a corporation is properly allocable to a trade or business, unless such trade or business is otherwise explicitly excluded from the application of the provision." H. Rept. 115–466, at 386, fn. 688 (2017).

[9] Prop. Treas. § 1.163(j)-1(b)(20). The proposed regulations provide several examples which include original issue discounts, deferred payments treated as interest under I.R.C. § 483, amounts treated as interest under an I.R.C. § 467 rental agreement and redeemable ground rent treated as interest under I.R.C. § 163.

[10] See I.R.C. § 163(j)(7) (trade or business).

[11] I.R.C. § 163(j)(8). See Prop. Treas. § 1.163(j)-1(b)(1).

[12] See Prop. Treas. § 1.163(j)-1(b)(1)(i)(D), (E). See also Prop. Treas. § 1.163(j)-1(b)(1)(iii) (depreciation, amortization, or depletion expense that is capitalized to inventory under I.R.C. § 263A is not a depreciation, amortization, or depletion deduction.

[13] I.R.C. § 163(j)(9). These provisions allow taxpayers incurring interest expense for the purpose of securing an inventory of motor vehicles, which includes farm machinery and equipment, held for sale or lease to deduct the full expense without regard to the limitation under I.R.C. § 163(j)(1).

[14] See Prop. Treas. § 1.163(j)-1(b)(1)(i) (farming business is defined as in I.R.C. § 263A(e)(4) or Treas. Reg. § 1.263A–4(a)(4) and "as any trade or business of a specified agricultural or horticultural cooperative, as defined in I.R.C. § 199A(g)(4)."

[15] I.R.C. § 163(j)(10). The required use of ADS results in the inability of these electing trades or businesses to use the additional (bonus) first-year depreciation deduction under I.R.C. § 168(k) for those types of property.

CASES, REGULATIONS AND STATUTES

BANKRUPTCY

GENERAL

DISCHARGE. The debtors, husband and wife, filed for Chapter 11 bankruptcy and their partnership filed a separate Chapter 11 case. The debtors engaged primarily in soybean crop farming and sought court approval for an operating loan to provide for farming inputs and advance rental fees. As part of their loan application with a new creditor, the debtors submitted a list of land they intended to plant and harvest with the proceeds of the loan. The list totaled 8300 acres; however, a good number of the leases were not secured at the time of the loan application or the court hearing on the post-petition financing. In fact, the debtors lost several leases and farmed only 4900 acres with the loan proceeds. The debtors defaulted on the loan and the creditor sought a ruling that the loan deficiency was nondischargeable under Section 523(a)(2)(A) & (B) and (a)(6) for money obtained under false pretenses and false representations in the loan application. Section 523(a)(2)(B) provides that "(a) A discharge under section 727, 1141, 1228(a), or 1328(b) of this title does not discharge an individual debtor from any debt— . . . (2) for money, property, services, or an extension, renewal, or refinancing of credit, to the extent obtained by— . . . (B) use of a statement in writing— (i) that is materially false; (ii) respecting the debtor's or an insider's financial condition; (iii) on which the creditor to whom the debtor is liable for such money, property, services, or credit reasonably relied; and (iv) that the debtor caused to be made or published with intent to deceive." The debtors argued that the leasing list was not part of the loan application because it was not attached to the application and was merely a projection of the possible leases. The court found, however, that it was irrelevant how the list was presented but it was important only that the list was presented to the creditor during the loan process. In addition, the court found that the list did not contain any language or other indication that the list was only prospective leases. The debtors admitted that the list was constructed from the prior year's leases but failed to explain why the list contained additional leased land. In addition, the court found that several of the prior leases had been terminated by the lessors prior to the bankruptcy request for approval of the loan and that the debtors knew those leases would not be renewed. The court held that the list of leases and proposed total planting acres satisfied the first requirement of Section 523(a)(2)(B) that the debtors submitted a written statement respecting the debtors' financial condition in that the total acres to be planted directly impacted the expected income from farming. As to the second element of Section 523(a)(2)(B), the court found that the leasing list was materially false in that (1) the leases were not executed at the time the list was made, (2) the debtors planted almost 50 percent less acreage and (3) the actual planted acreage matched the prior year's leased acreage. On the third factor, the court used five factors to indicate whether a creditor reasonably relied on a debtor's loan documents: (1) whether the creditor had a close personal relationship or friendship with the debtor; (2) whether there had been previous business dealings with the debtor that gave rise to a relationship of trust; (3) whether the debt was incurred for personal or commercial reasons; (4) whether there were any "red flags" that would have alerted an ordinarily prudent lender to the possibility that the representations relied upon were not accurate; and (5) whether even minimal investigation would have revealed the inaccuracy of the debtor's representations. The court found that nothing in the leasing list indicated that it was incorrect or incomplete and that the debtors had testified in the bankruptcy proceeding that they would be farming over 8,000 acres; thus, the creditor reasonably relied on the debtors' written and oral statements. The fourth element involves the debtors' intent in providing the false information. The court noted that the intent to deceive can be determined by showing that the debtors either intended to deceive or acted with gross negligence in submitting the false documents. Unless the debtors admit to the intent to deceive a creditor, the debtors' intent must be determined through

