Cases, Regulations and Statutes

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HORSES. The plaintiff was injured while taking horseback riding lessons at the defendant’s farm. The plaintiff fell off the horse while performing a maneuver required by the instructor. The defendant moved for summary judgment on the basis that the plaintiff had assumed the common and inherent risk of falling off a horse. The plaintiff argued that the maneuver required by the instructor unreasonably increased the risk of falling. The maneuver required the plaintiff to ride without feet in the stirrups. The court denied the motion for summary judgment because the defendant, at this pre-trial stage, had not demonstrated the lack of a triable issue of fact as to whether the instructor had unreasonably increased the risk of falling by requiring the maneuver to be performed without the plaintiff’s feet in the stirrups. The court noted that several other factors were in question, including the plaintiff’s skill level, degree of discomfort in riding without feet in the stirrups, and the plaintiff’s ability to control the horse under the above conditions. Georgiades v. Nassau Equestrian Center at Old Mill, Inc., 2015 N.Y. App. Div. LEXIS 9257 (N.Y. Sup. Ct. App. 2015).

FEDERAL FARM PROGRAMS

ORGANIC FOOD. The AMS has adopted as final regulations addressing recommendations submitted to the Secretary of Agriculture by the National Organic Standards Board (NOSB) following their October 2014 meeting. These recommendations pertain to the 2015 Sunset Review of substances on the U.S. Department of Agriculture’s (USDA) National List of Allowed and Prohibited Substances (National List). Consistent with the recommendations from the NOSB, the final regulation removes two nonorganic agricultural substances from the National List for use in organic handling: fortified cooking wines—marsala wine and sherry wine. The final regulation also removes two listings for synthetic substances allowed for use in organic crop production on the National List, streptomycin and tetracycline, as their use exemptions expired on October 21, 2014. 80 Fed. Reg. 77231 (Dec. 14, 2015).

The AMS has issued proposed regulations which address recommendations submitted to the Secretary of Agriculture by the National Organic Standards Board (NOSB) following their April 2015 meeting. These recommendations pertain to the 2016 Sunset Review of substances on the National List of Allowed and Prohibited Substances (National List). Consistent with the recommendations from the NOSB, the proposed regulations would remove five non-organic nonagricultural substances from the National List for use in organic handling: cyclohexylamine, diethylenetriamine, octadecylamine, and tetrasodium pyrophosphate. 80 Fed. Reg. 78150 (Dec. 16, 2015).

PAYMENT LIMITATIONS. The CCC has adopted as final regulations providing changes to the requirements for a person to be considered actively engaged in farming for the purpose of payment eligibility for certain Farm Service Agency and CCC programs. The final regulation amends and clarifies the requirements for a significant contribution of active personal management to a farming operation. The provisions of this rule do not apply to persons or entities comprised entirely of family members. The rule does not change the existing regulations as they relate to contributions of land, capital, equipment, or labor, or the existing regulations related to landowners with a risk in the crop or to spouses. This rule will apply to eligibility for payments earned for the 2016 crop or program year for farming operations with only 2016 spring planted crops, and to eligibility for payments for the 2017 and subsequent crop or program years for all farming operations (those with either spring

CHAPTER 12

PLAN. The Chapter 12 debtors were a husband and wife and their farm corporation. The corporation operated a custom harvesting and the debtors owned a wheat and sorghum farm and leased additional crop land. The corporation and debtors owed operating loans to Farm Credit and the cross-collateralized loans were oversecured by the corporation and farm assets. The plans provided that each debtor will pay all disposable income to creditors over five years. Both plans are 100 percent plans, and discharge were contingent upon payment in full. Farm Credit retained all liens and received minimum payments of $45,000 per year. To the extent Farm Credit was not paid in full by the plan payments, the debtors proposed to liquidate collateral, including equipment and the farm. Farm Credit objected to the plan as unfeasible, noting that the corporation had not made cash collateral payments during the pendency of the Chapter 12 case. The court found that these payments were missed only because the corporation was unable to perform several harvesting jobs because of weather; therefore, the failure to make three payments did not prove that the plan was unfeasible. The court analyzed the feasibility of both operations combined even though the corporation and debtors filed separate Chapter 12 cases. The court found that the harvesting and farming operations produced sufficient income to make all plan payments and cover operation expenses. The court approved the plan with small modifications covering other bank loans and increasing the rate of payment of the Farm Credit loan to cover the decrease in value of the farm equipment during the plan. In re Bright Harvesting, Inc., 2015 Bankr. LEXIS 4097 (Bankr. N.M. 2015).
FEDERAL ESTATE AND GIFT TAXATION

