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Cases, Regulations and Statutes

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North Central Rental & Leasing v. United States

In a recently decided case in the Eighth Circuit Court of Appeals, *North Central Rental & Leasing*, a corporation’s sales of equipment using a qualified intermediary (a QI was used because of the related party rules) did not qualify as like-kind exchanges where the deals were designed as like-kind exchanges but to allow the corporation to defer gain on the disposition of the low basis equipment which allowed a related entity to pay tax on the “sale” of higher basis replacement items. As set up, immediately after the deal was closed, a third party owned the low basis property, the corporation was holding the replacement property and the related entity was holding the sale proceeds. The transactions were held not to be entitled to non-recognition treatment inasmuch as they were structured to avoid the restrictions in the statute (and regulations) under the related party rules and violated the two-year rule for related party transactions. The qualified intermediary was ineffective in avoiding the related party rules.

A recent case, appealed to the Supreme Court had earlier established that a qualified intermediary affords no protection against a charge that the transaction is a related party transaction followed by *Ocmulgee Fields, Inc. v. Commissioner* with basically the same outcome. With related party transactions, transfers by either party within two years of a like-kind exchange of property with a related person triggers the recognition of gain.

**A partition of property**

All of this does not endanger ordinary partitions of property (which have become relatively common in settling estates) so long as the partition does not involve the exchange of property interests that differ materially either in kind or extent. Thus, changing fence lines to adjust for differing qualities of land to give some heirs more or less than their equal share, for example, does not violate the related party rule and does not require the two-year wait for transfers to occur. Giving and receiving “boot” to equalize inherited property values or other non-like kind property between or among family members takes the transfer out of the category of a partition and into the category of related party transactions that trigger the so-called “two-year” rule.

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**CASES, REGULATIONS AND STATUTES**

**FEDERAL FARM PROGRAMS**

**AGRICULTURAL CONSERVATION EASEMENT PROGRAM.** The 2014 Farm Bill consolidates the purposes of the Farm and Ranch Lands Protection Program, Grassland Reserve Program, and Wetlands Reserve Program into one easement program called the Agricultural Conservation Easement Program (ACEP). ACEP restores, protects, and enhances wetland on eligible land; protects the agricultural use, viability, and related conservation values of eligible land by limiting non-agricultural uses of that land; and protects grazing uses and related conservation values by restoring and conserving eligible land. Th NCRS and CCC have issued interim regulations which set forth the policies and procedures related to implementation of ACEP as authorized by the 2014 Farm Bill. Since the Conservation Farm Option (CFO) is a repealed program that was never implemented, NRCS is replacing the CFO regulations at 7 CFR part 1468 with the regulations necessary to implement ACEP. 80 Fed. Reg. 11031 (Feb. 27, 2015).

**BIOMASS CROP ASSISTANCE PROGRAM.** The FSA has adopted as final regulations amending the Biomass Crop Assistance Program (BCAP) regulations to implement changes required by the
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is a re-adoption. However, Rev. Proc. 2005-31 does not require a second year after the foreign adoption occurs. Thus, Rev. Proc. 2005-1 C.B. 1374, provides that if a taxpayer adopts a child in a foreign country adoption was not followed by a U.S. re-adoption. Exam disallowed a deduction for a non-Hague adoption on the ground that the foreign-sending country and then re-adopts the child in the home state (the state of habitual residence) within one or two years thereafter, the taxpayer may choose to treat the year of finality as being either (1) the year the foreign decree was entered, or (2) the year of re-adoption, if the re-adoption occurs within the first or second year after the foreign adoption occurs. Thus, Rev. Proc. 2005-31 allows the taxpayer to choose the year of finality if there is a re-adoption. However, Rev. Proc. 2005-31 does not require a re-adoption. In the absence of a re-adoption, the year of finality is the taxable year in which the foreign country’s competent authority issues the decree of adoption.” CCA 201509037, Nov. 25, 2014.

