[12] I.R.C. § 170(c). Qualified organizations include: (1) A community chest, corporation, trust, fund, or foundation organized or created in or under the laws of the United States, any state, the District of Columbia, or any possession of the United States (including Puerto Rico). It must, however, be organized and operated only for charitable, religious, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals. Certain organizations that foster national or international amateur sports competition also qualify. (2) War veterans' organizations, including posts, auxiliaries, trusts, or foundations, organized in the United States or any of its possessions (including Puerto Rico). (3) Domestic fraternal societies, orders, and associations operating under the lodge system. (4) Certain nonprofit cemetery companies or corporations. (5) The United States or any state, the District of Columbia, a U.S. possession (including Puerto Rico), a political subdivision of a state or U.S. possession, or an Indian tribal government or any of its subdivisions that perform substantial government functions.

[13] I.R.C. § 170(h)(2).

[14] I.R.C. § 170(h)(4).

[15] T.C. Memo. 2015-236.

[16] T.C. Memo 2014-161. See also Ten Twenty Six Investors v. Comm'r, T.C. Memo. 2017-115 (easement not recorded until almost a year later).

[17] T.C. Memo. 2018-224. See also Belk v. Comm'r, 774 F.3d 221 (4th Cir. 2014), *aff'g*, 140 T.C. 1 (2013) (right to alter boundaries of property subject to conservation easement disqualified easement for charitable deduction).

[18] BC Ranch II, L.P. v. Comm'r, 867 F.3d 547 (5th Cir. 2017), *vac'g and rem'g*, T.C. Memo. 2015-130.

[19] Treas. Reg. § 1.170-14(g)(2). See RP Golf, LLC v. Comm'r, 860 F.3d 1096 (8th Cir. 2017), *aff'g*, T.C. Memo. 2016-80 (charitable deduction denied where subordination agreement by mortgagee not executed until seven months after grant of easement); Mitchell v. Comm'r, 775 F.3d 1243 (10th Cir. 2015), *aff'g*, 138 T.C. 324 (2012) (charitable deduction denied where subordination agreement by mortgagee not executed until two years after grant of easement); Minnick v. Comm'r, 796 F.3d 1156 (9th Cir. 2015), *aff'g*, T.C. Memo. 2012-345 (same).

[20] Treas. Reg. § 1.170-14(g)(3).

[21] Treas. Reg. § 1.170(h)(6)(ii).

[22] 900 F.3d 193 (5th Cir. 2018). See also Palmolive Bldg. Investors, LLC v. Comm'r, 149 T.C. 380 (2017) (charitable deduction denied where mortgagee had priority to proceeds over donee easement holder); Carroll v. Comm'r, 146 T.C. 196 (2016) (charitable deduction denied where ratio of split of proceeds determined by ratio of charitable deduction to the fair market value of subject property).

CASES, REGULATIONS AND STATUTES

ADVERSE POSSESSION

FENCE. The plaintiff purchased a part of a farm in 1991. The owner and the plaintiff walked the boundary of the plaintiff's portion of the farm and the owner indicated that an old fence was the boundary line of the plaintiff's property. The defendant purchased the remainder of the farm from the owner's estate after the owner died. The defendant had a survey performed which showed that the true boundary line ran several feet onto the plaintiff's side of the fence, creating about two acres of disputed land. The plaintiff then filed suit to quiet title to the disputed property because the plaintiff acquired title by adverse possession. The trial court found that the plaintiff had usually cultivated or improved the disputed parcel by hunting on it, erecting permanent deer stands, planting trees, cutting wood, and posting "No Trespassing" signs. Wis. Stat. § 893.25(1) permits a party to acquire title to real property by showing that the party and/or its predecessors in interest adversely possessed the property for an uninterrupted period of 20 years. To establish adverse possession under Wis. Stat. § 893.25, a party must show: (1) actual continued occupation under claim of title, exclusive of any other right and (2) that the property was either protected by a substantial enclosure or usually cultivated or improved. The appellate court affirmed, holding that the plaintiff had demonstrated both a substantial enclosure existed between the properties and that the plaintiff had used the disputed property sufficiently to show open, notorious, visible, exclusive, hostile and continuous use of the property. **Fabry v. Jagiello, 2019 Wis. App. LEXIS 150 (Wis. Ct. App. 2019)**.

