioned a probate court to divide the trusts into nine trusts, one for each great grandchild, in proportion to the great-grandchildren’s interest in the original trusts. The IRS ruled that the division did not subject the trusts to GSTT because the division did not change the vested interests of any beneficiary. Ltr. Rul. 2014501005, Sept. 4, 2014.

MARITAL DEDUCTION. The estate timely filed Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return. On the Form 706, Schedule M listed assets passing to a marital trust created by the decedent. Schedule M also listed other property passing to the spouse, including a separate account. The surviving spouse was listed as the sole beneficiary of the account; however, the marital trust was the beneficiary of the account and not the surviving spouse. Thus, the value of the account should have been included in the marital trust for which a QTIP election was made. The estate represented that the marital trust should have been divided into two separate trusts, a QTIP marital trust and a non-QTIP marital trust. The account should have been allocated to the QTIP trust and a QTIP election should have been made for the account and the QTIP Trust. The other assets listed on Schedule M would be included in the non-QTIP Marital Trust and no marital deduction should be taken for those assets. The executor filed for an extension of time to include the account in the QTIP election and the IRS granted an extension of time to make the QTIP election to include the value of the account in the marital trust. Ltr. Rul. 2014500002, Aug. 13, 2014.

REFUND. The decedent died in 2002 and during the resulting probate of the will, the estate was subject to two lawsuits, one challenging the will and one challenging the actions of the executors. The executors obtained an extension of time to file the federal estate tax return but had to file for a second extension because of the uncertainties caused by the lawsuits. The second extension filing was made in 2003 on Form 4768, Application for Extension of Time to File a Return, and was accompanied by a check for estimated estate taxes but no designation of the payment as a “deposit” or “payment” was made. The second extension was denied by the IRS which posted the check as a payment. The lawsuits ended in 2008 and the estate filed a return with the costs of the litigation as a deduction, causing the federal estate tax owed to decrease, with a refund claim for the overpayment. The IRS denied the refund as untimely claimed. The estate argued that Rev. Rul. 84-58, 1984-2 C.B. 501 applied to require the IRS to treat undesignated funds as deposits if made prior to any examination. The IRS argued that a facts and circumstances test applied, using factors created by courts in applying Rosenman v. United States, 323 U.S. 658 (1945). The trial court held first that Rev. Rul. 84-58 did not create a per se rule for undesignated payments; therefore, the factors of the facts and circumstances test would be used in this case. The trial court held that the estate check was a payment because (1) the amount was a good faith estimate of the taxes owed and was paid in an orderly fashion; (2) the estate did not contest any tax liability at the time the check was sent; (3) the check was not designated as a deposit; (4) the IRS treated the check as a payment; and (5) the check was timely sent with an extension request. The appellate court affirmed. Winford v. United States, 2014-2 U.S. Tax Cas. (CCH) ¶ 60,685 (5th Cir. 2014), aff’d, 2013-2 U.S. Tax Cas. (CCH) ¶ 60,672 (W.D. La. 2013).

VALUATION. The decedent owned an interest in a limited partnership which owned and operated timber land. In determining the value of the decedent’s interest, the court used both the cashflow method and asset method. The Tax Court gave the cashflow, as a going concern, valuation a weight of 75 percent and the asset method a weight of 25 percent because the court found that the partnership was unlikely to sell its underlying assets. The Tax Court allowed a discount for lack of marketability and control but only as to the cashflow valuation because the lack of marketability and control would not affect the value of the decedent’s interest as to asset sales. On appeal the appellate court reversed as to the 25 percent valuation weight in that the percentage was based on too many hypothetical occurrences with little probability of happening. The case was remanded to the Tax Court for recalculation of the valuation percentage attributable to the interests. Estate of Giustina v. Comm’r, 2014-2 U.S. Tax Cas. (CCH) ¶ 60,684 (9th Cir. 2014), rev’d in part, T.C. Memo. 2011-141.