ALIMONY. The taxpayer’s 2009 divorce decree provided for monthly payments to the former spouse for 17 months and provided for the transfer of money from the taxpayer's IRA in a lump sum equal to the 17 months of payments. The former spouse made monthly withdrawals from the taxpayer’s IRA until the total amount was reached, although the dates of these transfers was unknown. The final alimony payments were made in 2010. The taxpayer claimed a deduction for alimony on the 2010 return equal to 12 months of equal withdrawals under the decree. The IRS disallowed a deduction for any amounts withdrawn by the former spouse in 2010. The court found that the decree made no provision for the IRA interest transferred to the former spouse in the event of the death of the spouse. The court held that the alimony was paid in 2009 when the IRA interest was transferred to the spouse; therefore, the interest was not deductible in 2010. In addition, the failure of the decree to provide for disposition of the IRA interest on the death of the spouse made the payment ineligible for the alimony deduction. Ringbloom v. Comm'r, T.C. Summary Op. 2015-12.

APPLICABLE FEDERAL INTEREST RATES. The IRS has issued proposed regulations that provide the method to be used to adjust the applicable federal rates (AFRs) under I.R.C. § 1288 for tax-exempt obligations and the method to be used to determine the long-term tax-exempt rate and the adjusted federal long-term rate under I.R.C. § 382. For tax-exempt obligations, the proposed regulations affect the determination of original issue discount under I.R.C. § 1273 and of total unstated interest under I.R.C. § 483. In addition, the proposed regulations affect the determination of the limitations under I.R.C. §§ 382 and 383 on the use of certain operating loss carryforwards, tax credits, and other attributes of corporations following ownership changes. I.R.C. § 1274(d) directs the Secretary to determine the AFRs that are used for determining the imputed principal amount of debt instruments to which I.R.C. § 1274 applies, computing total unstated interest on payments to which I.R.C. § 483 applies, and other purposes. Under I.R.C. § 1274(d)(1), the AFR is: (1) In the case of a debt instrument with a term not over three years, the Federal short-term rate; (2) in the case of a debt instrument with a term over three years but not over nine years, the Federal mid-term rate; and (3) in the case of a debt instrument with a term over nine years, the Federal long-term rate. I.R.C. §§ 1274(d)(2) and (3) provide special rules for selecting the appropriate AFR in specified circumstances. I.R.C. § 1274(d)(2) provides that, in the case of a sale or exchange, the AFR shall be the lowest AFR in effect for any month in the three calendar month period ending with the first calendar month in which there is a binding contract in writing for the sale or exchange. I.R.C. § 1274(d)(3) requires that options to renew or extend be taken into account in determining the term of a debt instrument. During each month, the Treasury Department determines the AFRs that will apply during the following calendar month based on the average market yield of outstanding marketable obligations of the United States with appropriate maturities. See Treas. Reg. §1.1274-4(b). The IRS publishes the AFRs (reproduced in the Digest) and adjusted AFRs for each month in the Internal Revenue Bulletin. I.R.C. § 1288(b)(1) provides that, in applying I.R.C. § 483 or I.R.C. § 1274 to a tax-exempt obligation, under regulations prescribed by the

ACCOUNTING METHOD. The IRS has announced that the revised mailing address for filing Form 3115, Application for Change in Accounting Method, is Internal Revenue Service, 1973 Rulon White Blvd., Mail Stop 4917, Ogden, UT 84201-1000. 2015ARD 041-2, March 2, 2015.