circumstantial evidence and inferences from the facts. The court noted the major inconsistency in the debtors' testimony that the leasing list was based on the prior year's actual leases and that the leasing list was also a projection of the land to be leased with the loan proceeds. Because the prior year's leases covered only 5,200 acres, the court found it impossible that the leasing list was based on this number of acres because the leasing list indicated over 8,000 acres would be leased. Thus, the court held that the debtors knew the leasing list was inaccurate and used it to deceive the creditor into lending more money than would have been lent using the amount of the prior year's leased acres. The court held that the loan deficiency was nondischargeable under Section Section 523(a)(2)(B). ***In re* Blankenship, 2019 Bankr. LEXIS 7 (Bankr. W.D. Tenn. 2019)**.

FEDERAL TAX

TAX LIEN. The debtor had failed to pay federal taxes for 2003 through 2006 and the IRS had filed a Notice of Federal Tax Lien against the debtor's real and personal property. The debtor filed for Chapter 13 and listed a residence valued at $950,000 and personal property valued at $10,000. The debtor's claims schedules listed a mortgage in excess of the residence's fair market value, some judgment lien creditors and the IRS claim. The IRS filed a proof of claim, with a secured claim for $10,000 and the remainder as an unsecured claim because the debtors listed no equity in the residence. The Chapter 13 plan provided for the $10,000 IRS secured claim but no payments for the unsecured claim. The plan, however, made no mention of the IRS federal tax lien. The plan was confirmed in 2012 and in 2014 the debtor obtained court approval of a modification of the plan to provide for sale of the residence at over twice the value listed in the original asset schedules. Again, the modification did not mention any change to the IRS lien. After the residence was sold, the IRS submitted an amended proof of claim listing the unpaid taxes as a secured claim, based on the tax lien. The debtor argued that the IRS was estopped from amending its claim because the plan provided for only $10,000 in secured IRS claims and the IRS failed to object to the plan. The Bankruptcy Court dismissed the debtor's objection on the basis that the Chapter 13 plan did not modify the *in rem* lien rights of the federal tax lien, which survived the plan confirmation. On appeal, quoting *In re Brawders, 503 F.3d 856 (9th Cir. 2007)*, the District Court stated that a confirmed plan "has no preclusive effect on issues that must be brought by an adversary proceeding, or were not sufficiently evidenced in a plan to provide adequate notice to the creditor." The limitations on the application of *res judicata* "are particularly apropos when secured claims are involved" because "liens ordinarily pass through bankruptcy unaffected, regardless whether the creditor holding the lien ignores the bankruptcy case, or files an unsecured claim when it meant to file a secured claim, or files an untimely claim after the bar date has passed." Thus, the appellate court looked to the debtor's plan to see whether it put the IRS on notice of the debtor's modification of the tax lien. The appellate court found no such notice but only language that modified the IRS proof of claim. The appellate court noted that the plan did provide for avoidance of the two judgment liens against the debtor. Thus, the appellate court affirmed the Bankruptcy Court's dismissal of the debtor's objection and ordered the trustee to provide for payment of the tax lien from the proceeds of the sale of the residence above the first mortgage against the residence. On further appeal, the Ninth Circuit Court of Appeals affirmed in a decision designated as not for publication. ***In re* Nomellini, 2019-1 U.S. Tax Cas. (CCH) ¶ 50,119 (9th Cir. 2019), *aff'g*, 2017-2 U.S. Tax Cas. (CCH) ¶ 50,343 (N.D. Calif. 2017), *aff'g, unpub. Bankr. N.D. Calif. dec***.