The U.S. Supreme Court has denied certiorari for the following case. Federal Tax Day - Current, J.6, (CCH) Dec. 9, 2014. The decedent and predeceased spouse owned stock in a company. The shareholders’ agreement provided that the corporation would purchase all the stock upon the death of the shareholders. In order to fund the purchase, the corporation purchased paid-up life insurance on the lives of the shareholders. The agreement prevented the corporation from borrowing against the policies or encumbering them in any way. The shareholders decided to sell their stock to an employee stock ownership plan and borrowed the funds which were loaned to the ESOP and used to purchase the stock. The funds from the stock sale were placed in marital trusts for the benefit of the decedent. At the spouse’s death, the decedent received the benefit of the trusts. However, the corporation began to encounter financial difficulties and the lender for the ESOP stock purchase demanded collateral, which was supplied by the life insurance policies, allowed by waiver of the shareholder agreement. When the corporation filed for bankruptcy, the ESOP sued the estate of the predeceased spouse and the trustee of the marital trusts. The decedent’s estate sought a discount on the value of the trust assets in the estate, based on the existing lawsuit. The court held that no discount could be applied because a hypothetical buyer would not require a discount for the value of the trust assets. The appellate court affirmed. Estate of Foster v. Comm’r, 2014-1 U.S. Tax Cas. (CCH) ¶ 60675 (9th Cir. 2014), aff’d, T.C. Memo. 2011-95.
ACCOUNTING METHOD. The taxpayer consulted a tax advisor to discuss the filing of two Forms 3115, Application for Change in Accounting Method, to change the taxpayer’s method of accounting for software development costs, to be filed under section 9.01 of the Appendix of Rev. Proc. 2011-14, 2011-1 C.B. 330, and prepaid insurance and prepaid hardware and software maintenance contracts, to be filed under section 10.05 of the Appendix of Rev. Proc. 2011-14 for the taxable year. The advisor prepared two Forms 3115 and sent them to the taxpayer. The taxpayer filed one copy of each Form 3115 with the tax return but failed to file a signed copy for software development costs with the IRS Ogden, Utah office and a signed copy of the Form 3115 for prepaid expenses with the IRS national office as required by section 6.02(3)(a)(ii) of the Appendix of Rev. Proc. 2011-14. The IRS granted an extension of time to file the two copies with the appropriate IRS office. Ltr. Rul. 201451008, Aug. 20, 2014.

CHARITABLE DEDUCTIONS. The taxpayers owned a limited liability company which owned a residential development and a golf course inside that development. The LLC transferred a conservation easement on the golf course land to a charitable organization. The easement prevented the development of the land other than as a golf course. The easement was granted in perpetuity; however, the LLC was allowed to substitute other land to be subject to the easement with the permission of the charitable organization. The golf course was valued at over $10 million prior to transfer, because its best use was as developed residential property. After the transfer the golf course was valued as a golf course for only $270,000. The IRS denied a charitable deduction for the transfer because the easement was not granted in perpetuity. The Tax Court noted that both I.R.C. § 170(h)(2) (qualified real property interest includes a restriction granted in perpetuity) and I.R.C. § 170(h)(5) (conservation purpose must be protected in perpetuity) need to be satisfied to allow a deduction. In this case, although the conservation purpose was perpetual, the restriction on the land was not perpetual because the parties could change the land subject to the conservation purpose. Therefore, the Tax Court held that the IRS properly denied the deduction because the easement on the golf course was not granted in perpetuity. The appellate court affirmed. Belk v. Comm’r, 2015-1 U.S. Tax Cas. (CCH) ¶ 50,107 (4th Cir. 2014), aff’d, 140 T.C. 1 (2013).

DISCHARGE OF INDEBTEDNESS. The taxpayer owned an interest in an S corporation which owned several LLCs and partnerships. The LLCs and partnerships entered into a settlement agreement with a lender under which the lender agreed to cancel a portion of indebtedness. The entities passed through the discharge of indebtedness income to the taxpayer. The taxpayer was eligible, under I.R.C. § 108(c), to exclude the discharge of indebtedness income under the exception for qualified real property business indebtedness. The taxpayer hired a qualified tax professional to prepare the taxpayer’s return and the return preparer failed to file Form 982, although the discharge of indebtedness income was excluded from taxable income. The error was discovered in the next tax year and the taxpayer filed for an extension, which was granted by the IRS. Ltr. Rul. 201451006, Aug. 28, 2014.