BANKRUPTCY

FEDERAL TAX

DISCHARGE. The debtor filed for Chapter 7 in January 2017 and listed unpaid unpaid taxes as a nonpriority unsecured claim. The taxes related to taxes owed for 2001, 2002, 2005, 2006, 2009, 2010 and 2012, for which returns were all filed in September 2015. The debtor received a discharge in May 2017 and the case was closed soon after. In September 2017 the debtor filed a motion to vacate the discharge and dismiss the case, claiming that the debtor filed the case in error too early because the failure to wait more than two years after filing the return caused the taxes to be nondischargeable in the case. The Bankruptcy Court denied the motion because the debtor had not presented any new information or argument which could not have been presented at the original case and the revocation would prejudice the claims of the IRS and other creditors. Under Civil Rule 60(b), a Bankruptcy Court has equitable powers to revoke a discharge because of "mistake, inadvertence, surprise, or excusable neglect." On appeal the appellate court affirmed, holding that Civil Rule 60(b) was not intended to remedy poor advice from the debtor's attorney, especially where the debtor fails to show that creditors would not be harmed by the revocation of the discharge. The appellate decision is designated as not for publication. ***In re* Hugger, 2019 Bankr. LEXIS 1128 (5th Cir. 2019)**.

FEDERAL ESTATE AND GIFT TAXATION

INCOME IN RESPECT OF DECEDENT. The decedent died in 2002 and owned an annuity and two IRAs, both of which listed the taxpayer surviving spouse as beneficiary. The taxpayer received distributions from the annuity and IRAs in 2014 and included the distributions in taxable income for 2014. However, the taxpayer claimed a deduction for estate tax paid on the estate of the decedent's father who died in 1999. The court found that neither of the IRAs nor the annuity were included in the father's estate. The decedent's estate paid no estate tax. I.R.C. § 691(a) provides that income in respect of decedent (IRD) is includible in gross income. IRD consists of amounts of gross income which the decedent was entitled to receive at the time of death but were not properly includible in the decedent's gross income before death and which were received by the taxpayer as the decedent's successor in interest. When a distribution is made in a lump sum to the beneficiary, the portion equal to the value of the IRA on the date of the decedent's death, less any nondeductible contribution, is IRD and is includible in the gross income of the beneficiary in the year the distribution is received. The recipient of IRD is allowed an income tax deduction equal to the amount of federal estate tax attributable to the IRD. The court found that the taxpayer failed to provide any evidence that the amounts received in 2014 were included in either the decedent's estate or the decedent's father's estate; therefore, the court held that the taxpayer could not claim any deduction to offset the income from the distributions. **Schermer v. Comm'r, T.C.Memo. 2019-28**.

FEDERAL FARM PROGRAMS

COTTON. The CCC has issued proposed regulations amending the regulations that specify the requirements for CCC-approved warehouses storing and handling cotton. The amendments would change how warehouse operators account for bales made available for shipment (BMAS) and how CCC determines BMAS compliance. The current regulation allows bales that are made available for shipment by the warehouse operator but not picked up (BNPU) by the shipper to count for up to two reporting weeks when calculating and reporting BMAS for the reporting week. The proposed regulations limit BNPU to be counted for one week, with BMAS to include only bales actually shipped or not picked up for that reporting week. The proposed regulations also allow two additional options for the warehouse operator to meet the 4.5 percent cotton flow requirement by averaging either the BMAS for the reporting week and the week prior to the reporting week, or by averaging the BMAS for the reporting week and the week after the reporting week. The proposed regulations also reflect the transfer of warehouse programs and activities from USDA's Farm Service Agency to AMS in 2018. **84 Fed. Reg. 13562 (April 5, 2019)**.