FEDERAL ESTATE AND GIFT TAXATION

RETURNS. The IRS has issued updated Forms 706, *U.S. Estate (and Generation-Skipping Transfer) Tax Return*, and Form 709, *U.S. Gift (and Generation-Skipping Transfer) Tax Return* and instructions. The Instructions for both Forms include the inflation-adjusted amounts applicable to estate, gift, and generation-skipping transfer taxes. For the estates of decedents dying and gifts made in 2018, the basic exclusion amount is $11.18 million ($11,400,000 for 2019). For 2018, the ceiling on special use valuation is $1.14 million ($1,160,000 in 2019), and the amount used to compute the two-percent portion of estate tax payable in installments is $1.52 million ($1,550,000 for 2019). The gift tax annual exclusion amount is $15,000 for 2018 and 2019. For gifts made to a spouse who is not a U.S. citizen, the annual exclusion amount is $152,000 ($155,000 for 2019). *Address changes*: Forms 706 that are filed after January 1, 2019, and before June 30, 2019, should be mailed to Department of the Treasury, IRS Center, Cincinnati, OH 45999. If filed after June 30, 2019, Forms 706 should be send to Department of the Treasury, IRS Center, Kansas City, MO 64999. Forms 709 that are filed in 2019 should be sent to Department of the Treasury, IRS Center, Kansas City, MO 64999. **Federal Tax Day (CCH), Jan. 7, 2019**.

FEDERAL FARM PROGRAMS

BIOENGINEERED FOOD. The AMS has adopted as final regulations establishing, under 7 U.S.C. § 1639b(b), a new national mandatory bioengineered (BE) food disclosure standard which requires food manufacturers, importers, and other entities that label foods for retail sale to disclose information about BE food and BE food ingredients. This rule is intended to provide a mandatory uniform national standard for disclosure of information to consumers about the BE status of foods. **83 Fed. Reg. 65814 (Dec. 21, 2018)**.