ADOPTIONS. In a short e-mail Chief Counsel Advice letter, the IRS stated: “We understand that Exam is disallowing an adoption tax credit for a non-Hague adoption on the ground that the foreign-country adoption was not followed by a U.S. re-adoption. Exam should not disallow the credit on this ground. Rev. Proc. 2005-31, 2005-1 C.B. 1374, provides that if a taxpayer adopts a child in a foreign-sending country and then re-adopts the child in the home state (the state of habitual residence) within one or two years thereafter, the taxpayer may choose to treat the year of finality as being either (1) the year the foreign decree was entered, or (2) the year of re-adoption, if the re-adoption occurs within the first or second year after the foreign adoption occurs. Thus, Rev. Proc. 2005-31 allows the taxpayer to choose the year of finality if there is a re-adoption. However, Rev. Proc. 2005-31 does not require a
Secretary, appropriate adjustments shall be made to the AFR to take into account the tax exemption for interest on the obligation. In the case of a corporation that has undergone an ownership change described in I.R.C. § 382(g), I.R.C. § 382 places an annual limit (the I.R.C. § 382 limitation) on the amount of the corporation’s taxable income that may be offset by certain net operating loss carryforwards and built-in losses, and I.R.C. § 383 places a limit, determined by reference to the I.R.C. § 382 limitation, on the amount of the corporation’s income tax liability that may be offset by certain tax credits and other tax attributes. Under I.R.C. § 382(b)(1), the I.R.C. § 382 limitation generally equals the product of the value of the stock of the corporation immediately prior to the ownership change and the long-term tax-exempt rate. I.R.C. § 382(f)(1) defines the long-term tax-exempt rate as the highest of the adjusted federal long-term rates in effect for any month in the three calendar month period ending with the calendar month in which the ownership change occurs. I.R.C. § 382(f)(2) provides that the term “adjusted Federal long-term rate” means the federal long-term rate determined under I.R.C. § 1274(d), except that I.R.C. §§ 1274(d)(2) and (3) shall not apply, and such rate shall be properly adjusted for differences between rates on long-term taxable and tax-exempt obligations.

ASSIGNMENT OF INCOME. The U.S. Supreme Court has denied certiorari in the following case. The taxpayers, husband and wife, attended a seminar which promoted a tax-avoidance scheme through use of a “corporation sole” as an alternative to a customary non-profit entity exempt from taxes under I.R.C. § 501(c)(3). The taxpayers dissolved their religious Section 501(c)(3) organization and formed a corporation sole, a corporation with one shareholder, and signed a vow of poverty. The taxpayers continued to perform religious services and receive compensation for those services. The corporation maintained a bank account but the taxpayers had full access to the funds and made only personal deposits and withdrawals for personal expenses. The taxpayers claimed all of their income as exempt church income. The Tax Court disagreed and held that the taxpayer held complete dominion and control over all of the funds, the corporation did not qualify as a Section 501(c)(3) religious organization, and the corporation also must file a separate return (including a consolidated return of another group) that includes its items for the period during which it is a member. The corporation also must file a separate return (including a consolidated return of another group) that includes its items for the period during which it is not a member. REG-100400-14, 80 Fed. Reg. 12097 (March 6, 2015).

TRANSFEREE LIABILITY FOR TAXES. The taxpayers were shareholders of a corporation which had sold all its assets in a resort. In an attempt to avoid the capital gains tax from the sale of the assets, the shareholders agreed to allow another company purchase their stock for the same amount as the proceeds of the asset sale. The court held that the IRS properly disregarded the sale of the stock and characterized the transaction as a liquidation of the corporation under federal tax and state fraudulent transfer law. Thus, when the corporation failed to pay taxes, the shareholders remained liable for the unpaid taxes under I.R.C. § 6901. Feldman v. Comm’r, 2015-1 U.S. Tax Cas. (CCH) ¶ 50,210 (7th Cir. 2015), aff’d, 141 T.C. 533 (2013).

COURT AWARDS AND SETTLEMENTS. The taxpayer had filed an employment discrimination lawsuit for termination of employment by an employer. The case was settled and the taxpayer received money and payment of attorneys fees and the taxpayer argued that, because the taxpayer suffered physical injury and sickness as a result of the actions of the employer, the proceeds of the settlement were not included in taxable income. The court held that the proceeds were taxable income because no part of the settlement agreement mentions that the proceeds were compensation for any injury or sickness but were paid to avoid the expense of litigation. Duffy v. United States, 2015-1 U.S. Tax Cas. (CCH) ¶ 50,205 (Fed. Cls. 2015).

