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Cases, Regulations and Statutes

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CASES, REGULATIONS AND STATUTES

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BANKRUPTCY

GENERAL

DISPOSABLE INCOME. The debtor filed for Chapter 13 and presented a proposed plan which provided for payment of all disposable income to the plan but which stated that any tax refunds were not disposable income subject to plan payments because the refunds were not known or virtually certain. The court held that the plan was not confirmable because the refunds would be included in disposable income. ***In re* Murchek, 2012-2 U.S. Tax Cas. (CCH) ¶ 50,471 (Bankr. N.D. Iowa 2012).**

ESTATE PROPERTY. The debtors filed for Chapter 7 and the trustee filed amended state and federal income tax returns for the debtors in order to obtain and use net operating losses from prior tax years which would create refunds. The trustee notified the state department of revenue and the IRS that the debtors were in bankruptcy; however, the state department of revenue and the IRS sent the refunds directly to the debtors. Although the debtors informed the state department of revenue that they were in bankruptcy, the state department of revenue told them that they could cash the check. They then purchased a car with the refund amounts. The trustee sought recovery from the state department of revenue and the IRS. The court held that the state department of revenue and the IRS and the debtors were jointly liable for the funds and that the trustee could seek collection of the funds from all parties. ***In re* Lancaster, 2012-2 U.S. Tax Cas. (CCH) ¶ 50,496 (Bankr. E.D. N.C. 2012)**.

FEDERAL TAX

DISCHARGE. The debtor filed for bankruptcy in June 2011 and listed taxes owed for 2003 through 2007. The debtor filed returns for those years in February and March of 2012 and sought to have the taxes declared dischargeable. The debtor argued that the debtor was improperly treated as an independent contractor by an employer and that the employer should have withheld the taxes from the debtor's salary. The court held that the taxes were nondischargeable because no tax returns were filed prior to the bankruptcy filing. ***In re* Thomson, 2012-2 U.S. Tax Cas. (CCH) ¶ 50,481 (Bankr. M.D. Fla. 2012)**.

FRAUDULENT PRE-PETITION TRANSFERS. The debtor was an S corporation which had an agreement with its shareholders to pay any federal income taxes attributable to the corporation's income passed-through to the shareholders. The shareholders testified that they would not have permitted the corporation to be an S corporation unless the corporation reimbursed them for the taxes. The trustee sought to recover the tax payments from the IRS as fraudulent pre-petition transfers, arguing that no shareholder agreement was proven and that no consideration was given by the shareholders for the payment of taxes. The court found sufficient evidence of the agreement from the shareholders' testimony and past history of making the payments. The court also found sufficient consideration provided to the corporation in that the corporation did not have to pay corporation income taxes as an S corporation and that the shareholders did not withdraw any of the taxable income but left the funds in the corporation to help fund operations. ***In re* Kenrob Information Technology Solutions, Inc., 2012-2 U.S. Tax Cas. (CCH) ¶ 50,491 (Bankr. E.D. Va. 2012)**.

FEDERAL FARM PROGRAMS

ORGANIC FOOD. The AMS has adopted as final regulations amending the USDA's National List of Allowed and Prohibited Substances to enact recommendations submitted to the Secretary of Agriculture by the National Organic Standards Board on October 28, 2010, and April 29, 2011. The final regulations amend the annotation for tetracycline for use in organic crop production and adds two substances: formic acid and attapulgite, along with any restrictive annotations, for use in organic livestock production and organic processing, respectively. **77 Fed. Reg. 45903 (Aug. 2, 2012)**.

FEDERAL ESTATE AND GIFT TAXATION

POWER OF APPOINTMENT. A trust was created by the taxpayer's parents with the taxpayer as the beneficiary. Under the trust agreement, upon the taxpayer's death, the trustee is instructed to distribute the principal and any accrued or undistributed income of the trust to one or more of the group consisting of the "settlors' issue," and on such terms and conditions, either outright or in trust, as the taxpayer shall appoint by a written instrument delivered to the trustee during the taxpayer's lifetime. The IRS ruled that the taxpayer did not have a general power of appointment over the trust principal because the term "settlors' issue" did not include the taxpayer's estate or the taxpayer's creditors. **Ltr. Rul. 201229005, March 26, 2012**.