GIFTS. The taxpayers, husband and wife, created an irrevocable trust for the grantors’ children and grandchildren and an investment trust. Although the grantors were not listed as beneficiaries, the corporate trustee could distribute trust income and principal to the grantors at the request of a Power of Appointment Committee (Committee) composed of four of the grantors’ children and the trustee of the investment trust. After one of the grantors dies, the distributions may be made only by request of the Committee. The trust terminated upon the death of the second grantor to die. However, the grantors also had the power in a non-fiduciary capacity to appoint to any one or more of the grantors’ issue such amounts of the principal, including the whole thereof, as such the grantor deemed advisable to provide for the health, maintenance, support and education of the grantors’ issue. Each grantor also had the power to appoint the grantor’s interest in the trust to anyone except the estate of the grantor, the creditors of the estate or the creditors of the grantor. The IRS ruled that (1) contributions of property to the trust were not gifts taxable to the grantors; (2) distributions to the grantors were not gifts taxable to the Committee; (3) pre-termination distributions to the beneficiaries were not gifts taxable to the Committee; (4) trust income was not taxable to the grantors; and (5) pre-termination distributions to the beneficiaries were gifts taxable to the grantors. Ltr. Rul. 201550005 through 20150012, Aug. 7, 2015.

PORTABILITY. The decedent died, survived by a spouse, on a date after the effective date of the amendment of I.R.C. § 2010(c), which provides for portability of a “deceased spousal unused exclusion” (DSUE) amount to a surviving spouse. To obtain the benefit of portability of the decedent’s DSUE amount to the spouse, the decedent’s estate was required to file Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return, on or before the date that is 9 months after the decedent’s date of death or the last day of the period covered by an extension. The decedent’s estate did not file a timely Form 706 to make the portability election. The estate discovered its failure to elect portability after the due date for making the election. The spouse, as executrix of the decedent’s estate, represented that the value of the decedent’s gross estate is less than the basic exclusion amount in the year of the decedent’s death and that during the decedent’s lifetime, the decedent made no taxable gifts. The spouse requested an extension of time pursuant to Treas. Reg. § 301.9100-3 to elect portability of the decedent’s DSUE amount pursuant to I.R.C. § 2010(c)(5)(A). The IRS granted the estate an extension of time to file Form 706 with the election. Ltr. Rul. 201551008, Aug. 26, 2015; Ltr. Rul. 201550032, Aug. 6, 2015; Ltr. Rul. 201549022, Aug. 11, 2015; Ltrr. Rul. 201548004, July 15, 2015.

VALUATION. The decedent died in 2009 and the decedent’s estate included three pieces of art. Just after the decedent’s death, the market for art declined but recovered in 2010. In December 2009, a art auction company agreed to guarantee a sales price of $4.7 million for one piece plus 60 percent of any additional amount received at auction. The piece sold in 2010 for over $12 million. The estate reported the estate tax value at $5 million. The second piece was listed at $500,000 date of death value, although a similar piece had sold for $825,000. The third piece was listed at $450,000 date of death value, although a similar piece had sold for $1,426,000. The IRS assessed additional taxes based on a valuation of the three pieces at $13 million, $750,000 and $1.5 million. At trial, the IRS valuation expert agreed that the art market at the date of the decedent’s death was poorer than when the first piece sold at auction, and the expert decreased the estimated date of death value to $10 million which was accepted by the court. The court also disregarded the IRS expert’s valuation of the other two pieces as too high, again because the comparable art sales occurred after the art market had recovered. Thus, the court acknowledged that large post-death changes in the art market had to be accounted for in using post-death art sales as comparables for date of death values of art works. Estate of Newberger v. Comm’r, T.C. Memo. 2015-246.