DEPRECIATION. The taxpayer purchased stock in another corporation as part of a loan agreement. The taxpayer decided to abandon the stock when it became clear that the tax benefit from the ordinary loss resulting from the abandonment was greater than the value of the stock. The IRS disallowed the ordinary loss, arguing that the loss was a capital loss from the sale or exchange of the stock under either I.R.C. § 1234A or 165. The court disagreed, holding that I.R.C. § 1234A did not apply because the taxpayer abandoned the stock itself and not any contractual or derivative rights. The court also held that I.R.C. § 165(g) did not apply to make the loss capital because the stock was not worthless at the time of the abandonment, but merely useless to the taxpayer. Pilgrim’s Pride Corp. v. Comm’r, 2015-1 U.S. Tax Cas. (CCH) ¶ 50,211 (5th Cir. 2015), rev’g, 141 T.C. 533 (2013).

CONSOLIDATED RETURNS. The IRS has issued proposed regulations that amend I.R.C. § 1502 which authorizes the Secretary to prescribe regulations for corporations that join in filing a consolidated return and which expressly provides that those rules may be different from the provisions that would apply if those corporations filed separate returns. The proposed regulations provide guidance under Treas. Reg. § 1.1502-76, which prescribes rules for determining the taxable period in which items of income, gain, deduction, loss, and credit (tax items) of a corporation that joins in filing a consolidated return are included. Treas. Reg. § 1.1502-76(b) provides, in part, that if a corporation becomes or ceases to be a member of a consolidated group during a consolidated return year, the corporation must include in the consolidated return its tax items for the period during which it is a member. The corporation also must file a separate return (including a consolidated return of another group) that includes its items for the period during which it is not a member. REG-100400-14, 80 Fed. Reg. 12097 (March 6, 2015).

CORPORATIONS

ABANDONMENT OF STOCK. The taxpayer purchased stock in another corporation as part of a loan agreement. The taxpayer decided to abandon the stock when it became clear that the tax benefit from the ordinary loss resulting from the abandonment was greater than the value of the stock. The IRS disallowed the ordinary loss, arguing that the loss was a capital loss from the sale or exchange of the stock under either I.R.C. § 1234A or 165. The court disagreed, holding that I.R.C. § 1234A did not apply because
674. The taxpayer represented that there was some sale of fuel and other petroleum products in connection with the truck sales and maintenance services but was not more than 50 percent of the total revenue from the business. The issue was whether the buildings were properly classified or should have been classified as nonresidential real property depreciated over 39 years. In a Chief Counsel Advice letter, the IRS ruled that the buildings were nonresidential real property because the buildings were not used for the sale of fuel and petroleum products but was a truck dealership with only incidental sales of petroleum products. CCA 201509029, Sept. 29, 2014.

DISCHARGE OF INDEBTEDNESS. The taxpayer was a grantor trust which was a member of an LLC. The LLC leased a commercial building and had purchased the building with a secured loan. After the tenant left, the LLC restructured the loan, resulting in discharge of indebtedness income. The LLC hired a tax professional for advice on the tax consequences of the loan restructuring. However, the tax advisor failed to advise the members of the LLC of the requirement that members of the LLC had to make an election under I.R.C. § 108(c)(3)(C) to exclude the discharge of indebtedness income as qualified real property business indebtedness. The IRS granted an extension of time to make the election on an amended return. Ltr. Rul. 201509020 through 201509025, Nov. 12, 2014.