EMPLOYMENT TAXES. The taxpayer invested in a farm equipment business by forming a corporation and hiring a business manager to run the shop. Although the manager fully operated the business, the taxpayer was the president of the corporation and periodically reviewed the business financial and inventory operations. After the taxpayer discovered that the manager had embezzled funds from the company and failed to pay federal employment taxes, the taxpayer fired the manager. The taxpayer paid several other creditors before being assessed the unpaid employment taxes. The taxpayer claimed that the taxpayer was not personally responsible for the unpaid taxes because the taxpayer was not a responsible person as defined by I.R.C. § 6672(a). The court held that the taxpayer was a responsible person in that the taxpayer had full authority over all aspects of the business and periodically did review the business details and require the manager to change business practices. The court noted that the taxpayer had participated in company loans and contracts. The court held that the taxpayer was personally liable for the unpaid employment taxes because the taxpayer made payments to other creditors after learning that the federal employment taxes were unpaid. Shore v. United States, 2014-2 U.S. Tax Cas. (CCH) ¶ 50,534 (D. Idaho 2014).

FOREIGN INCOME. The IRS has adopted as final regulations providing guidance relating to the provisions of the Hiring Incentives to Restore Employment (HIRE) Act, Pub. L. No. 111-147, 124 Stat. 71 (2010), that require specified foreign financial assets to be reported to the IRS for taxable years beginning after March 18, 2010. The final regulations provide guidance relating to the requirement that individuals attach a statement to their income tax return to provide required information regarding specified foreign financial assets in which they have an interest. The final regulations affect individuals required to file Form 1040, U.S. Individual Income Tax Return,’ or Form 1040-EZ, Income Tax Return for Single and Joint Filers With No Dependents, and certain individuals required to file Form 1040-NR, Nonresident Alien Income Tax Return, or Form 1040NR-EZ, U.S. Income Tax Return for Certain Nonresident Aliens with No Dependents. T.D. 9706, 79 Fed. Reg. 73817 (Dec. 12, 2014).

HOBBY LOSSES. The taxpayer owned several successful car dealerships operated under one S corporation. The taxpayer also owned a farm where the taxpayer operated a horse breeding, boarding, training, hauling and showing operation. The first issue raised was whether the car dealership business and horse operation constituted one or two business activities. The taxpayer claimed that the sales of the autos and horses were often interrelated because customers from one activity would be customers from the other activity. The court used the factors from Mitchell v. Comm’r, T.C. Memo. 2006-145 and its precedents to determine that the activities were separate because (1) they were operated in separate locations, (2) the activities were not attempts to derive income from the same land, (3) the activities did not start at or near the same time, (4) the taxpayer failed to show that the activities benefited each other, (5) the activities did not benefit from cross-advertising, (6) the activities shared management
only through the taxpayer, (7) the taxpayer did not fully manage both activities, (8) the activities did not share an accountant, and (9) the activities did not share financial records. Thus, the horse activity was examined alone as to whether it was engaged in for profit in order to allow deduction of losses. The court held that the horse activity was not engaged in with the intent to make a profit because (1) the taxpayer did not keep full records on the activity sufficient to determine the profitable and unprofitable aspects and did not create a business plan until just before trial; (2) although the taxpayer had some expertise at breeding horses, the taxpayer did not show any expertise at profitably operating a horse activity; (3) the taxpayer failed to show any appreciation in value of the horses and the land was not included in the horse activity; (4) the taxpayer had not ever realized a profit from the activity; (5) the horse activity losses offset substantial income from other sources; and (6) the taxpayer and family members received recreational pleasure from the horse activity. Price v. Comm’r, T.C. Memo. 2014-253.