EMERGENCY PLANNING AND COMMUNITY RIGHT TO KNOW ACT. The defendants operated two large chicken egg farms which contained 3-4 million laying hens. The plaintiff was a non-profit organization which sued the defendants under the Emergency Planning and Community Right to Know Act (EPCRA), 42 U.S.C. §§ 11001-11050, for failure to file notices that the egg operations were releasing substantial amounts of ammonia into the air. The Consolidated Appropriations Act of 2018 included Division S, Title XI, called the Fair Agricultural Reporting Method Act ("FARM Act"), which eliminated any reporting requirement for air emissions from animal waste or the decomposition of animal waste. EPCRA's reporting requirements under section 304 (42 § U.S.C. 11004) extend to releases that "require a notification under section 103(a) of [CERCLA]." The court held, however, that the current case was not governed by the FARM Act because the alleged violations occurred prior to the effective date of the Act. EPCRA, 42 U.S.C. § 11002(a)(2), in effect a at the time of the facts of this case, directs the EPA Administrator to list hazardous substances along with the amount of substance that must be released to trigger EPCRA reporting requirements. The list of extremely hazardous substances is published at 40 C.F.R. § 302.4. Under 42 U.S.C. § 11004(a), merely possessing a hazardous substance is not enough to trigger reporting requirements, because 42 U.S.C. § 11004(a)(1)-(2) requires a notification only "if a release of an extremely hazardous substance . . . occurs from a facility." Ammonia is an extremely hazardous substance listed under 40 C.F.R. § 302.4 and can be released; however, chicken waste is not listed under 40 C.F.R. § 302.4, nor is it released into the environment. Under 42 U.S.C. § 11004(a)(4), release is not required to be reported if it "results in exposure to persons solely within the site or sites on which a facility is located." The court found that ammonia was released from the defendant's facilities, based on reports from neighboring landowners. 42 U.S.C. §11021(e)(5) provides an exception for activities that are part of a routine agricultural operation. The EPA has reasoned that "the feeding and breeding of animals, as well as the expected handling and storage of the animals' waste, would be considered a routine agricultural operation," and interpreted the exception in 42 U.S.C. §11021(e)(5) to include "handling and storage of waste for potential use as a fertilizer." 42 U.S.C. § 11021(e)(5) clarifies that the term "hazardous materials" does not cover "any substance to the extent it is used in routine agricultural operations or is a fertilizer held for sale by a retailer to the ultimate customer." Thus, the statute limits the exemption to hazardous materials "used in routine agricultural operations." The court found that the ammonia produced by the chicken waste was not used in the defendant's egg operation but was merely a byproduct of the operation. Thus, the court held that the ammonia was not exempt from the reporting requirements under 42 U.S.C. § 11021(e)(5). In addition, the ammonia was not eligible for the exception for retail sale to customers because the ammonia itself was not sold as fertilizer. The court held that the defendant failed to comply with the reporting requirements of EPCRA. **Don't Waste Arizona, Inc. v. Hickman's Egg Ranch, Inc., 2018 U.S. Dist. LEXIS 213618 (D. Ariz. 2018)**.

MARKET FACILITATION PROGRAM. The MFP provides payments to producers with commodities that have been significantly impacted by actions of foreign governments resulting in the loss of traditional exports. The FSA has announced the availability of MFP funds for eligible producers of several commodities. On behalf of the CCC, the FSA administers the MFP. MFP participants will receive an MFP payment, based on the eligible production multiplied by the participant's share multiplied by the MFP payment rate. The MFP payment rates and units of measure that will be in effect beginning at the start of the application period, are—

Commodity	Unit	Initial Rate	Second rate($/unit)
Soybeans	bushel	$1.65	$1.65
Sorghum	bushel	$0.86	$0.86
Wheat	bushel	$0.14	$0.14
Cotton	pounds	$0.06	$0.06
Corn	bushel	$0.01	$0.01
Hogs	per hog	$8.00	$8.00
Milk	hundredweight	$0.12	$0.12
Shelled Almonds	pound	$0.03	$0.03
Fresh Sweet Cherries	pound	$0.16	$0.16

The initial rate will apply to the first 50 percent of the producer's total production of the selected commodity and second rate will apply to the remaining 50 percent of the producer's production for the selected commodity. MFP payment at either the initial payment rate or at a second payment rate will be made after a producer harvests 100 percent of the crop and certifies the amount of production. The actual production used to calculate an MFP payment is 2018 production in which the applicant had an ownership share. Specifically, required production information is (1) the harvested production for the 2018 crop year and (2) an ownership share for a crop will be as reported to FSA on the acreage report, form FSA-578, "Report of Acreage." **83 Fed. Reg. 65623 (Dec. 21, 2018)**.