DOMESTIC PRODUCTION ACTIVITY DEDUCTION. The taxpayer was a non-exempt agricultural cooperative which purchased, stored, marketed and sold grain. Originally, the taxpayer purchased grain from its patrons, who were generally individual farmers, and sold the grain to customers, typically end processors. The taxpayer recorded the grain purchases, inventory and sales on its books and reported these transactions on its Form 1120-C tax return. The taxpayer formed a limited liability company (LLC) with two other cooperatives to handle the grain operations. The LLC elected to be taxed as a partnership and did not operate as a cooperative. After the formation of the LLC, the taxpayer was no longer in the grain business and surrendered its grain license. The taxpayer received flow-through income from the sale of grain by the LLC. In a Field Attorney Advice letter, the IRS ruled that the LLC could not issue per-unit-retains-paid-in-money because the LLC did not operate as a cooperative nor as an agent of the taxpayer and the taxpayer cooperative no longer purchased grain from its patrons. In addition, the taxpayer could not recharacterize the income from the LLC as per-unit-retains-paid-in-money for purposes of the domestic production activity deduction. FAA 20150801F, Feb. 27, 2015.

ESTIMATED TAXES. The IRS has announced the the farmers and fishermen who miss this year’s March 2 tax deadline because they are receiving corrected premium tax credit forms (Form 1095-A) from the Health Insurance Marketplace will have until April 15, 2015, to file their 2014 returns and pay any tax due. The IRS is providing this relief because a number of taxpayers have been informed that they will be receiving corrected Forms 1095-A from the Health Insurance Marketplace. Taxpayers need this form to file a complete and accurate return. As a result, the IRS is waiving the penalty for failing to make 2014 estimated tax payments for any farmer or fisherman who, due to this delay, files their return and pays any tax due by Wednesday, April 15. Additional guidance on this issue will be forthcoming. Normally, farmers and fishermen who choose not to make quarterly estimated tax payments are not subject to a penalty if they file their returns and pay the full amount of tax due by March 1. This year, the due date was pushed back to Monday, March 2, because the normal deadline falls on a Sunday. A taxpayer qualifies as a farmer or fisherman for tax year 2014 if at least two-thirds of the taxpayer’s total gross income was from farming or fishing in either 2013 or 2014. Farmers and fishermen requesting this penalty waiver must attach Form 2210-F to their tax return. The form can be submitted electronically or on paper. The taxpayer’s name and identifying number should be entered at the top of the form, the waiver box (Part I, Box A) should be checked, and the rest of the form should be left blank. General information for tax filers about the 1095-A error and how individuals can learn if their form is affected is available on the CMS website here. Treasury provided additional information for tax filers who have already filed using an incorrect form, which is available at http://www.treasury.gov/press-center/press-releases/Pages/j9981.aspx. Notice 2015-22, I.R.B. 2015-12.

GAMBLING INCOME. The IRS has issued a notice which provides a proposed revenue procedure that would provide an optional safe harbor method for individual taxpayers to determine a wagering gain or loss from certain slot machine play. Gains from wagering transactions are included in gross income under I.R.C. § 61. See Rev. Rul. 54-339, 1954-2 C.B. 89. Neither the statute nor the regulations define the term “transactions.” Gross income from a slot machine wagering transaction is determined on a session basis. I.R.C. § 165(d) provides that losses from wagering transactions are allowed only to the extent of the gains from such transactions. See also Treas. Reg. § 1.165-10. The IRS and the Treasury Department are aware that determining the amount of a wagering gain or loss from slot machine play is burdensome for taxpayers and sometimes creates controversy between taxpayers and the Service. This controversy is complicated by changes in gambling technology, including the increased use of electronic gambling, the development of player’s cards and tickets, and the curtailed redemption of tokens by slot machine players. To reduce the burden on taxpayers, the proposed revenue procedure would provide an optional safe harbor method for determining what constitutes a session of play for purposes of calculating wagering gains or losses from electronically tracked slot machine play under I.R.C. § 61. Use of the safe harbor method will not relieve taxpayers of the requirement to maintain records that substantiate any items reported on their income tax returns. See I.R.C. § 6001; Rev. Proc. 77-29, 1977-2 C.B. 538. The notices asks for suggestions as to various elements of such a safe harbor. Notice 2015-21, I.R.B. 2015-12.

