

## Summer Seminars (Idaho) and Miscellaneous Ag Law Topics

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### Overview

On August 7-8, a twin-track conference will be held in Coeur d'Alene, Idaho.

More information on the August Idaho Conference and some topics in ag law – it's the topic of today's post.

### Idaho Conference

On August 7-8, Washburn Law School will be sponsoring the a twin-track ag tax and law conference at North Idaho College in Coeur d' Alene, ID. Over two days in adjoining conference rooms the focus will be on providing continuing education for tax professionals and lawyers that represent agricultural clients. All sessions are focused on practice-relevant topic. One of the two-day tracks will focus on agricultural taxation on Day 1 and farm/ranch estate and business planning on Day 2. The other track will be two-days of various agricultural legal issues.

Here's a bullet-point breakdown of the topics:

### Tax Track (Day 1)

- Caselaw and IRS Update
- What is "Farm Income" for Farm Program Purposes?
- Inventory Method – Options for Farmers
- Machinery Trades
- Solar Panel Tax Issues – Other Easement and Rental Issues
- Protecting a Tax Practice From Scammers
- Amending Partnership Returns
- Corporate Provided Meals and Lodging
- CRATs
- IC-DISCS
- When Cash Method Isn't Available
- Accounting for Hedging Transactions
- Deducting a Purchased Growing Crop
- Deducting Soil Fertility



## Tax Track (Day 2)

- Estate and Gift Tax Current Developments
- Succession Plans that Work (and Some That Don't)
- The Use of SLATs in Estate Planning
- Form 1041 and Distribution Deductions
- Social Security as an Investment
- Screening New Clients
- Ethics for Estate Planners

## Ag Law Track (Day 1)

- Current Developments and Issues
- Current Ag Economic Trends
- Handling Adverse Decisions on Federal Grazing Allotments
- Getting and Retaining Young Lawyers in Rural Areas
- Private Property Rights and the Clean Water Act – the Aftermath of the *Sackett* Decision
- Ethics

## Ag Law Track (Day 2)

- Foreign Ownership of Agricultural Land
- Immigrant Labor in Ag
- Animal Welfare and the Legal System
- How/Why Farmers and Ranchers Use and Need Ag Lawyers and Tax Pros
- Agricultural Leases

Both tracks will be running simultaneously, and both will be broadcast live online. Also, you can register for either track. There's also a reception on the evening of the first day on August 7. The reception is sponsored by the University of Idaho College of Law and the College of Life Sciences at the University of Idaho, as well as the Agricultural Law Section of the Idaho State Bar.

For more information about the Idaho conferences and to register, click here: <https://www.washburnlaw.edu/employers/cle/farmandranchtaxaugust.html> and here: <https://www.washburnlaw.edu/employers/cle/idahoaglaw.html>

## Miscellaneous Agricultural Law Topics

### Proper Tax Reporting of 4-H/FFA Projects

When a 4-H or FFA animal is sold after the fair, the net income should be reported on the other income line of the 1040. It's not subject to self-employment tax if the animal was raised primarily for educational purposes and not for profit and was raised under the rules of the sponsoring



organization. It's also not earned income for "kiddie-tax" purposes. But, if the animal was raised as part of an activity that the seller was engaged in on a regular basis for profit, the sale income should be reported on Schedule F. That's where the income should be reported if the 4-H or FFA member also has other farming activities. By being reported on Schedule F, it will be subject to self-employment tax.

There are also other considerations. For example, if the seller wants to start an IRA with the sale proceeds, the income must be earned. Also, is it important for the seller to earn credits for Social Security purposes?

### **The Importance of Checking Beneficiary Designations**

#### ***U.S. Bank, N.A. v. Bittner, 986 N.W.2d 840 (Iowa 2023)***

It's critical to make sure you understand the beneficiary designations for your non-probate property and change them as needed over time as your life situation changes. For example, in one recent case, an individual had over \$3.5 million in his IRA when he died, survived by his wife and four children. His will said the IRA funds were to be used to provide for his widow during her life and then pass to a family trust for the children. When he executed his will, he also signed a new beneficiary designation form designating his wife as the primary beneficiary. He executed a new will four years later and said the IRA would be included in the marital trust created under the will if no federal estate tax would be triggered, with the balance passing to the children upon his wife's death. He didn't update his IRA beneficiary designation.

When he died, everyone except one son agreed that the widow got all of the IRA. The son claimed it should go to the family trust. Ultimately, the court said the IRA passed to the widow.

It's important to pay close attention to details when it comes to beneficiary designations and your overall estate plan.

### **Liability Release Forms – Do They Work?**

#### ***Green v. Lajitas Capital Partners, LLC, No. 08-22-00175-CV, 2023 Tex. App. LEXIS 2860 (Tex. Ct. App. Apr. 28, 2023)***

Will a liability release form hold up in court? In a recent Texas case, a group paid to go on a sunset horseback trail ride at a Resort. They signed liability release forms that waived any claims against the Resort. After the ride was almost done and the riders were returning to the stable, the group rode next to a golf course. An underground sprinkler went off, making a hissing sound that spooked the horses. One rider fell off resulting in bruises and a fractured wrist. She sued claiming the Resort was negligent and that the sprinklers were a dangerous condition that couldn't be seen so the liability waiver didn't apply.

The court disagreed, noting that the liability release form used bold capitalized letters in large font for the key provisions. The rider had initialed those key provisions. The court also said the form wasn't too broad and didn't only cover accidents caused by natural conditions.



The outcome might not be the same in other states. But, if a liability release form is clear, and each paragraph is initialed and the document is signed, you have a better chance that it will hold up in court.