FEDERAL INCOME TAXATION

ADOPTION TAX CREDIT. The IRS has published information about the expanded adoption tax credit. If a taxpayer adopted a child last year and requested an extension of time to file the 2011 taxes, the taxpayer may be able to claim the expanded adoption credit on the federal tax return. The Affordable Care Act temporarily increased the amount of the credit and made it refundable, which means it can increase the amount of a refund. (1) The adoption credit for tax year 2011 can be as much as $13,360 for each effort to adopt an eligible child. A taxpayer may qualify for the credit if the taxpayer adopted or attempted to adopt a child in 2010 or 2011 and paid qualified expenses relating to the adoption. (2) A taxpayer may be able to claim the credit even if the adoption does not become final. If a taxpayer adopts a special needs child, the taxpayer may qualify for the full amount of the adoption credit even if the taxpayer paid few or no adoption-related expenses. (3) The credit for qualified adoption expenses is subject to income limitations, and may be reduced or eliminated depending on income. (4) Qualified adoption expenses are reasonable and necessary expenses directly related to the legal adoption of the child who is under 18 years old, or physically or mentally incapable of caring for himself or herself. These expenses may include adoption fees, court costs, attorney fees and travel expenses. (5) To claim the credit, taxpayers must file a paper tax return and Form 8839, *Qualified Adoption Expenses*, and attach all supporting documents to the return. Documents may include a final adoption decree, placement agreement from an authorized agency, court documents and the state's determination for special needs children. A taxpayer can use IRS Free File to prepare the return, but it must be printed and mailed to the IRS. Failure to include required documents will delay the refund. (6) If a taxpayer filed tax returns for 2010 or 2011 and did not claim an allowable adoption credit, the taxpayer can file an amended return to get a refund. Use Form 1040X, *Amended U.S. Individual Income Tax Return*, along with Form 8839 and the required documents to claim the credit. A taxpayer generally must file Form 1040X to claim a refund within three years from the date the taxpayer filed the original return or within two years from the date the taxpayer paid the tax, whichever is later. (7) The IRS is committed to processing adoption credit claims quickly, but must also safeguard against improper claims by ensuring the standards for receiving the credit are met. If a taxpayer's return is selected for review, it is necessary for the IRS to verify that the legal criteria are met before the credit can be paid. If a taxpayer is owed a refund beyond the adoption credit, the taxpayer will still receive that part of the refund while the review is being conducted. (8) The expanded adoption credit provisions available in 2010 and 2011 do not apply in later years. In 2012 the maximum credit decreases to $12,650 per child and the credit is no longer refundable. A nonrefundable credit can reduce the tax, but any excess is not refunded. For more information see the 'Adoption Benefits FAQs' page available at IRS.gov or the Form 8839 instructions. **IRS Summertime Tax Tip 2012-09**.

BAD DEBTS. The taxpayer was a shareholder and employee of a corporation. The taxpayer withdrew funds from an IRA and loaned them to the corporation to help fund operations. The corporation repaid a portion of the loan but failed to repay the rest. The taxpayer claimed a bad debt deduction for the unpaid amount. Although the court found that a bona fide debtor-creditor relationship existed and the loan became worthless n the tax year claimed by the taxpayer, the court found that the dominant motivation for the loan was the protection of the taxpayer's investment interests in the companies, rather than protection of the taxpayer's salary. As such, the court held that the loans were nonbusiness bad debts, deductible only as losses. **Haury v. Comm'r, T.C. Memo. 2012-215.**

BUSINESS EXPENSES. The taxpayer was a lawyer who claimed deductions for various expenses of the law practice, including law books and legal services. The taxpayer failed to provide any written receipts for the expenses but produced only self-generated, handwritten records listing the claimed expenses. The court held that the deductions were properly denied because self-generated, handwritten records were insufficient to show either that the taxpayer paid the claimed expenses or that those expenses were deductible business expenses. **Gorokhovsky v. Comm'r, T.C. Memo. 2012-206**.