FEDERAL INCOME TAXATION

BAD DEBTS. The taxpayer was a shareholder, officer and employee of a family corporation. The taxpayer had sold property with significant proceeds and taxable gain. The corporation needed funding for a real estate development project and the taxpayer agreed to a two year $1 million loan in the form of a revolving line of credit. Although the loan had stated interest, no interest or principal was paid and the loan was not secured by any collateral. The funds were given to the corporation over time as the project progressed; however, the entire project was cancelled at the end of the first year. The taxpayer presented no evidence of the worthless nature of the loan or that the company was insolvent. In addition, the company did not claim any discharge of indebtedness income from the loan. The taxpayer claimed the loan as a nonbusiness bad debt deduction. The court held that the taxpayer had not established a debtor-creditor relationship with the company and the taxpayer had not shown that the company was insolvent or that the loan was worthless; therefore, no bad debt deduction was allowed. On appeal the taxpayer argued that the loan was actually a capital contribution to the company. The appellate court affirmed, holding that the taxpayer was barred from making that argument on appeal because it was not raised in the Tax Court litigation. Shaw v. Comm’r, 2016-1 U.S. Tax Cas. (CCH) ¶ 50,102 (9th Cir. 2015), aff’g, T.C. Memo. 2013-170.

BUSINESS EXPENSES. The taxpayer was a business professor and filed Schedule C for two consulting businesses. One of the businesses claimed deductions for wages paid to several people, including the taxpayer’s daughter. The taxpayer filed form 1099 MISC for the payments but the forms had various errors in identifying the payees. The taxpayer did not provide documentation to support the amount and nature of the wages expenses other than incomplete bank statements, a spreadsheet summary of the payments and the taxpayer’s testimony. The court noted several inconsistencies of the taxpayer’s evidence and held
that the wage deduction was properly disallowed by the IRS for lack of substantiation. The court noted that the payments to the taxpayer’s daughter required extra scrutiny and were disallowed because the taxpayer failed to provide written evidence sufficient to determine whether any of the payments were gifts. Besaw v. Comm’r, T.C. Memo. 2015-233.

DEPRECIATION. The taxpayer was a C corporation which had an ownership change as defined by I.R.C. § 382(g), causing application of I.R.C. § 382 to limit the taxpayer’s offsetting of post-change income against pre-change net operating losses. Although the taxpayer hired a tax return preparer, the preparer failed to fully inform the taxpayer about the effect of the I.R.C. § 382 limits. Thus, the preparer did not make the election not to make the additional first year depreciation election under I.R.C. § 168(k) for depreciable property placed in service after the ownership change. After the return was filed, the taxpayer sought other tax advice and learned that I.R.C. § 382 limited the net operating loss offset. Due to these limitations, the tax advisor recommended that the taxpayer seek to revoke the election to take the additional first year depreciation. The IRS granted the taxpayer an extension of time to revoke the election to deduct the additional first year depreciation. The IRS also granted an extension of time to use the alternative depreciation system. Ltr. Rul. 201550029, Sept. 4, 2015.

HEALTH COVERAGE TAX CREDIT. The IRS has issued a notice which provides guidance regarding the health coverage tax credit (HCTC) under I.R.C. § 35, as modified by the Trade Preferences Extension Act of 2015, Pub. L. No. 114-27 (June 29, 2015). The notice provides information on who may claim the HCTC, the amount of the HCTC, and the procedures to claim the HCTC for tax years 2014 and 2015. The notice also provides guidance for taxpayers eligible to claim the HCTC who enrolled in a qualified health plan (QHP) offered through a Health Insurance Marketplace in tax years 2014 or 2015, and who claimed or are eligible to claim the premium tax credit under I.R.C. § 36B. Notice 2016-2, I.R.B. 2016-2.

HEALTH INSURANCE. The IRS has adopted as final regulations amending the Affordable Care Act regulations. I.R.C. § 36B(d)(2) provides that a taxpayer’s household income includes the modified adjusted gross income of the taxpayer and the members of the taxpayer’s tax family who are required to file an income tax return. The existing regulations provide that, in computing household income, whether a family member must file a tax return is determined without regard to I.R.C. § 1(g)(7), under which a parent may elect to include a child’s gross income in the parent’s gross income if certain requirements are met. The final regulations remove “without regard to section 1(g)(7)” existing regulations because that language implied that the child’s gross income is included in both the parent’s adjusted gross income and the child’s adjusted gross income in determining household income. Thus, the amendment clarifies that when a parent makes an election under I.R.C. § 1(g)(7), household income includes the child’s gross income included on the parent’s return only. The IRS noted that the parent’s modified adjusted gross income includes not only the child’s gross income but also the child’s tax-exempt interest and nontaxable Social Security income, which are excluded from gross income but included in modified adjusted gross income in computing household income. In addition, a parent may not make an I.R.C. § 1(g)(7) election if the child has income excluded under I.R.C. § 911, the third type of nontaxable income included in modified adjusted gross income. 80 Fed. Reg. 78971 (Dec. 28, 2015).