POULTRY. The APHIS has issued a notice advising the public that proposed changes to the National Poultry Improvement Plan Program Standards are available for review and comment. The proposed updates would amend the standards by:

• adding and amending definitions of H5/H7 low pathogenicity avian influenza (LPAI) (exposed) and H5/H7 LPAI (infected);
• clarifying and amending the testing protocol for Mycoplasma;
• allowing use of molecular-based examination procedures to screen for Mycoplasma;
• removing specific agar gel immunodiffusion Avian Influenza testing procedures with directions to use the current National Veterinary Services Laboratories protocol;
• amending and clarifying salmonella isolation procedures;
• updating and clarifying bacteriological examination procedures for cull chicks and poults for salmonella;
• adding a new salmonella diagnostic test kit;
• removing outdated testing procedures for the sanitation monitored program;
• updating and clarifying hatching egg and hatchery sanitation requirements;
• updating and clarifying flock sanitation procedures;
• updating and clarifying cleaning and disinfecting procedures;
• adding new dealer sanitation requirements;
• updating and clarifying compartmentalization language and amending and clarifying audit guidelines and checklists; and
• adding Newcastle disease virus compartmentalization physical requirements for an egg depot receiving/shipping dock.

84 Fed. Reg. 14643 (April 11, 2019).

WETLANDS. In 2011, the plaintiff completed a tile installation project to restore and improve drainage on the plaintiff's farm. In June 2012, the plaintiff filed a wetlands certification form, AD-1026, informing the USDA of the drainage tile alteration and acknowledging that a wetland evaluation may be conducted by the National Resource Conservation Service (NRCS). The NRCS filed a final determination that, as a result of the 2011 drainage tile installation project, 1.55 acres of the plaintiff's farmland was converted wetland. The plaintiff appealed the NRCS decision and argued that the NRCS erred because it did not consider whether the minimal effects exemption applied to the 2011 tiling project. The administrative law judge ruled for the plaintiff but the ALJ decision was overturned on appeal to the National Appeals Division. 16 U.S.C. § 3821(a)(2) provides in pertinent part that, "[e]xcept as provided in this subchapter and notwithstanding any other provision of law, any person who in any crop year produces an agricultural commodity on converted wetland . . . shall be . . . ineligible for loans or payments . . . proportionate to the severity of the violation." The minimal effect exemption in 16 U.S.C. § 3822(f)(1) provides in pertinent part that: "The Secretary shall exempt a person from the ineligibility provisions of [16 U.S.C. §] 3821 . . . for any action associated with the production of an agricultural commodity on a converted wetland, or the conversion of a wetland, if . . . (1) The action, individually and in connection with all other similar actions authorized by the Secretary in the area, will have a minimal effect on the functional hydrological and biological value of the wetlands in the area, including the value to waterfowl and wildlife." Under the regulations, 7 C.F.R. § 12.31(e)(1), ". . . A request for [a minimal effect] determination will be made prior to the beginning of activities that would convert the wetland. If a person has converted a wetland and then seeks a determination that the effect of such conversion on wetland was minimal, the burden will be upon the person to demonstrate to the satisfaction of NRCS that the effect was minimal." The plaintiff argued that the NRCS was required to demonstrate that the conversion did not have a minimal effect once the plaintiff provided some evidence of the minimal effect. The court disagreed, holding that the statute and regulation required either the plaintiff to inform the NRCS about the proposed change to the land before the change was made or the plaintiff had the burden to present sufficient evidence to the NRCS to show that the change was minimal. Because the court found that the plaintiff had done neither of these actions, the NRCS properly ruled that the wetlands were converted improperly. **Davids v. USDA, 2019 U.S. Dist. LEXIS 43303 (N.D. Iowa 2019)**.

FEDERAL INCOME TAXATION

DISASTER LOSSES. On March 21, 2019, the President determined that certain areas in Nebraska were eligible for assistance from the government under the Disaster Relief and Emergency Assistance Act (42 U.S.C. § 5121) as a result of severe winter storm and flooding which began on March 9, 2019. **FEMA-4420-DR**. On March 23, 2019, the President determined that certain areas in Iowa were eligible for assistance from the government under the Act as a result of severe storms and flooding which began on March 12, 2019. **FEMA-4421-DR**. Accordingly, taxpayers in these areas may deduct the losses on their 2018 or 2019 federal income tax returns. See I.R.C. § 165(i).