ORGANIC FOOD. The AMS has adopted as final regulations which amend the National List of Allowed and Prohibited Substances provisions of the organic regulations to implement recommendations submitted to the Secretary of Agriculture by the National Organic Standards Board. This rule changes the use restrictions for 17 substances allowed for organic production or handling on the National List: Micronutrients; chlorhexidine; parasiticides; fenbendazole; moxidectin; xylazine; lidocaine; procaine; methionine; excipients; alginic acid; flavors; carnauba wax; chlorine; cellulose; colors; and, glycerin. This rule also adds 16 new substances on the National List to be allowed in organic production or handling: Hypochlorous acid; magnesium oxide; squid byproducts; activated charcoal; calcium borogluconate; calcium propionate; injectable vitamins, minerals, and electrolytes; kaolin pectin; mineral oil; propylene glycol; acidified sodium chlorite; zinc sulfate; potassium lactate; and, sodium lactate. The final rule lists the botanical pesticide, rotenone, as a prohibited substance in organic crop production. The proposed rule would remove ivermectin as an allowed parasiticide for use in organic livestock production. **83 Fed. Reg. 66559 (Dec. 27, 2018)**.

FEDERAL INCOME TAXATION

PARTNERSHIPS.

ADMINISTRATIVE ADJUSTMENTS. The IRS has issued a Notice that discusses potential proposed regulations under the centralized partnership audit regime. Section 206(l) of the Technical Corrections Act of 2018, contained in Title II of Division U of the Consolidated Appropriations Act of 2018, *Pub. L. No. 115-141*, added I.R.C. § 6241(11) regarding the treatment of special enforcement matters. Under I.R.C. § 6241(11), in the case of partnership-related items involving special enforcement matters, the Secretary may prescribe regulations providing that the centralized partnership audit regime (or any portion thereof) does not apply to such items and that such items are subject to special rules as the Secretary determines to be necessary for the effective and efficient enforcement of the Code. For purposes of I.R.C. § 6241(11), the term "special enforcement matters" means: (1) failure to comply with the requirements of I.R.C. § 6226(b)(4)(A)(ii) (regarding the requirement for a partnership-partner or S corporation partner to furnish a statement or compute and pay an imputed underpayment); (2) assessments under I.R.C. § 6851 (relating to termination assessments of income tax) or section 6861 (relating to jeopardy assessments of income, estate, gift, and certain excise taxes); (3) criminal investigations; (4) indirect methods of proof of income; (5) foreign partners or partnerships; and (6) other matters that the Secretary determines by regulation present special enforcement considerations. I.R.C. § 6221(a) requires that any adjustment to a partnership-related item shall be determined at the partnership level under the centralized partnership audit regime, except to the extent otherwise provided in subchapter C of chapter 63 of the Code. A partnership-related item is defined in I.R.C. § 6241(2) as any item or amount with respect to the partnership which is relevant in determining the tax liability of any person under chapter 1 of the Code, including any distributive share of such an item or amount. Certain partnerships may elect out of the centralized partnership audit regime under I.R.C. § 6221(b) if (1) it has 100 or fewer partners for the taxable year, (2) each partner in the partnership is an eligible partner, (3) the election is timely made in the manner prescribed by the Secretary, and (4) the partnership notifies its partners of the election in the manner prescribed by the Secretary. The number of partners is determined by counting the number of statements required to be furnished by the partnership under I.R.C. § 6031(b) and the number of statements required to be furnished by any S corporation partners of the partnership. Eligible partners are prescribed in I.R.C. § 6221(b)(1)(C) and Treas. Reg. §301.6221(b)- 1(b)(3)(i), and include C corporations. A qualified subchapter S subsidiary (QSub) is defined in I.R.C. § 1361(b)(3) as a domestic corporation that has 100 percent of its stock held by an S corporation and for which an election has been made to treat it as a QSub. Except as provided by regulation, a QSub is not treated as a corporation separate from its S corporation shareholder and its assets, liabilities, and items of income, deduction and credit are treated as the assets, liabilities, and items of its S corporation shareholder for the taxable year. See I.R.C. § 1361(b)(3)(A). A C corporation is defined under I.R.C. § 1361(a)(2) as a corporation which is not an S corporation. Because a QSub is not an S corporation, it is a C corporation (as defined in I.R.C. § 1361(a)(2)). Because a QSub is a C corporation, it is an eligible partner under I.R.C. § 6221(b). The IRS intends to issued proposed regulations which would allow the IRS to effectively and efficiently focus on a single partner or a small group of partners with respect to a limited set of partnership-related items without unduly burdening the partnership and avoiding procedural concerns about the appropriate level at which such items must be examined. The proposed regulations will provide that the IRS may determine that the centralized partnership audit regime does not apply to adjustments to partnership-related items when the following conditions are met: (1) the examination being conducted is of a person other than the partnership; (2) a partnership-related item must be adjusted, or a determination regarding a partnership-related item must be made, as part of an adjustment to a non-partnership- related item of the person whose return is being examined; and (3) the treatment of the partnership-related item on the return of the partnership under I.R.C. § 6031(b) or in the partnership's books and records was based in whole or in part on information provided by, or under the control of, the person whose return is being examined. The proposed regulations will provide that this situation presents special enforcement considerations because partnership structures with QSubs as partners could have far more than 100 ultimate partners, including many thousands, and still potentially elect out of the centralized partnership audit regime. Allowing such a large partnership to elect out of the centralized partnership audit regime would give rise to significant enforcement concerns for the IRS and frustrate the efficiencies introduced by the centralized partnership regime. As a result, the proposed regulations will provide that I.R.C. § 6221(b) generally does not apply to a partnership with a QSub as a partner. The proposed regulations will also provide, however, that if a partnership meets certain requirements as set forth in the regulations, the partnership may make an election under I.R.C. § 6221(b); thus, the proposed regulations will apply a rule similar to the rules for S corporations under I.R.C. § 6221(b)(2)(A). The proposed regulations will also provide that for purposes of determining whether a partnership has 100 or fewer partners for the taxable year for purposes of the election under I.R.C. § 6221(b), the partnership must include (1) the statement the partnership is required to furnish to the QSub partner under I.R.C. § 6031(b) and (2) each statement that the S corporation which holds 100 percent of the stock of the QSub partner is required to furnish to its shareholders under I.R.C. § 6037(b). **Notice 2019-6, I.R.B. 2019-__**.