The decedent had purchased a yacht and spent a substantial amount to fix defects in the boat but eventually sold the boat for a loss. The decedent died three years later and the estate filed an amended return claiming a refund based on business deductions for expenses associated with the boat and for cost of goods sold. The court held that the estate failed to provide evidence that the boat was purchased as part of any business activity of the decedent or placed in service in a business activity. A casualty loss deduction was also disallowed because the estate did not provide any evidence of the source of the damage to the boat. **Estate of Bowen v. United States, 2012-2 U.S. Tax Cas. (CCH) ¶ 50,484 (D. Md. 2012)**.

CASUALTY LOSS. The taxpayers, husband and wife, suffered water damage to their residence from a burst water pipe in 2004. The taxpayers received payment from their property insurer but claimed that the loss was much greater than the insurance payment, based on loss of use and an appraisal conducted in 2007. However, the taxpayers adjusted the appraisal using information from an online real estate service and parts of the appraisal. The court rejected the taxpayers' claimed value as not based on reasonable adjustments of the appraisal. In addition, the court rejected the taxpayers' claimed loss as unsupported by a professional assessment of the loss. The court also rejected allowing any loss deduction for "loss of use," noting that the deduction was limited to actual physical damage. The appellate court affirmed in a decision designated as not for publication. **Sykes v. Comm'r, 2012-2 U.S. Tax Cas. (CCH) ¶ 50485 (9th Cir. 2012), *aff'g*, T.C. Memo. 2010-84**.

CHARITABLE CONTRIBUTIONS. The taxpayers, husband and wife, contributed a historical facade easement to a charitable organization and claimed a charitable deduction for the difference in value of their property after the contribution. The taxpayers submitted an appraisal which was rejected by the IRS. The court held that the appraisal did not actually or substantially meet the requirements of a qualified appraisal because of multiple deficiencies, including the method of valuation and the basis of valuation. The court noted that the appraisal did not take into account the limitations on remodeling of the facade in place before the contribution of the easement. On reconsideration, the Tax Court held that the similarities of the appraisal to the one in *Scheidelman v. Commissioner, T.C. Memo. 2010-151, vac'd and rem'd, 682 F.3d 189 (2d Cir. 2012)* required a holding that the appraisal was qualified because it had a method of valuation and a basis of valuation. However, the court still held that the appraisal was not qualified because the appraisal contained inaccuracies as to the property rights conveyed and the terms of the easement . **Rothman v. Comm'r, T.C. Memo. 2012-218, *aff'g on recon.*, T.C. Memo. 2012-163**.

The IRS has published a notice providing guidance on the deductibility of contributions to domestic single-member limited liability companies (SMLLC) that are wholly owned and controlled by organizations described in I.R.C. § 170(c)(2) and for federal tax purposes are disregarded as entities separate from their owners under Treas. Reg. § 301.7701-2(c)(2)(i). If all other requirements of I.R.C. § 170 are met, the IRS will treat a contribution to a disregarded SMLLC that was created or organized in or under the law of the United States, a United States possession, a state, or the District of Columbia, and is wholly owned and controlled by a U.S. charity, as a charitable contribution to a branch or division of the U.S. charity. The U.S. charity is the donee organization for purposes of the substantiation and disclosure required by I.R.C. §§ 170(f) and 6115. To avoid unnecessary inquiries by the IRS, the charity is encouraged to disclose, in the acknowledgment or another statement, that the SMLLC is wholly owned by the U.S. charity and treated by the U.S. charity as a disregarded entity. The limitations of I.R.C. § 170(b) apply as though the gift were made to the U.S. charity. **Notice 2012-52, I.R.B. 2012-35**.