### **Equity Theft**

#### ***Tyler v. Hennepin County, No. 22-166, 2023 U.S. LEXIS 2201 (U.S. Sup. Ct. May 25, 2023)***

The U.S. Supreme Court has ruled that if you lose your home through forfeiture for failure to pay property taxes, that you get to keep your equity. The case involved a Minnesota county that followed the state's forfeiture law when the homeowner failed to pay property tax, sold the property and kept the proceeds – including the owner's equity remaining after the tax debt was satisfied. The Supreme Court unanimously said the Minnesota law was unconstitutional. The same thing previously happened to the owner of an alpaca farm in Massachusetts, and a farm owner in Nebraska. The Nebraska legislature later changed the rules for service of notice when applying for a tax deed, but states that still allow the government to retain the equity will have to change their laws.

Equity theft tends to bear more heavily on those that can least afford to hire legal assistance or qualify for legal aid. Also, all states bar lenders and private companies from keeping the proceeds of a forfeiture sale, so equity forfeiture laws were inconsistent. Now the Supreme Court has straightened the matter out.

You won't lose your equity if you lose your farm for failure to pay property tax.

### **The Climate, The Congress and Farmers**

Farmers in the Netherlands are being told that because of the goal of “net-zero emissions” of greenhouse gases and other so-called “pollutants” by 2050, they will be phased out if they can't adapt. Could that happen in the U.S.? The U.S. Congress is working on a Farm Bill, and last year's “Inflation Reduction Act” funnels about \$20 billion of climate funds into agriculture which could end up in policies that put similar pressures on American farmers. Some estimates are that agricultural emissions will make up 30 percent of U.S. total greenhouse gas emissions by 2050. But, fossil fuels are vital to fertilizers and pesticides, which improve crop production and reduce food prices.

The political leader of Sri Lanka banned synthetic fertilizer and pesticide imports in 2021. The next year, inflation was at 55 percent, the economy was in shambles, the government fell, and the leader fled the country.

Energy security, ag production and food security are all tied to cheap, reliable and efficient energy sources. Using less energy will result in higher food prices, and that burden will fall more heavily on those least likely to be able to afford it.

As the Farm Bill is written, the Congress should keep these things in mind.

### **Secure Act 2.0 Errors**

In late 2019, the Congress passed the SECURE ACT which made significant changes to retirement plans and impacted retirement planning. Guidance is still needed on some provisions of that law. In 2022, SECURE ACT 2.0 became law, but it has at least three errors that need to be fixed.



The SECURE ACT increased the required minimum distribution (RMD) age from 70 and ½ to age 72. With SECURE ACT 2.0, the RMD increased to age 73 effective January 1, 2023. It goes to age 75 starting in 2033. But, for those born in 1959, there are currently two RMD ages in 2033 – it's either 73 or 75 that year. Which age is correct? Congressional intent is likely 75, but te Congress needs to clearly specify.

Another error involves Roth IRAs. Starting in 2024, if you earn more than \$145,000 (mfj) in 2023, you will have to do non-deductible catch-up contributions in Roth form. But SECURE ACT 2.0 says that all catch-up contributions starting in 2024 will be disallowed. This needs to be corrected.

There's also an issue with SEPs and SIMPLE plans that are allowed to do ROTH contributions and how those contributions impact ROTH limitations.

Congress needs to fix these issues this year. If it does, it will likely be late in 2023.

### **Implications of SCOTUS Union Decision on Farming Businesses**

#### ***Glacier Northwest, Inc. v. International Board of Teamsters Local Union No. 174, No. 21-1449, 2023 U.S. LEXIS 2299 (U.S. Sup. Ct. Jun. 1, 2023)***

The Supreme Court recently issued a ruling that will make it easier for employers to sue labor unions for tort-type damages caused by a work stoppage. The Court's opinion has implications for ag employers.

The Court ruled that an employer can sidestep federal administrative agency procedures of the National Labor Relations Board (NLRB) and go straight to court when striking workers damage the company's property rather than merely cause economic harm. The case involved a concrete company that sued the labor union representing its drivers for damages. The workers filled mixer trucks with concrete ready to pour knowing they were going to walk away. The company sued for damage to their property – something that's not protected under federal labor law. The Union claimed that the matter had to go through federal administrative channels (the NLRB) first.

The Supreme Court said the case was more like an ordinary tort lawsuit than a federal labor dispute, so the company could go straight to court. Walking away was inconsistent with accepting a perishable commodity.

What's the ag angle? Where there are labor disputes in agriculture, they are often timed to damage perishable food products such as fruit and vegetables. Based on the Court's 8-1 opinion, merely timing a work stoppage during harvest might not be enough to be deemed economic damage, unless the Union has a contract. But striking after a sorting line has begun would seem to be enough.

### **Digital Grain Contracts**

The U.S. grain marketing infrastructure is quite efficient. But there are changes that could improve on that existing efficiency. Digital contracts are starting to replace paper grain contracts. The benefits could be improved record-keeping, simplified transactions, reduced marketing costs and expanded market access.



Grain traveling in barges down the Ohio and Mississippi Rivers is usually bought and sold many times between river and export terminals. That means that each transaction requires a paper bill of lading that must be transferred when the barge was sold. But now those bills of lading are being moved to an online platform. Grain exporters are also using digital platforms.

These changes to grain marketing could save farmers and merchandisers dollars and make the supply chain more efficient. But a problem remains in how the various platforms are to be connected. Verification issues also loom large. How can a buyer verify that a purchased commodity meets the contract criteria? That will require information to be shared up the supply chain. And, of course, anytime transactions become digital, the digital network can be hacked. In that situation, what are the safeguards that are in place and what's the backup plan if the system goes down?

Clearly, there have been advancements in digital grain trading, but there is still more work to be done. In addition, not all farmers may be on board with a digital system.

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