PENSION PLANS. For plans beginning in April 2019 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 2.98 percent. The 30-year Treasury weighted average is 2.93 percent, and the 90 percent to 105 percent permissible range is 2.64 percent to 3.08 percent. The 24-month average corporate bond segment rates for April 2019, *without adjustment* by the 25-year average segment rates are: 2.68 percent for the first segment; 3.95 percent for the second segment; and 4.46 percent for the third segment. The 24-month average corporate bond segment rates for April 2019, taking into account the 25-year average segment rates, are: 3.74 percent for the first segment; 5.35 percent for the second segment; and 6.11 percent for the third segment. **Notice 2019-29, I.R.B. 2019-19**.

PROOF OF MAILING OF RETURNS. The taxpayer attempted to file an amended 2005 return claiming a carryback of net operating losses from 2007. The 2007 return had an extended due date of October 15, 2008. The taxpayer claimed that the amended return was filed in June 2011, well in advance of the due date under I.R.C. § 6511(b)(1), (d)(2)(A) of October 15, 2011, three years after the due date for the 2007 return. However, the IRS had no recorded of receiving the amended return until July 2013, with a postmark after October 2011. The taxpayer presented testimony of staff who testified as to the original filing of the amended return and argued that the common law mailbox allowed such testimony to prove delivery of the original amended return. I.R.C. § 7502 provides that if a document is received by the IRS after the applicable deadline, it will nonetheless be deemed to have been delivered on the date that the document is postmarked. I.R.C. § 7502(c)(1) provides that when a document is sent by registered mail, the registration will serve as *prima facie* evidence that the document was delivered, and the date of registration will be treated as the postmark date. However, Treas. Reg. § 1301.7502-1(e) provides "Other than direct proof of actual delivery, proof of proper use of registered or certified mail, and proof of proper use of a duly designated [private delivery service], are the exclusive means to establish *prima facie* evidence of delivery of a document to the agency, officer, or office with which the document is required to be filed. No other evidence of a postmark or of mailing will be prima facie evidence of delivery or raise a presumption that the document was delivered." The taxpayer argued that the statute and regulation did not completely supplant the common law mailbox rule. The trial court agreed with the taxpayer and found that the testimony of the staff as to the timely mailing of the amended return established the timely filing of the return. On appeal, the appellate court reversed, holding that I.R.C. § 7502 and Treas. Reg. § 1301.7502-1(e) provide the exclusive methods of proving delivery of a return. Because the taxpayer did not have proof of a registered mailing or use of the designated delivery service, the taxpayer failed to prove actual delivery of the amended return. **Baldwin v. United States, 2019 U.S. App. LEXIS 11036 (9th Cir. 2019)**.

QUALIFIED BUSINESS INCOME DEDUCTION. The IRS has issued a draft Form 8995, *Qualified Business Income Deduction Simplified Computation*, and draft 2019 Form 8995-A, *Qualified Business Income Deduction* for comment purposes only. 2018 filers can use the worksheet in the instructions to the 2018 Form 1040. Taxpayers are instructed to file Form 8995, rather than Form 8995-A, if their taxable income is not more than $160,700 for single and head of household returns; $160,725 if married filing separately; and $321,400 if married filing jointly, and the taxpayer is not a patron of an agricultural or horticultural cooperative. **Checkpoint, Federal Tax Update, April 19, 2019**.