IRA. The IRS has published information to remind taxpayers born before July 1, 1944, that they generally must receive payments from their IRAs and workplace retirement plans by Dec. 31. Known as required minimum distributions (RMDs), these payments normally must be made by the end of 2014, but first-year recipients of these payments, those who reached age 70½ during 2014, may wait until as late as April 1, 2015 to receive their first RMDs. This means that those born after June 30, 1943 and before July 1, 1944 are eligible for this special rule. Though payments made to these taxpayers in early 2015 can be counted toward their 2014 RMD, they are still taxable in 2015. The required distribution rules apply to owners of traditional IRAs but not Roth IRAs while the original owner is alive. They also apply to participants in various workplace retirement plans, including I.R.C. §§ 401(k), 403(b) and 457(b) plans. An IRA trustee must either report the amount of the RMD to the IRA owner or offer to calculate it for the owner. Often, the trustee shows the RMD amount on Form 5498 in Box 12b. For a 2014 RMD, this amount was on the 2013 Form 5498 normally issued to the owner during January 2014. The special April 1 deadline only applies to the RMD for the first year. For all subsequent years, the RMD must be made by Dec. 31. So, for example, a taxpayer who turned 70½ in 2013 (born after June 30, 1942 and before July 1, 1943) and received the first required payment on April 1, 2014 must still receive the second RMD by Dec. 31, 2014. The RMD for 2014 is based on the taxpayer’s life expectancy on Dec. 31, 2014, and the account balance on Dec. 31, 2013. The trustee reports the year-end account value to the IRA owner on Form 5498 in Box 5. Taxpayers can use the online worksheets on IRS.gov or find worksheets and life expectancy tables to make this computation in the Appendices to Publication 590. For most taxpayers, the RMD is based on Table III (Uniform Lifetime) in the IRS publication on IRAs. So for a taxpayer who turned 72 in 2014, the required distribution would be based on a life expectancy of 25.6 years. A separate table, Table II, applies to a taxpayer whose spouse is more than 10 years younger and is the taxpayer’s only beneficiary. Though the RMD rules are mandatory for all owners of traditional IRAs and participants in workplace retirement plans, some people in workplace plans can wait longer to receive their RMDs. Usually, employees who are still working can, if their plan allows, wait until April 1 of the year after they retire to start receiving these distributions. See Tax on Excess Accumulations in Publication 575. Employees of public schools and certain tax-exempt organizations with 403(b) plan accruals before 1987 should check with their employer, plan administrator or provider to see how to treat these accruals. IR-2014-112.

The IRS has published information on year-end planning for IRA owners. IRA owners age 70½ or older have until Dec. 31, 2014 to make a direct transfer of part or all of their IRA distributions to an eligible charity. The Tax Increase Prevention Act, enacted Dec. 19, extended for 2014 the provision authorizing these qualified charitable distributions (QCDs). With this retroactive renewal, any eligible IRA distribution during 2014 properly transferred to a qualified charity counts as a QCD. An IRA owner, age 70½ or over, can directly transfer, tax-free, up to $100,000 per year to an eligible charity. This option, first available in 2006, can be used for distributions from IRAs, regardless of whether the owners itemize their deductions. Distributions from employer-sponsored retirement plans, including SIMPLE IRA plans and simplified employee pension (SEP) plans, are not eligible. To qualify, the funds must be transferred directly by the IRA trustee to the eligible charity. Distributed amounts may be excluded from the IRA owner’s income – resulting in lower taxable income for the IRA owner. However, if the IRA owner excludes the distribution from income, no deduction, such as a charitable contribution deduction on Schedule A, may be taken for the distributed amount. Not all charities are eligible. For example, donor-advised funds and supporting organizations are not eligible recipients. Amounts transferred to a charity from an IRA are counted in determining whether the owner has met the IRA’s required minimum distribution (RMD). Where individuals have made nondeductible contributions to their traditional IRAs, a special rule treats amounts distributed to charities as coming first from taxable funds, instead of proportionately from taxable and nontaxable funds, as would be the case with regular distributions. QCDs are reported on Form 1040 Line 15. The full amount of the QCD is shown on Line 15a. Do not enter any of these amounts on Line 15b but write “QCD” next to that line. IR-2014-117.