HOBBY LOSSES. The taxpayers were husband and wife. The husband owned and operated several real estate business and the wife was employed by a separate real estate firm. The taxpayers’ daughter took horse riding lessons and began competing with a saddled horse. The taxpayers purchased a horse for the daughter and began claiming business deductions for the costs associated with the training and showing of the horse by the daughter. On the advice of an accountant, the taxpayers formed separate LLCs for the horse activity and the husband’s real estate activity. The taxpayers also maintained separate records and bank accounts for the horse activity. All horses purchased by the LLC were considered primarily for their suitability for the daughter’s riding skills. Over the 15 years involved in this case, the taxpayers purchased 12 horses and sold several for a profit; however, over that time the LLC had over $1.5 million in losses. The activity was substantially reduced after the daughter started college. The taxpayers argued that the two LLCs should be combined as one activity for purposes of determining whether the activities were intended to make a profit. The court rejected combining the activities for this purpose in that (1) the activities were not operated at the same location; (2) the horse activity did not use land to generate a profit; (3) neither LLC operating agreement mentioned the other LLC; (4) the LLCs did not share any business relationship; and (5) the LLCs did not share employees or advisors other than the taxpayers as owners. The court held that the horse training and showing activity was not entered into with the intent to make a profit because (1) the taxpayers did not keep sufficient records to properly analyze the profitability of the activity; (2) the taxpayers made no changes to the activity to decrease expenses or increase revenues; (3) the taxpayers had no business plan for the activity other than to sell horses for more than they paid for them; (4) although the taxpayers and daughter spent a considerable amount of time on the activity, most of that time was spent on the enjoyable activities of attending shows; (5) the taxpayers and daughter received a substantial amount of personal pleasure from the activity; (6) the activity had substantial losses and no profitable years; and (7) the losses from the activity offset substantial income from the real estate activities. Judah v. Comm’r, T.C. Memo. 2015-243.

IRA. The taxpayer was an attorney who owned a qualified retirement account. The taxpayer received a distribution in 2011 which was needed to pay back taxes owed by the taxpayer. The taxpayer received Forms 1099-R, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc., reflecting the amounts distributed and indicating that the distributions were early withdrawals. The taxpayer did not include the distribution in taxable income because the taxpayer did not forward the Forms 1099-R to the taxpayer’s tax return preparer. The distribution was also not listed as subject to the additional tax for early distributions. The return was filed electronically very close to the filing due date and was not reviewed by the taxpayer. In addition to the taxes on the distribution, the IRS assessed an accuracy-related penalty. The taxpayer argued that the penalty
should not apply because the taxpayer reasonably relied on the tax return preparer to file their return. The court rejected this argument in that the taxpayer did not furnish the tax return preparer with all the information needed to file an accurate return and the taxpayer did not review the return before it was filed even though the taxpayer knew the distribution was taxable income. The court upheld the accuracy-related penalty. *Yguico v. Comm'r, T.C. Memo. 2015-230.*

**LEGAL EXPENSES.** The taxpayer was the managing shareholder of an S corporation. A shareholder sued the taxpayer for fraud, breach of fiduciary duty and breach of contract in managing the corporation. A jury awarded the shareholder compensatory and punitive damages for fraud and breach of fiduciary duty. The taxpayer also incurred expenses for court costs, the shareholder’s legal fees, interest on the judgment, and the taxpayer’s own attorney as well as ‘expert fees incurred. The IRS ruled that amounts paid for legal expenses in connection with litigation are deductible as business expenses where such litigation is directly connected to, or proximately results from, the conduct of a taxpayer’s business. *Ltr. Rul. 201548011, Aug. 24, 2015.*

**MILEAGE DEDUCTION.** The IRS has announced that the standard mileage rate for 2016 is 54 cents (reduced from 57.5 cents in 2015) per mile for business use, 14 cents per mile for charitable use and 19 cents (reduced from 23 cents in 2015) 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 2016) 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 2016-1, I.R.B. 2016-2.*