The taxpayers, husband and wife, donated a facade conservation easement on their residence in a historic part of Boston. Because the residence was subject to a mortgage, approval of the transfer of the easement was obtained from the mortgagee which required that any proceeds of insurance or a condemnation award be first used to satisfy the mortgage. The IRS rejected the charitable deduction for the easement because the mortgagee requirement prevented the trust from owning the easement in perpetuity, as required by Treas. Reg. § 1.170A-14(g)(6). The Tax Court had agreed with the IRS and disallowed the charitable deduction. On appeal the appellate court reversed, holding that the mortgagee requirement did not necessarily place the mortgagee in the position of receiving all insurance or condemnation proceeds. The court noted that the mortgagee's interest would be subject to superior tax liens. **Kaufman v. Comm'r, 2012-2 U.S. Tax Cas. (CCH) ¶ 50,472 (1st Cir. 2012), *rev'g*, 136 T.C. 294 (2011)**.

DEPRECIATION. The taxpayer was a partnership. On its timely filed federal partnership income return for two taxable years, the taxpayer made an election under I.R.C. § 168(k)(2)(D)(iii) not to deduct the 50-percent and 100-percent additional first year depreciation for qualified property placed in service during those taxable years. The taxpayer made the election based on the advice of its qualified professional outside tax preparer who failed to correctly characterize income from one of the partners. The IRS granted an extension to filed amended returns without the election under I.R.C. § 168(k)(2)(D)(iii) not to deduct the 50-percent and 100-percent additional first year depreciation. **Ltr. Rul 201230011, April 20, 2012**.

DISASTER LOSSES. On July 19, 2012, the President determined that certain areas in New Jersey are eligible for assistance from the government under the Disaster Relief and Emergency Assistance Act (42 U.S.C. § 5121) as a result of severe storms and winds which began on June 30, 2012. **FEMA-4070-DR**. On July 23, 2012, the President determined that certain areas in West Virginia are eligible for assistance from the government under the Act as a result of severe storms and winds which began on June 29, 2012. **FEMA-4071-DR**. Accordingly, taxpayers in the areas may deduct the losses on their 2011 federal income tax returns. See I.R.C. § 165(i).

DISCHARGE OF INDEBTEDNESS. The taxpayer had realized discharge of indebtedness income from forgiveness of a portion of a credit card debt. The taxpayer sought to exclude the discharged indebtedness from taxable income under the insolvency exception of I.R.C. § 108(a)(1)(B). The issue was the value of two pieces of real property owned by the taxpayer at the time of the discharge of the indebtedness. The only evidence of the first property value was an agreement reached with a city as to the valuation for property tax purposes. The court held that property tax values were insufficient proof of market value. The evidence of value for the other property was a bank statement and a property tax statement, both of which were also rejected by the court as insufficient to show market value. **Shepherd v. Comm'r, T.C. Memo. 2012-212**.

FOREIGN ACCOUNTS. The taxpayer owned two Swiss bank accounts from 1993 through 2000 and earned interest income on the accounts. The taxpayer failed to file form TD F 90-22.1, *Report of Foreign Bank and Financial Accounts* (FBAR) in any of those years. On Form 1040, line 7a of Part III, the checked "no," indicating no foreign accounts. The IRS assessed penalties for the failures to file the FBAR for 2000. The trial court held that the penalty was improper because the taxpayer had not willfully failed to file the FBAR. In a decision designated as not for publication, the appellate court reversed, holding that checking the "no" box on 2000 Form 1040, failure to read or follow instructions for Form 1040, and failure to reveal the accounts, demonstrated that the taxpayer willfully attempted to hide the accounts and the taxable income. **United States v. Williams, 2012-2 U.S. Tax Cas. (CCH) ¶ 50,475 (4th Cir. 2012), *rev'g*, 2010-2 U.S. Tax Cas. (CCH) ¶ 50,623 (E.D. Va. 2010)**.