INSTALLMENT REPORTING. The IRS has issued proposed regulations relating to the nonrecognition of gain or loss on certain dispositions of an installment obligation. In general, under the proposed regulations a transferor does not recognize gain or loss on certain dispositions of an installment obligation if gain or loss is not recognized on the disposition under another provision of the Code. The proposed regulations also provide that this general rule does not apply to the satisfaction of an installment obligation. For example, an installment obligation of an issuer, such as a corporation or partnership, is satisfied when the holder transfers the obligation to the issuer for an equity interest in the issuer. Under I.R.C. § 453B(a) gain or loss is recognized upon the satisfaction of an installment obligation at other than its face value, or upon the distribution, transmission, sale, or other disposition of the installment obligation. Treas. Reg. § 1.453-9(c)(2), issued under former I.R.C. § 453(d), provides an exception to the general rule. Under Treas. Reg. § 1.453-9(c)(2), if the Code provides an exception to the recognition of gain or loss
for certain dispositions, then gain or loss is not recognized under former I.R.C. § 453(d) (now I.R.C. § 453B(a)) on the disposition of an installment obligation within that exception. The exceptions identified in Treas. Reg. § 1.453-9(c)(2) include certain transfers to corporations under I.R.C. §§ 351 and 361, contributions to partnerships under I.R.C. § 721, and distributions by partnerships to partners under I.R.C. § 731 (except as provided by I.R.C. §§ 736, 751). The proposed regulations republish in Treas. Reg. § 1.453B-1(c) the general rule in Treas. Reg. § 1.453-9(c)(2) under which gain or loss is not recognized upon certain dispositions. In addition, the proposed regulations incorporate and expand the holding of Rev. Rul. 73-423, 1973-2 C.B. 161 to provide that a transferor recognizes gain or loss under I.R.C. § 453B(a) when the transferor disposes of an installment obligation in a transaction that results in the satisfaction of the installment obligation, including, for example, when an installment obligation of a corporation or partnership is contributed to the corporation or partnership in exchange for an equity interest in the corporation or partnership. REG-109187-11, 79 Fed. Reg. 76928 (Dec. 23, 2014).

MILEAGE DEDUCTION. The IRS has announced that the standard mileage rate for 2015 is 57.5 cents per mile for business use, 14 cents per mile for charitable use and 23 cents per mile for medical and moving expense purposes. Under Rev. Proc. 2010-51, 2010-2 C.B. 883, a taxpayer must reduce the basis of an automobile used in business by the amount of depreciation the taxpayer claims for the automobile. If a taxpayer uses the business standard mileage rate to compute the expense of operating an automobile for any year, a per-mile amount (24 cents per mile for 2015) is treated as depreciation for those years in which the taxpayer used the business standard mileage rate. If the taxpayer deducted the actual costs of operating an automobile for one or more of those years, the taxpayer may not use the business standard mileage rate to determine the amount treated as depreciation for those years. The 2010 revenue procedure also provides rules under which the amount of ordinary and necessary expenses of local travel or transportation away from home that are paid or incurred by an employee will be deemed substantiated under Treas. Reg. § 1.274-5 when a payor (the employer, its agent, or a third party) provides a mileage allowance under a reimbursement or other expense allowance arrangement to pay for such expenses. Use of a method of substantiation described in this revenue procedure is not mandatory and a taxpayer may use actual allowable expenses if the taxpayer maintains adequate records or other sufficient evidence for proper substantiation. Notice 2014-79, I.R.B. 2014-53.