QUALIFIED OPPORTUNITY FUNDS. The IRS has published information about proposed regulations governing the tax issues involving qualified opportunity fund investments. The proposed regulations allow the deferral of all or part of a gain that is invested into a Qualified Opportunity Fund (QO Fund) that would otherwise be includible in income. The gain is deferred until the investment is sold or exchanged or Dec. 31, 2026, whichever is earlier. If the investment is held for at least 10 years, investors may be able to permanently exclude gain from the sale or exchange of an investment in a QO Fund. Qualified opportunity zone business property is tangible property used in a trade or business of the QO Fund if the property was purchased after Dec. 31, 2017. The guidance permits tangible property acquired after Dec. 31, 2017, under a market rate lease to qualify as "qualified opportunity zone business property" if during substantially all of the holding period of the property, substantially all of the use of the property was in a qualified opportunity zone. The guidance clarifies the "substantially all" requirements for the holding period and use of the tangible business property. For use of the property, at least 70 percent of the property must be used in a qualified opportunity zone. For the holding period of the property, tangible property must be qualified opportunity zone business property for at least 90 percent of the QO Fund's or qualified opportunity zone business's holding period. The partnership or corporation must be a qualified opportunity zone business for at least 90 percent of the QO Fund's holding period. The guidance notes there are situations where deferred gains may become taxable if an investor transfers their interest in a QO Fund. For example, if the transfer is done by gift the deferred gain may become taxable. However, inheritance by a surviving spouse is not a taxable transfer, nor is a transfer, upon death, of an ownership interest in a QO Fund to an estate or a revocable trust that becomes irrevocable upon death. **IR-2019-75; REG-120186-18, 84 Fed. Reg. ___ (April _, 2019)**.

S CORPORATIONS

EMPLOYEE BENEFITS. An individual owned 100 percent of an S corporation, which employed the taxpayer who was the individual's family member. The family member was considered to be a 2-percent shareholder pursuant to the attribution of ownership rules under I.R.C. § 318. The S corporation provided a group health plan for all employees, and the amounts paid by the S corporation under such group health plan were included in the taxpayer's gross income. I.R.C. § 1372(a) provides that, for purposes of applying the income tax provisions of the Code relating to employee fringe benefits, an S corporation shall be treated as a partnership, and any 2-percent shareholder of the S corporation shall be treated as a partner of such partnership. Under I.R.C. § 1372(b), the term "2-percent shareholder" is any person who owns (or is considered as owning within the meaning of I.R.C. § 318) on any day during the taxable year of the S corporation more than 2 percent of the outstanding stock of such corporation or stock possessing more than 2 percent of the total combined voting power of all stock of such corporation. I.R.C. § 318(a)(1) provides that an individual shall be considered as owning the stock owned, directly or indirectly, by or for (i) a spouse (other than a spouse who is legally separated from the individual under a decree of divorce or separate maintenance), and (ii) any children, grandchildren, and parents. Accident and health insurance premiums paid or furnished by an S corporation on behalf of its 2-percent shareholders in consideration for services rendered are treated for income tax purposes as partnership guaranteed payments under I.R.C. § 707(c). See *Rev. Rul. 91-26, 1991-1 C.B. 184*. An S corporation is entitled to deduct the cost of such employee fringe benefits under I.R.C. § 162(a) if the requirements of that section are satisfied (taking into account the rules of I.R.C. § 263). The premium payments are included in wages for income tax withholding purposes on the shareholder-employee's Form W-2, Wage and Tax Statement, but are not wages subject to Social Security and Medicare taxes if the requirements for exclusion under I.R.C. § 3121(a)(2)(B) are satisfied. See I.R.C. § 3121(a)(2)(B); Ann. 92-16, I.R.B. 1992-5, 53. The 2-percent shareholder is required to include the amount of the accident and health insurance premiums in gross income under I.R.C. § 61(a). *Notice 2008-1, I.R.B. 2008-2, 251*. I.R.C. § 106 provides an exclusion from the gross income of an employee for employer-provided coverage under an accident and health plan. A 2-percent shareholder is not an employee for purposes of I.R.C. § 106. See Treas. Reg. § 1.106-1; I.R.C. § 1372(a). Accordingly, the premiums are included in the 2-percent shareholder-employee's gross income under I.R.C. § 106. I.R.C. § 162(l)(1)(A) allows an individual who is an employee within the meaning of I.R.C. § 401(c)(1) to take a deduction in computing adjusted gross income for amounts paid during the taxable year for insurance that constitutes medical care for the taxpayer, a spouse, and dependents. The deduction is not allowed to the extent that the amount of the deduction exceeds the earned income (within the meaning of I.R.C. § 401(c)(2)) derived by the employee from the trade or business with respect to which the plan providing the medical care coverage is established. I.R.C. § 162(l)(2)(A). Also, the deduction is not allowed for amounts during a month in which the taxpayer is eligible to participate in any subsidized health plan maintained by an employer of the taxpayer or of the spouse of the taxpayer. I.R.C. § 162(l)(2)(B). A 2-percent shareholder-employee in an S corporation, who otherwise meets the requirements of I.R.C. § 162(l), is eligible for the deduction under I.R.C. § 162(l) if the plan providing medical care coverage for the 2-percent shareholder-employee is established by the S corporation. See *Rev. Rul. 91-26, 1991-1 C.B. 184*. A plan providing medical care coverage for the 2-percent shareholder-employee in an S corporation is established by the S corporation if: (1) the S corporation makes the premium payments for the accident and health insurance policy covering the 2-percent shareholder-employee (and a spouse and dependents) in the current taxable year; or (2) the 2-percent shareholder makes the premium payments and furnishes proof of premium payment to the S corporation and then the S corporation reimburses the 2-percent shareholder-employee for the premium payments in the current taxable year. If the accident and health insurance premiums are not paid or reimbursed by the S corporation and included in the 2-percent shareholder-employee's gross income, a plan providing medical care coverage for the 2-percent shareholder-employee is not established by the S corporation and the 2-percent shareholder-employee in an S corporation is not allowed the deduction under I.R.C. § 162(l). In order for the 2-percent shareholder-employee to deduct the amount of the accident and health insurance premiums, the S corporation must report the accident and health insurance premiums paid or reimbursed as wages on the 2-percent shareholder-employee's Form W-2 in that same year. In addition, the shareholder must report the premium payments or reimbursements from the S corporation as gross income on Form 1040. In a Chief Counsel Advice letter, the IRS ruled that the 2-percent shareholder of the S corporation pursuant to the attribution of ownership rules under I.R.C. § 318 was entitled to the deduction under I.R.C. § 162(l) for amounts that are paid by the S corporation under a group health plan for all employees and included in the taxpayer's gross income, if the taxpayer otherwise meets the requirements of I.R.C. § 162(l). **CCA 201912001, Dec. 21, 2018**.