HOBBY LOSSES. The taxpayers, husband and wife, owned and operated a horse racing, training and breeding activity on the 12 acres rural residence. The husband was employed as a lawyer and the wife provided bookkeeping services for the law firm and the horse activity. The court held that the activity was not entered into with an intent to make a profit because (1) although the taxpayers maintain a separate checking account and used accounting software to keep track of income and expenses, the records were insufficient for use for planning and modifying the business to make it profitable; (2) the taxpayer did not have a business plan for the activity and made no changes to the unprofitable parts of the activity; (3) although the taxpayers claimed to have tried to minimize expenses, the taxpayer did not provide specific information to support this or to identify the savings; (4) the activity produced only losses over 25 years; and (5) the losses from the activity offset substantial income from the husband's law practice. **Foster v. Comm'r, T.C. Memo. 2012-207**.

IRA. The taxpayers, husband and wife, received distributions from the wife's IRA and only partially included the distributions as taxable income. The amounts reported were characterized as capital gains. The taxpayers argued that the value of the IRA was increased because of capital gains realized during the existence of the IRA; therefore, the distributions were taxable as capital gains. The taxpayers also argued that the unreported portion of the distributions were nondeductible contributions to the IRA. However, the court found that the taxpayers failed to demonstrate that any portion of the IRA resulted from nondeductible contributions. In addition, the court held that the IRA rules did not distinguish between increases from capital gains or other income to the IRA; therefore, all distributions were included in taxable income unless an exception applied. Because the taxpayers did not identify any valid exception, the entire distributions from the IRA were included in taxable income. **Bernard v. Comm'r, T.C. Memo. 2012-221**.

The taxpayer was a shareholder and employee of a corporation. The taxpayer withdrew funds from an IRA and loaned them to the corporation to help fund operations. The corporation repaid a portion of the loan more than 60 days later and the taxpayer redeposited those funds in the IRA, again more than 60 days after the distribution. The court held that the funds were taxable income to the taxpayer and subject to the 10 percent additional penalty for early withdrawal. **Haury v. Comm'r, T.C. Memo. 2012-215**.

The taxpayer received two payments as a beneficiary of the taxpayer's deceased parent's IRA. The first payment was kept by the taxpayer and the second payment was placed in an IRA owned by the taxpayer. The taxpayer included only the first payment in taxable income. The court held that the second payment was not eligible for rollover treatment because it involved inherited IRA funds. The court noted that inherited IRA funds can escape immediate taxation only through a trustee-to-trustee transfer. The taxpayer argued that the taxpayer's actions substantially complied with the intent to create a trustee-to-trustee transfer; However, the court rejected this argument noting that none of the specific requirements for a trustee-to-trustee transfer were met. **Beech v. Comm'r, T.C. Summary Op. 2012-74**.

INNOCENT SPOUSE RELIEF. In an opinion designated as not for publication, the court upheld IRS denial of equitable innocent spouse relief because the taxpayer failed to file any valid joint returns for the tax years involved. **James v. Comm'r, 2012-2 U.S. Tax Cas. (CCH) ¶ 50,488 (9th Cir. 2012)**.

PARTNERSHIPS

CHECK-THE-BOX ELECTION. The taxpayer was formed under the laws of a foreign country. The taxpayer represented that it was a foreign entity eligible to elect to be classified as a partnership for federal tax purposes. The taxpayer stated that it intended to be treated as a partnership; however, the taxpayer inadvertently failed to timely file a Form 8832, *Entity Classification Election*. The IRS granted an extension time to file Form 8832. **Ltr. Rul. 201229006, April 6, 2012**.