**MOVING EXPENSES.** The taxpayer accepted a new job 182 miles from the previous employment and chose to move using the taxpayer’s own vehicle in 20 round trips, sometimes using a rental trailer for larger items. The household goods were placed in storage near the new job until the new residence was available. The taxpayer claimed the expenses for the move based on the use of tax preparation software. The IRS denied the entire deduction, arguing that, under Treas. Reg. § 1.217-2(b)(4), the taxpayer was allowed moving deductions only for one trip to the new residence. The court allowed the taxpayer the standard mileage deduction of 23 cents per mile (in 2010) for 19 of the round trips. The court also allowed the cost of storing the household goods for one month before the final move, as allowed by Treas. Reg. § 1.217-2(b)(3). *Parmeter v. Comm’r, T.C. Summary Op. 2015-75.*

**PARTNERSHIPS**

**DEFINITION.** The taxpayers were father and son and they operated several farming activities on several parcels of land, some contributed by the father and some jointly purchased by both. Although the taxpayers shared and reported profits equally, the father claimed a greater portion of the expenses than the son. The Tax Court held that the taxpayers operated the farm as an equal partnership and the farm was taxable as a partnership because (1) both parties contributed capital and services, (2) they agreed to and did split the gross income from all sales, (3) both parties had equal access to the operation’s accounts, (4) both parties had a proprietary interest in farm profits, although the interest in losses was not clear, (5) the name of the operation did not clearly indicate the nature of the business entity, (6) the parties held themselves out as a partnership in obtaining insurance and filings with the state, and (7) both parties exercised control over the farm’s operations. Thus, the father was restricted to an equal share of the expenses as deductions. The appellate court affirmed in a decision designated as not for publication. See Harl, “When Is An Operating Arrangement a Partnership?” *21 Agric. L. Dig. 129 (2010).* NOTE: it would appear that the “small partnership” exception in I.R.C. Sec. 6231(a)(1)(B), which is discussed in Harl, “The ‘Small Partnership’ Exception: A Way to Escape Partnership Tax Complexity,” 23 *Agric. L. Dig.* 1 (2012), might have provided a defense in this case. *Holdner v. Comm’r, 2012-2 U.S. Tax Cas. (CCH) ¶ 50,626 (9th Cir. 2012), aff’g T.C. Memo. 2010-175.* After the IRS attempted to collect the taxes owed as determined by the above cases, the taxpayer challenged the collection on the basis that the original assessments were incorrect. The Tax Court granted summary judgment to the IRS under *res judicata* because the issue was litigated in the above cases. The appellate court affirmed in a decision designated as not for publication. *Holdner v. Comm’r, 2016-1 U.S. Tax Cas. (CCH) ¶ 50,105 (9th Cir. 2015), aff’d unrep. T.C. Memo. dec.*

**ELECTION TO ADJUST BASIS.** The taxpayer was formed as a general partnership. One of the general partners died in the tax year. The taxpayer relied on its tax advisor when preparing returns for the tax year, and the advisor did not inform the taxpayer as to the availability of an election under I.R.C. § 754 to adjust the basis of the taxpayer’s assets. Therefore, the taxpayer inadvertently failed to timely file a § 754 election for the tax year. The IRS granted an extension of time to file an amended return with the Section 754 election. *Ltr. Rul. 201548012, Aug. 13, 2015.*

**PASSIVE ACTIVITY LOSSES.** The taxpayer was an attorney who owned a farm near another town. The farm was crop share leased to a local farmer. The tenant was responsible for planting and harvesting a cotton crop and the taxpayer was responsible for all farm maintenance expenses. The taxpayer performed almost all farm maintenance personally, including maintenance of the roads, controlling weeds, fixing equipment, planting cover crops and hunting feral pigs. The taxpayer did not maintain any contemporary written log of the time and work done on the farm but presented a log of work on the farm created from calendars, credit card receipts and invoices for farm purchases. The taxpayer claimed to have worked 359.9 hours on the farm in one tax year and 209.5 hours in a second tax year. The taxpayer also presented testimony from
the tenant as to the number of hours spent farming on the property during the same two years. The tenant testified that he spent only 29-30 hours on the farm during the first year and fewer hours in the second year due to a crop loss. Under Treas. Reg. § 1.469-5T(a)(3), a taxpayer materially participates in an activity if the taxpayer provides at least 100 hours of work in the tax year and spends more time on the activity than any other individual. The court held that the taxpayer had presented sufficient evidence of more than 100 hours per year on the farm activity and more hours than the tenant spent on the farm activity; therefore, the rent from the farm activity was not passive activity income because the taxpayer materially participate in the activity. Leland v. Comm’r, T.C. Memo. 2015-240.