TRUSTS. The taxpayer was an S corporation in which some shares were transferred to two trusts. The trusts were intended to be qualified Subchapter S trusts (QSST) but the beneficiaries of the trust failed to timely make the QSST election under I.R.C. § 1361(d). The taxpayer represented that it and each of its shareholders have filed consistently with the treatment of the taxpayer as an S corporation. The taxpayer represented that the termination was not motivated by tax avoidance or retroactive tax planning. The taxpayer and its shareholders have agreed to make any adjustments that the Commissioner may require, consistent with the treatment of the taxpayer as an S corporation. I.R.C. § 1361(c)(2)(A)(i) provides that, for purposes of I.R.C. § 1361(b)(1)(B), a trust all of which is treated as owned by an individual who is a citizen or resident of the United States may be an S corporation shareholder. I.R.C. § 1361(d)(1) provides that in the case of a QSST for which a beneficiary makes an election under I.R.C. § 1361(d)(2), the trust is treated as a trust described in I.R.C. § 1361(c)(2)(A)(i), and for purposes of I.R.C. § 678(a), the beneficiary of the trust shall be treated as the owner of that portion of the trust that consists of stock in an S corporation with respect to which the election under I.R.C. § 1361(d)(2) is made. I.R.C. § 1361(d)(2)(A) provides that a beneficiary of a QSST may elect to have I.R.C. § 1361(d) apply. Treas. Reg. § 1.1361-1(j)(6)(ii) provides that the current income beneficiary of a QSST must make the election under I.R.C. § 1361(d)(2) by signing and filing with the service center with which the corporation files its income tax returns the applicable form or a statement including the information listed in Treas. Reg. § 1.1361-1(j)(6)(ii). The IRS ruled that the failure to file the election and the resulting termination of S corporation status was inadvertent and granted the taxpayer an extension time to have the trusts' beneficiaries file the QSST election. **Ltr. Rul. 201911005, Dec. 12, 2018**.