The IRS has issued proposed regulations under I.R.C. § 6041 regarding the filing of information returns to report winnings from bingo, keno, and slot machine play. The proposed regulations affect persons who pay winnings of $1,200 or more from bingo and slot machine play, $1,500 or more from keno, and recipients of such payments. REG-132253-11, 80 Fed. Reg. 11600 (March 4, 2015).

HEALTH INSURANCE. The IRS has published information...
Generally, small employers are required to purchase a Qualified Health Plan documentation or letter of eligibility from SHOP, unless transition relief applies; for tax-exempt employers, the pass-through credit information; (6) the employer premiums paid per employee, if applicable; (5) the relevant K-1s and other pass-through credit information; (6) the cost of coverage for each employee; (7) the payroll tax liability — for tax-exempt organizations only; and (8) the pass-through credit information — for K-1s of other small employers. Health Care Tax Tip, HCTT 2015-13.

INNOCENT SPOUSE RELIEF. The taxpayer had applied for innocent spouse relief under I.R.C. § 6105(f). The taxpayer and son provided only their personal testimony that the decedent spouse had abused the taxpayer and completely controlled the finances. The Tax Court had denied relief after finding that the taxpayer’s and son’s testimony were self-interested and unsubstantiated. 

Net investment income. This amount generally includes income such as: interest, dividends, capital gains, rental and royalty income, and non-qualified annuities. This list is not all-inclusive. Net investment income normally does not include wages and most self-employment income. It does not include unemployment compensation, social security benefits or alimony. It also does not include any gain from the sale of a main home that taxpayers exclude from income. Taxpayers should refer to Form 8960, Net Investment Income Tax, to see if this tax applies. How to report. If a taxpayer owes the tax, the taxpayer must file Form 8960 with the federal tax return. If the taxpayer had too little tax withheld or did not pay enough estimated taxes, the taxpayer may have to pay an estimated tax penalty. IRS Tax Tip 2015-27.

POWER OF ATTORNEY. In a short e-mail Chief Counsel Advice letter, the IRS stated: “A power of attorney must be executed by the party who has the authority to legally bind the taxpayer. In the case of a corporation, the power of attorney must be ‘executed by an officer of the corporation having authority to legally bind the corporation, who must certify that he/she has such authority.’” Treas. Reg. Sec. 601.503(c)(3). This is reflected in the instructions to Form 2848, Power of Attorney and Declaration of Representative (Rev. July 2014), Line 7, ‘Corporations or associations. An officer with the authority to bind the corporation or association must sign and enter his or her exact title.’”
20150931, Sept. 29, 2014.

PUBLICATIONS. The IRS has published three revised publications on www.IRS.gov. Publication 946, How to Depreciate Property, explains how to recover the cost of business or income-producing property through deductions for depreciation. The publication was updated to reflect the extension of expiring tax provisions in legislation signed into law on Dec. 19. Publication 4587, Payroll Deduction IRAs for Small Businesses, explains that individuals saving in a traditional IRA may be able to receive some tax advantages on the money they contribute, and the investments can grow tax-deferred. Publication 4334, SIMPLE IRA Plans for Small Businesses explains how a SIMPLE (Savings Incentive Match Plan for Employees of Small Employers) IRA plan offers great advantages for businesses that have 100 or fewer employees (who earned $5,000 or more during the preceding calendar year) and that do not have another retirement plan. IR-2015-38.