PENSION PLANS. For plans beginning in December 2015 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 3.03 percent. The 30-year Treasury weighted average is 3.13 percent, and the 90 percent to 105 percent permissible range is 2.81 percent to 3.28 percent. The 24-month average corporate bond segment rates for November 2015, without adjustment by the 25-year average segment rates are: 1.39 percent for the first segment; 3.98 percent for the second segment; and 5.00 percent for the third segment. The 24-month average corporate bond segment rates for December 2015, taking into account the 25-year average segment rates, are: 4.72 percent for the first segment; 6.11 percent for the second segment; and 6.81 percent for the third segment. Notice 2015-85, I.R.B. 2015-52.


QUARTERLY INTEREST RATE. The IRS has announced that, for the period January 1, 2016 through March 31, 2016, the interest rate paid on tax overpayments remains at 3 percent (2 percent in the case of a corporation) and for underpayments remains at 3 percent. The interest rate for underpayments by large corporations remains at 5 percent. The overpayment rate for the portion of a corporate overpayment exceeding $10,000 remains at 0.5 percent. Rev. Rul. 2015-23, I.R.B. 2015-52.

RETURNS. The IRS has announced that the tax filing season will begin as scheduled on Tuesday, Jan. 19, 2016. The IRS will begin accepting individual electronic returns that day and will begin processing paper tax returns at the same time. There is no advantage to people filing tax returns on paper in early January instead of waiting for e-file to begin. The filing deadline to submit 2015 tax returns is Monday, April 18, 2016, rather than the traditional April 15 date. Washington, D.C., will celebrate Emancipation Day on that Friday, which pushes the deadline to the following Monday for most of the nation. Due to Patriots Day, the deadline will be Tuesday, April 19, in Maine and Massachusetts. IR-2015-139.

TRAVEL EXPENSES. The taxpayer owned and operated a business which provided equipment for cleaning hydraulic oil. The business required the taxpayer to drive to the potential client’s business to demonstrate the equipment. The taxpayer maintained index cards on which the taxpayer recorded the address of the business, the date of the visit and other information about the client such as contact names and phone numbers. The taxpayer testified that some travels included multiple stops and some were single visits after which the taxpayer drove home. The taxpayer claimed over 40,000 miles traveled and claimed a deduction using the standard mileage rate. Although the court acknowledged that the travel records did not completely comply with the substantiation requirements of I.R.C. § 274(d) because the cards did not record the mileage for each business trip, the client addresses provided sufficient evidence to estimate the miles driven for business purposes. However, the court used the addresses and the shortest route for each trip to determine that the taxpayer was entitled to a deduction for only 13,731 miles. Charley v. Comm’r, T.C. Memo. 2015-232.

SAFE HARBOR INTEREST RATES

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STATE REGULATION OF AGRICULTURE

AGRICULTURAL USE. The plaintiff leased a farm on which the plaintiff operated a horse training activity on the farm, including “drag fox hunts.” The farm was 440 acres and previously used from crop farming. The plaintiff applied for an agricultural assessment value for the farm and was denied for five years by the defendant town assessor. The court examined the various definitions of agriculture in New York law and held that the training of horses was an agricultural activity for purposes of the agricultural assessment of farm land. The defendant argued that the farm was not operated for profit but was merely a hobby; therefore, the plaintiff was not eligible for the agricultural assessment. The court acknowledged that the training and riding of horses involved a high level of recreational purpose; however, the court held that the definition of agricultural activity did not exclude the training of horses purely for pursuits of recreation or pleasure from eligibility to obtain an agricultural assessment valuation. Although the farm met the size requirement of a minimum of seven acres for agricultural assessment, the court held that the plaintiff failed to prove that the farm produced at least $10,000 in annual sales. The plaintiff submitted two year’s of federal income tax returns with Schedule Fs showing income for one year of $3,200 and the second of $33,000. Because the plaintiff failed to provide sales records for the other three years, the court held that the plaintiff failed to prove an average of $10,000 in annual sales for the five tax years for which the plaintiff made applications for agricultural assessments. In the Matter of Eatons Neck, LLC, 2015 N.Y. Misc. LEXIS 4541 (N.Y. Sup. Ct. 2015).
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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