ELECTION TO ADJUST BASIS. The taxpayer partnership was eligible to make the I.R.C. § 754 election to adjust the basis of partnership assets but its tax advisor failed to make the election on the partnership return. The IRS granted an extension of time to file an amended return with the election. **Ltr. Rul. 201229009, March 9, 2012**.

PAYING TAXES. The IRS has published information on several options for taxpayers to pay their tax bill. (1) *Tax bill payments* If a taxpayer gets a bill from the IRS this summer that shows the taxpayer owes late taxes, the taxpayer is expected to promptly pay the tax owed including any penalties and interest. If the taxpayer is unable to pay the amount due, it may be better for the taxpayer to get a loan to pay the bill in full rather than to make installment payments to the IRS. That is because the interest rate and penalties the IRS must charge by law are often higher than what lending institutions may be offering. (2) *Electronic Funds Transfer* Taxpayers can pay their tax bill by electronic funds transfer, check, money order, cashier's check or cash. To pay using electronic funds transfer, taxpayers use the Electronic Federal Tax Payment System by either calling 800-555-4477 or using the online access at www.eftps.gov. (3) *Credit card payments* Taxpayers can pay their bill with a credit card. The reasonableness of this method depends on whether the interest rate on a credit card is lower than the combination of interest and penalties the IRS must charge. To pay by credit card contact one of the following processing companies:

WorldPay US, Inc. at 888-9PAY-TAX (or www.payUSAtax.com).

Official Payments Corporation at 888-UPAY-TAX (or www.officialpayments.com/fed).

Link2Gov Corporation at 888-PAY-1040 (or www.pay1040.com).

(4) *Additional time to pay* Based on a taxpayer's circumstances, a taxpayer may be granted a short additional time to pay the tax in full. A brief additional amount of time to pay can be requested through the Online Payment Agreement application at IRS.gov or by calling 800-829-1040. There generally is no set up fee for a short-term agreement. (5) *Installment Agreement* Taxpayers may request an installment agreement if they cannot pay the total tax in full. This is an agreement between the taxpayer and the IRS to pay the amount due in monthly installment payments. Taxpayers must first file all required returns and be current with estimated tax payments. (6) *Apply Using Form 9465* Taxpayers can complete and mail an IRS Form 9465, *Installment Agreement Request*, along with the tax bill using the envelope received from the IRS. The IRS will inform the taxpayer (usually within 30 days) whether the request is approved, denied, or if additional

information is needed. (7) *Apply Using Online Payment Agreement* If the taxpayer owes $50,000 or less in combined tax, penalties and interest, the taxpayer can request an installment agreement using the Online Payment Agreement application at IRS.gov. The taxpayer may still qualify for an installment agreement if the taxpayer owes more than $50,000, but the taxpayer is required to complete a Form 433F, *Collection Information Statement*, before the IRS will consider an installment agreement. (8) *User fees* If an installment agreement is approved, a one-time user fee will be charged of $105, or $52 for agreements where payments are deducted directly from a bank account. For eligible individuals with lower incomes, the fee can be reduced to $43. (9) *Offer in Compromise* IRS is now offering more flexible terms with its Offer-in-Compromise (OIC) Program. An OIC is an agreement between a taxpayer and the IRS that settles the taxpayer's tax debt for less than the full amount owed. An OIC is generally accepted only if the IRS believes, after assessing the taxpayer's financial situation, that the tax debt cannot be paid in full as a lump sum or through a payment agreement. (10) *Check withholding* Taxpayers who have a balance due may want to consider changing their Form W-4, *Employee's Withholding Allowance Certificate*, with their employer. (11) *Fresh Start* The IRS has a program to help struggling taxpayers get a fresh start. Through the Fresh Start program, individuals and small businesses may be able to pay the taxes they owe without facing additional or unnecessary burden. For more information about payment options or IRS's Fresh Start program, visit IRS.gov. IRS Publications 594, *The IRS Collection Process*, and 966, *Electronic Choices to Pay All Your Federal Taxes*. **IRS Summertime Tax Tip 2012-13**.