REFUNDS. The taxpayer filed an *in forma pauperis* petition with the Tax Court to recover a refund of taxes paid while the taxpayer was incarcerated. The taxpayer did not submit any IRS notice of deficiency with the petition and the IRS stated that no such notice had been issued. The Tax Court dismissed the case

for lack of jurisdiction and the taxpayer appealed. The appellate court reviewed the requirements for Tax Court jurisdiction. The Tax Court is a court of limited jurisdiction that may exercise only the jurisdiction conferred upon it by statute. The Tax Court has jurisdiction to review an IRS (see I.R.C. § 6213(a)), an IRS determination to collect tax by levy (see I.R.C. § 6330), an IRS determination regarding worker classification (see I.R.C. § 7436), an IRS determination not to abate interest (see I.R.C. § 7481(c), and an IRS determination on a request for relief from joint and several liability (see I.R.C. § 6015(e)). But before the court may exercise jurisdiction in any of these types of cases, the taxpayer must provide the court with the IRS notice of determination or deficiency being challenged. Because the taxpayer had not shown that the IRS had issued any determination which would grant jurisdiction to the Tax Court, the appellate court affirmed the Tax Court in a decision designated as not for publication. **Bass v. Comm'r, 2019-1 U.S. Tax Cas. (CCH) ¶ 50,122 (6th Cir. 2019)**.