RESEARCH ALTERNATIVE SIMPLIFIED TAX CREDIT. I.R.C. § 41(a) provides an incremental tax credit, the alternative simplified credit, (ASC) for increasing research activities based on a percentage of a taxpayer’s qualified research expenses above a base amount. A taxpayer can apply the rules and credit rate percentages under I.R.C. § 41(a)(1) to calculate the credit (commonly referred to as the regular credit) or a taxpayer can make an election to apply the ASC rules and credit rate percentages under I.R.C. § 41(c)(5) to calculate the credit. I.R.C. § 41(c)(5) (C) provides that an ASC election under I.R.C. § 41(c)(5) applies to the taxable year for which it is made and all succeeding taxable years unless revoked with the consent of the Secretary. The IRS adopted final regulations, TD 9528, relating to the election and calculation of the ASC. Treas. Reg. § 1.41-9(b)(2) provides that a taxpayer makes an election under I.R.C. § 41(c)(5) by completing the portion of Form 6765, Credit for Increasing Research Activities, relating to the ASC election, and attaching the completed form to the taxpayer’s timely filed (including extensions) original return for the taxable year to which the election applies. Treas. Reg. § 1.41-9(b)(2) also provides that a taxpayer may not make an election under I.R.C. § 41(c)(5) on an amended return and that an extension of time to make an election under I.R.C. § 41(c)(5) will not be granted under Treas. Reg. § 301.9100-3. The IRS has adopted final regulations removing the prohibition for making the election on an amended return if the taxpayer had not previously claimed a I.R.C. § 41 credit for that tax year on an original or amended return. In addition, the final regulations provide that a taxpayer that is a member of a controlled group in a tax year may not make an election under I.R.C. § 41(c)(5) for that tax year on an amended return if any member of the controlled group for that year claimed the research credit using a method other than the ASC on an original or amended return. T.D. 9712, 80 Fed. Reg. 10587 (Feb. 27, 2015).

NUISANCE

RIGHT-TO-FARM. The plaintiff was a village which passed an ordinance prohibiting all commercial farming within the village limits. Prior to the passage of the ordinance, the defendants had purchased a nursery which had six acres within the village boundaries. The defendants had cleared the nursery trees and planted corn and soybeans. The plaintiff sought an injunction and penalties for violation of the ordinance. The defendants argued that the Illinois Farm Nuisance Act, 740 ILCS 70, prevented enforcement of the ordinance against them. The trial court acquitted the defendants of any violation of the ordinance for lack of evidence but granted an injunction prohibiting the defendants from farming within the village boundaries. On appeal, the appellate court reversed, holding that the passage of the ordinance after the defendants began their farming operation gave rise to application of the Act because the ordinance changed the surrounding conditions to give rise to its declaration that the farm was a nuisance. The Village of LaFayette v. Brown, 2015 Ill. App. LEXIS 120 (Ill. Ct. App. 2015).

FARM ESTATE AND BUSINESS PLANNING

by Neil E. Harl
18th Edition Available Now

The Agricultural Law Press is honored to publish the revised 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. The 18th Edition includes all new income and estate tax developments from the 2012 tax legislation and Affordable Care Act. We also offer a PDF version for computer and tablet use for $25.00. Print and digital copies can be ordered directly from the Press by sending a check for $35 (print version) or $25 (PDF version) to Agricultural Law Press, 127 Young Rd., Kelso, WA 98626. Please include your e-mail address if ordering the PDF version and the digital file will be e-mailed to you. Credit card purchases can be made online at www.agrilawpress.com or by calling Robert at 360-200-5666 in Kelso, WA.

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AGRICULTURAL TAX SEMINARS

by Neil E. Harl

See the back page for information about these seminars. Here are the cities and dates for the seminars this spring and summer 2015:
April 28-29, 2015 - Doubletree, Springfield, MO
May 4-5, 2015 - Quality Inn, Grand Island, NE
May 28-29, 2015 - Plaza Event Center, Longmont, CO
June 16-17, 2015 - Eastland Suites, Bloomington, IL
June 18-19, 2015 - Holiday Inn, Indianapolis, IN
August 24-25, 2015 - Holiday Inn, Bloomington, MN
August 27-28, 2015 - Quality Inn, Ames, IA
September 14 & 15, 2015 - Courtyard Hotel, Moorhead, MN
September 17 & 18, 2015 - Ramkota Hotel, Sioux Falls, SD