REPORTING AGENT. The IRS has issued a revenue procedure updating the requirements for completing Form 8655, *Reporting Agent Authorization*. An authorization allows a taxpayer to designate a reporting agent to perform certain acts on behalf of the taxpayer, including (1) signing and electronically filing several forms, including Form 940, Form 941; (2) signing and filing on paper certain specified forms; (3) making federal tax deposits and other federal tax payments; and (4) receiving duplicate copies of various documents. The revenue procedure changes the former procedure by (1) requiring the reporting agent to use the Electronic Federal Tax Payment System or the Federal Tax Application to make deposits or payments, (2) clarifying that when a new authorization is submitted to the IRS to change the authority of the reporting agent, the old authorization remains in effect except as modified by the new one; and (3) requiring reporting agents to give the taxpayer quarterly written notice that the authorization does not eliminate the taxpayer's liability for failure to file employment tax returns or remit employment taxes. The new revenue procedure is effective November 19, 2012. **Rev. Proc. 2012-32, I.R.B. 2012-35, *superseding*, Rev. Proc. 2007-38, 2007-1 C.B. 1442**.

S CORPORATIONS

PASSIVE INCOME. The taxpayer elected to be treated as an S corporation for federal tax purposes and owned commercial and rental real estate property. The taxpayer expected to have accumulated earnings and profits from prior years. The taxpayer, through its employees and other agents, provided certain services with respect to the property. These services involved maintaining and repairing the property, including its common areas and grounds. The maintenance services included cleaning, painting, electrical, plumbing, roof and structural maintenance, garbage and recycling, landscaping services, and pest control services. The taxpayer, through its employees and through contractors, also furnished the following operational and management services: identifying new tenants; negotiating leases; renewals and other agreements with tenants; collecting rents and other amounts due from tenants; communicating with tenants on all issues relating to management and operation of the property; paying all water, gas, heat, light, power, sewer, and janitorial charge and other utilities or services used or needed for the property; maintaining the structural and exterior portions of the property in good condition; providing trash removal and window cleaning services; furnishing the property-related inspections; maintenance of common areas; furnishing of landscaping and snow removal services. The IRS ruled that the taxpayer provided significant services and incurred substantial expenses in owning the property; therefore, the rental income was not passive income for federal tax purposes. **Ltr. Rul. 201229007, March 22, 2012**.

VACATION HOMES. The IRS has produced a video on YouTube on reporting income from renting a vacation home. See **http://www.youtube.com/watch?v=BiZ8BMvcUnE**

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by Neil E. Harl

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The topics include:

First day

FARM INCOME TAX

New Legislation

Reporting Farm Income
- Leasing land to family entity
- 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
- Crop insurance proceeds
- Weather-related livestock sales
- Sales of diseased livestock
- Reporting federal disaster assistance benefits
- Gains and losses from commodity futures

Claiming Farm Deductions
- Soil and water conservation expenditures
- Fertilizer deduction election
- Depreciating farm tile lines
- Farm lease deductions
- Prepaid expenses
- Preproductive period expense provisions
- Regular depreciation, expense method depreciation, bonus depreciation
- Paying rental to a spouse
- Paying wages in kind
- Section 105 plans

Sale of Property
- Income in respect of decedent
- Sale of farm residence
- Installment sale including related party rules
- Private annuity
- Self-canceling installment notes
- Sale and gift combined.

Like-Kind Exchanges
- Requirements for like-kind exchanges
- "Reverse Starker" exchanges
- 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.

Second day

FARM ESTATE AND BUSINESS PLANNING

New Legislation

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
- Family-owned business deduction recapture
- 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 new 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

Limited Partnerships

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

The 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

Financing, Estate Planning Aspects and Dissolution of Corporations
- Corporate stock as a major estate asset
- Valuation discounts
- Dissolution and liquidation
- Reorganization

Social Security
- In-kind wages paid to agricultural labor

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