RETURNS. The IRS has confirmed that it will process tax returns beginning January 28, 2019 and provide refunds to taxpayers as scheduled. Congress directed the payment of all tax refunds through a permanent, indefinite appropriation (31 U.S.C. 1324), and the IRS consistently has been of the view that it has authority to pay refunds despite a lapse in annual appropriations. Although in 2011 the Office of Management and Budget (OMB) directed the IRS not to pay refunds during a lapse, OMB has reviewed the relevant law at Treasury's request and concluded that IRS may pay tax refunds during a lapse. The IRS will be recalling a significant portion of its workforce, currently furloughed as part of the government shutdown, to work. Additional details for the IRS filing season will be included in an updated FY2019 Lapsed Appropriations Contingency Plan to be released publicly in the coming days. As in past years, the IRS will begin accepting and processing individual tax returns once the filing season begins. For taxpayers who usually file early in the year and have all of the needed documentation, there is no need to wait to file. They should file when they are ready to submit a complete and accurate tax return. The filing deadline to submit 2018 tax returns is Monday, April 15, 2019 for most taxpayers. Because of the Patriots' Day holiday on April 15 in Maine and Massachusetts and the Emancipation Day holiday on April 16 in the District of Columbia, taxpayers who live in Maine or Massachusetts have until April 17, 2019 to file their returns. Software companies and tax professionals will be accepting and preparing tax returns before Jan. 28 and then will submit the returns when the IRS systems open later this month. **IR-2019-01**.

TAX COURT. The Tax Court has announced on its web site that it would remain closed until further notice due to the federal government shutdown. However, the trial sessions scheduled for the weeks of January 7 and 14, 2019, will proceed as scheduled. eFiling and eAccess will be available. Taxpayers may comply with statutory deadlines for filing petitions or notices of appeal by timely mailing a petition or notice of appeal to the Court. Timeliness of mailing of the petition or notice of appeal is determined by the United States Postal Service's postmark or the delivery certificate of a designated private delivery service.

STATE TAXATION OF AGRICULTURE

AGRICULTURAL USE. The taxpayers where two limited partnerships and two individuals who owned four 160 rural parcels. The four parcels were rented as pastures for cattle to an unrelated company. The county assessor assessed the properties for property tax purposes as either residential or vacant residential. The taxpayers appealed the valuation to the county board of commissioners, arguing that each parcel was eligible for valuation as agricultural land under *Wyo. Stat. § 39-13-103(b)(x)(B)*. The taxpayers presented only testimony from the lessee about the revenues generated by the leases and did not provide any supporting documents. Although the county board reversed the assessor's valuation, the assessor's valuation was reinstated by the state board and the trial court. Under *Wyo. Stat. § 39-13-103(b)(x)(B)* land met the definition of agricultural land if "(I) The land is presently being used and employed for an agricultural purpose; (II) The land is not part of a platted subdivision, except for a parcel of thirty-five (35) acres or more which otherwise qualifies as agricultural land; (III) If the land is not leased land, the owner of the land has derived annual gross revenues of not less than five hundred dollars ($500.00) from the marketing of agricultural products, or if the land is leased land the lessee has derived annual gross revenues of not less than one thousand dollars ($1,000.00) from the marketing of agricultural products; and (IV) The land has been used or employed, consistent with the land's size, location and capability to produce as defined by department rules and the mapping and agricultural manual published by the department, primarily in an agricultural operation." First, the court noted the presumption was that the assessor's valuation was proper and that the burden of proof is initially on the taxpayer to show that the land met all four conditions. The court found that the assessor, county board, state board and trial court all agreed that the taxpayers met the first three conditions. In order to meet the fourth condition, the taxpayers had to provide evidence of the employment of the land consistent with its capability; however, the court found that the taxpayer had not presented any such evidence beyond their testimony and opinions. Thus, the court held that the leased parcels were not eligible for valuation as agricultural land. **Helmut Mueller L.P. v. Treanor, 2018 Wyo. LEXIS 135 (Wyo. 2018)**.

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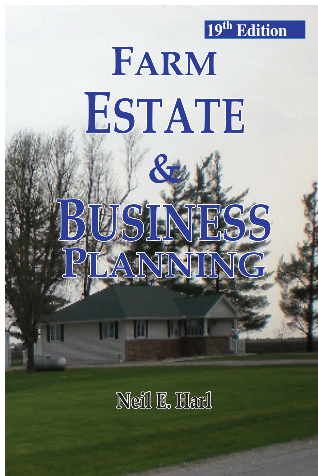

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