MORTGAGE INTEREST. A Chief Counsel Advice letter discussed three scenarios involving the deductibility of mortgage interest. In the first scenario, the taxpayers were a married couple jointly and severally liable on a mortgage, but one spouse is deceased at the end of the taxable year and the bank issues a Form 1098 under the deceased spouse’s social security number. In the year of death, if the surviving spouse filed a separate return, the decedent’s return should include income and deductions to the point of death. The IRS ruled that, if the decedent paid the mortgage interest from a joint account before death, the decedent’s return should reflect one-half of the interest paid from the joint account before the time of death, in the absence of evidence that the payment was made with the decedent’s separate funds. In the second scenario, the taxpayers were an unmarried couple and were jointly and severally liable on a mortgage, and the bank either issued a Form 1098 under only one social security number, or both. One or both taxpayers claim the mortgage interest deduction on their individual returns. The IRS ruled that, since both taxpayers are liable on the mortgage, both are entitled to claim the mortgage interest deduction to the extent of the mortgage interest paid by each taxpayer. If the mortgage interest is paid from separate funds, each taxpayer may claim the mortgage interest deduction paid from each one’s separate funds. If the mortgage interest is paid from a joint bank account in which each has an equal interest, under Rev. Rul. 59-66, 1959-1 C.B. 60, it would be presumed that each has paid an equal amount absent evidence to the contrary and each would be entitled to a deduction for one-half of the interest. In the third scenario, various combinations of two relatives may co-own a house and with one or both liable on a mortgage. A bank may issue a Form 1098 under the name of one or both of the co-owners. The IRS ruled that a co-owner may deduct payments of the interest even though the co-owner was not directly liable on the mortgage. CCA 201451027, Oct. 1, 2014.

PENSION PLANS. For plans beginning in December 2014 for purposes of determining the full funding limitation under I.R.C. § 412(c)(7), the 30-year Treasury securities annual interest rate for this period is 3.04 percent. The 30-year Treasury weighted average is 3.37 percent, and the 90 percent to 105 percent permissible range is 3.03 percent to 3.54 percent. The 24-month average corporate bond segment rates for December 2014, without adjustment by the 25-year average segment rates are: 1.20 percent for the first segment; 4.10 percent for the second segment; and 5.20 percent for the third segment. The 24-month average corporate bond segment rates for December 2014, taking into account the 25-year average segment rates, are: 4.99 percent for the first segment; 6.32 percent for the second segment; and 6.99 percent for the third segment. Notice 2014-78, I.R.B. 2014-53.

SAFE HARBOR INTEREST RATES

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S CORPORATION

SUBSIDIARY ELECTION. The taxpayer was an S corporation which wholly-owned a subsidiary corporation. Although the taxpayer intended to treat the subsidiary as a qualified subchapter S subsidiary, the taxpayer failed to file a Form 8869, Qualified Subchapter S Subsidiary Election. The IRS granted an extension of time for the taxpayer to file Form 8869. Ltr. Rul. 201450012, Aug. 19, 2014.
18th EDITION

FARM ESTATE & BUSINESS PLANNING

The Agricultural Law Press is honored to publish the completely revised and updated 18th Edition of Dr. Neil E. Harl’s excellent guide for farmers and ranchers who want to make the most of the state and federal income and estate tax laws to assure the least expensive and most efficient transfer of their estates to their children and heirs. This book contains detailed advice on assuring worry-free retirement years, using wills, trusts, insurance and outside investments as estate planning tools, ways to save on estate settlement costs, and an approach to setting up a plan that will eliminate arguments and friction in the family. Federal estate taxation has undergone great changes in recent years and this book sorts out these changes for you in a concise manner. Farm Estate and Business Planning also includes discussion of employment taxes, formation and advantages of use of business entities, federal farm payments, state laws on corporate ownership of farm land, federal gift tax law, annuities, installment obligations, charitable deductions, all with an eye to the least expensive and most efficient transfer of the farm to heirs.

Written with minimum legal jargon and numerous examples, this book is suitable for all levels of people associated with farms and ranches, from farm and ranch families to lenders and farm managers. Some lawyers and accountants circulate the book to clients as an early step in the planning process. We invite you to begin your farm and ranch estate and business planning with this book and help save your hard-earned assets for your children.

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