SAFE HARBOR INTEREST RATES
May 2019

	Annual	Semi-annual	Quarterly	Monthly
		Short-term		
AFR	2.39	2.38	2.37	2.37
110 percent AFR	2.64	2.62	2.61	2.61
120 percent AFR	2.88	2.86	2.85	2.84
		Mid-term		
AFR	2.37	2.36	2.35	2.35
110 percent AFR	2.62	2.60	2.59	2.59
120 percent AFR	2.85	2.83	2.82	2.81
		Long-term		
AFR	2.74	2.72	2.71	2.70
110 percent AFR	3.01	2.99	2.98	2.97
120 percent AFR	3.29	3.26	3.25	3.24

Rev. Rul. 2019-12, I.R.B. 2019-19.

TRAVEL EXPENSES. The taxpayer owned and operated a consulting business since 1998 in Atlanta, Georgia. In 2012 and 2013, the taxpayer worked as an independent contractor for a company in New Jersey which required the taxpayer to spend four days each week in New Jersey. The employment contract had a three year term but could be terminated at any time with notice. The taxpayer returned to Atlanta for the long weekends. The court found that, while in Atlanta on these weekends, the taxpayer did not conduct activities which gave rise to a trade or business. The taxpayer claimed the travel costs to New Jersey and back to Atlanta as business travel expenses. The IRS argued that, during 2012 and 2013, the taxpayer's tax home was in New Jersey; therefore, the travel expenses were not deductible business expenses. I.R.C. § 162(a)(2) permits taxpayers to deduct all ordinary and necessary business expenses paid or incurred during the taxable year and specifically includes traveling expenses while away from home in the pursuit of a trade or business. A taxpayer's "home" for purposes of I.R.C. § 162(a)(2), generally means the vicinity of the principal place of employment rather than the personal residence. The court found that the three year term of the employment was long enough to be considered permanent for purposes of the deduction. The court noted that, during 2012 and 2013, the taxpayer did not have other clients; thus, the court held that the job site in New Jersey became the taxpayer's tax home in 2012 and 2013 and travel from New Jersey to Atlanta and back again was a personal expense. **Brown v. Comm'r, T.C. Memo. 2019-30**.

SECURED TRANSACTIONS

AGRICULTURAL LIENS. The debtor purchased nursery products from the plaintiff for shipment to Oregon and the plaintiff filed a UCC financing statement in Oregon on June 21, 2016. A bank had loaned money to the debtor in May 2015 and provided debtor-in-possession financing during the debtor's bankruptcy proceedings. The Bankruptcy Court ruled that the debtor-in-possession financing would be merged with the debtor's pre-petition loans with the bank and given priority over all junior per-petition liens. At trial, the trial court granted summary judgment to the bank, ruling that the plaintiff had failed to properly extend its Oregon lien and the Oregon lien had expired. Under Or. Rev. Stat. § 87.705(2), a supplier of agricultural products is not required to file a notice of the lien. However, under Or. Rev. Stat. § 87.710(1), a supplier must file an extension of the lien within 45 days after payment is due. The court found that the plaintiff did not file the notice of extension until August 29, 2016, more than 45 days after final payment was due. The court rejected the plaintiff's argument that the UCC financing statement filing acted as a notice of extension. The court noted that the UCC filing requirements are governed by Or. Rev. Stat. § 79.0501 *et seq*.; therefore, the UCC financing statement could not comply with the Or. Rev. Stat. § 87.710(1) lien extension requirements. The court held that the plaintiff's lien expired 45 days after the last payment was required and the bank's lien remained superior to the plaintiff's lien. **Fishback Nursery, Inc. v. PNC Bank, N.A., 2019 U.S. App. LEXIS 10607 (5th Cir. 2019)**.