Each seminar will be structured the same as described on the back cover of this issue. More information will be posted on www.agrilawpress.com and in future issues of the Digest.
AGRICULTURAL TAX SEMINARS

by Neil E. Harl

Join us for expert and practical seminars on the essential aspects of agricultural tax law. Gain insight and understanding from one of the country’s foremost authorities on agricultural tax law. The seminars will be held on two days from 8:00 am to 5:00 pm. Registrants may attend one or both days. On the first day, Dr. Harl will speak about farm and ranch estate and business planning. On the second day, Dr. Harl will cover farm and ranch income tax. Your registration fee includes written comprehensive annotated seminar materials for the days attended and lunch. A discount ($25/day) is offered for attendees who elect to receive the manuals in PDF format only (see registration form online for use restrictions on PDF files).

See Page 47 above for a list of cities and dates for Spring and Summer 2015

The topics include:

First day

FARM ESTATE AND BUSINESS PLANNING

New Legislation
Succession planning and the importance of fairness
The Liquidity Problem
Property Held in Co-ownership
Federal estate tax treatment of joint tenancy
Severing joint tenancies and resulting basis
Joint tenancy and probate avoidance
Joint tenancy ownership of personal property
Other problems of property ownership

Federal Estate Tax
The gross estate
Special use valuation
Property included in the gross estate
Traps in use of successive life estates
Basis calculations under uniform basis rules
Valuing growing crops
Claiming deductions from the gross estate
Marital and charitable deductions
Taxable estate
The applicable exclusion amount
Unified estate and gift tax rates
Portability and the regulations
Federal estate tax liens
Undervaluations of property

Gifts
Reunification of gift tax and estate tax
Gifts of property when debt exceeds basis

Use of the Trust
The General Partnership
Small partnership exception
Eligibility for Section 754 elections

Limited Partnerships
Limited Liability Companies
Developments with passive losses
Corporate-to-LLC conversions
New regulations for LLC and LLP losses

Closely Held Corporations
State anti-corporate farming restrictions
Developing the capitalization structure
Tax-free exchanges
Would incorporation trigger a gift because of severance of land held in joint tenancy?
“Section 1244” stock
Status of the corporation as a farmer
The regular method of income taxation
The Subchapter S method of taxation, including the “two-year” rule for trust ownership of stock
Underpayment of wages and salaries

Financing, Estate Planning Aspects and Dissolution of Corporations
Corporate stock as a major estate asset
Valuation discounts
Dissolution and liquidation
Reorganization
Entity Sale
Stock redemption
Social Security
In-kind wages paid to agricultural labor

Second day

FARM INCOME TAX

New Legislation
Reporting Farm Income
Constructive receipt of income
Deferred payment and installment payment arrangements for grain and livestock sales
Using escrow accounts
Payments from contract production
Items purchased for resale
Items raised for sale
Leasing land to family entity
Crop insurance proceeds

Wealth-related livestock sales
Sales of diseased livestock
Reporting federal disaster assistance benefits
Gains and losses from commodity futures, including consequences of exceeding the $5 million limit

Claiming Farm Deductions
Soil and water conservation expenditures
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Depreciating farm tile lines
Farm lease deductions
Prepaid expenses
Preproductive period expense provisions
Regular depreciation, expense method depreciation, bonus depreciation
Repairs and Form 3115; changing from accrual to cash accounting
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Sale of Property
Income in respect of decedent
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Installment sale including related party rules
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Like-Kind Exchanges
Requirements for like-kind exchanges
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What is “like-kind” for realty
Like-kind guidelines for personal property
Partitioning property
Exchanging partnership assets

Taxation of Debt
Turnover of property to creditors
Discharge of indebtedness
Taxation in bankruptcy.

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