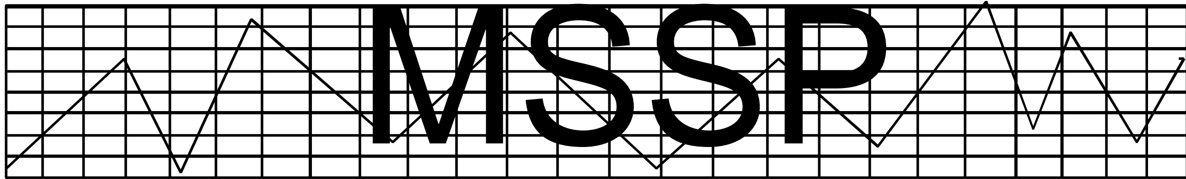

Market Segment Specialization Program

Farming -- Specific Income Issues and Farm Cooperatives

The taxpayer names and addresses shown in this publication are hypothetical. They were chosen at random from a list of names of American colleges and universities as shown in *Webster's Dictionary* or from a list of names of counties in the United States as listed in the *United States Government Printing Office Style Manual*.

This material was designed specifically for training purposes only. Under no circumstances should the contents be used or cited as authority for setting or sustaining a technical position.

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Farming -- Specific Income Issues and Farm Cooperatives

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Chapter 1

UNREPORTED INCOME

The initial interview can be an important tool for gathering information to access the potential for unreported income. Your goal in the interview is to gain an understanding of the farmer's operation. By ascertaining the capacity for production, you can determine the potential for unreported income from primary farm income. By determining the nature of the operation, you can determine the potential for by-products, waste, and other sources of income related to the farming operation. By determining the taxpayer's financial status you can better assess the potential for income from nonfarming sources.

Account for the production limits to get an estimate of the income potential. For example, compare the acres owned and rented to the yield accounted for with sales. Ask the taxpayer how many acres of each crop was planted, what the yield per acre was, and the price it brought. Ask about double cropping and other secondary income from the land. Compare this information to the amounts reported. By the end of the interview you should make a "big picture" assessment of the potential for unreported income. You should have a clear picture of the participation of the taxpayer in the farming operation and an assessment of the taxpayer's family, including grown family members who may also be participating and living off the operation.

Most farmers are working managers and are very familiar with their operation. They can tell you exactly how many acres they own and/or rent, how many acres were in each crop, what the yield was and the price received, how many acres of pasture, how many head of cattle owned and the make)up of their herd, etc.

The County Extension Office has published information on production levels for the state of Arkansas by county. It is useful in estimating income. Similar information for other states should be available from state or local agricultural departments.

This information can be used to make a production limits analysis to test income reported on the return. Production limit tests just give an estimate of the potential yield. It is not meant to be the only technique used and adjustments should not be made based solely on this test. It can help determine if additional time spent on other techniques is likely to be productive.

Doane's Agricultural Report includes information on farm machinery custom rates that can be useful in establishing fair value of custom work when there are transactions between related farm entities or there is unreported income from custom work.

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Chapter 2

UNREPORTED SALES OF BY)PRODUCTS AND SECONDARY SOURCES OF INCOME

Various items of income are overlooked by farmers. The sources of unreported income are many and varied. Some common items are:

1. Manure may be dried and packaged and sold as fertilizer.

2. Corn cobs may be sold for use in making plastics, perfume, etc.

3. Dairy farmers usually have more calves than they can use in their operations. Heifer calves may be raised to replace dairy cows and bull calves may be raised for breeding purposes. However, calves are usually sold at various stages. For example, as bred heifers for other farmers to use as replacement stock, as calves to be used in veal operations, or as steers to be marketed for meat.

4. Dairy and beef farmers may raise grain and hay to feed their animals. Sometimes excess grain and hay is sold to local elevators, commodity buyers, or directly to neighboring farmers.

5. Farmers with wooded areas may sell off trees for lumber, firewood, or landscaping.

6. Untilled land may be rented for pasture.

7. The soil itself may be sold as topsoil, sand, sod, fill, gravel, clay, etc.

8. Farmers may do custom work for other farmers to help offset the high cost of machinery.

9. Crop insurance proceeds may properly go unreported in the year received if the farmer elected to report them in the year the crop would normally be sold. However, he or she may not report the income in the subsequent year. All tracks to the income, such as deposits, reporting by the payee would be in the prior year which may not be under examination.

10. Income from hunting privileges and/or guide services may not be reported.

11. Fuel tax credit from a previous period may not be reported as income and/or credit may be claimed for fuel that was delivered tax free. The credit may also be claimed on fuel used for highway use and no credit is allowable.

Unreported income is not readily determinable by looking at the tax return. However, be aware of what types of income sources farmers may have. For example, dairy farmers should show the sale of calves or cows.

When examining expenses, be alert to the relationship of the expense to the income that is being reported. Some examples of expenses which may lead to unreported income are:

1. A cattle farmer has expenses under "supplies," the cost of plastic bags or packaging materials. This may indicate that the taxpayer has income from the sale of by-products, fruits, vegetables, etc.

2. A dairy farmer has freight or trucking expense in excess of that necessary for hauling milk. The receipts for trucking expense should be reconciled to livestock sales. If not reconcilable, there may be unreported livestock sales.

3. Repair accounts showing the cost of sharpening a chain saw may indicate the sale of logs or lumber.

4. A depreciation schedule showing saw rigs as an asset may indicate that lumber sales have been made.

5. A depreciation schedule showing tandem dump)truck and loader as an asset may indicate the farmer is selling soil, fill, etc.

6. Machinery in excess of that generally used on a farm of the taxpayer's size and type may indicate that the farmer does custom work.

7. A supply or repair account showing excessive welding supplies may indicate that the farmer does repair work for others or is manufacturing something for sale.

8. Tax expense includes highway use tax when the size of the farmers operation would indicate the farmer should haul less than 7500 miles per year and be exempt from the tax. This may indicate the farmer is hauling for other farmers.

9. Repairs should not exceed 50-75 percent of the proper straight-line depreciation.

10. Labor expense should bear a direct relationship to the type and size of the farming operation. If wages are paid to children, the ages and ability of the children should

be considered in determining if wages to them are appropriate. Actual payment of the wages to children or spouse should be verified.

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Chapter 3

EXAMINING FARMER INCOME RECORDS

In recent years, farmers have been keeping better records of income. Now it is more common for them to use ledgers, record books, and computer services. Another basic record is the farmer's bank account deposits. An example of an examination procedure follows.

1. Reconcile the amounts on the return to the taxpayer's record book, ledger, or computer printout of profit and loss statement.

2. Make sure all entries in a ledger or record book are spread correctly in the various categories of income. If there is a nontaxable column, review entries to make sure there are no taxable items listed.

3. If the taxpayer is using a monthly system with a yearend recap, make sure the recap sheet or page contains all the monthly totals and that they are properly entered on the recap sheet.

4. Make math verification checks. Verify a recap sheet and test three or four of the monthly totals. If no errors exist, accept the totals as mathematically correct.

5. Place all the available records of original entry in order and reconcile them to the record book or ledger entries and the computer printout of detailed listings. The original entry records available include bank statements and deposit slips for checking accounts, savings account records (including CD's, check stubs, and sales slips for sales of the farm commodities such as grain, dairy products, livestock, potatoes, etc.), Forms 1099 for patronage dividends, interest income, Agricultural Stabilization and Conservation Service (ASCS) program payments, etc; scale tickets; Form 500 from Commodity Credit Corporation for CCC loan information; and check stubs for state gasoline tax refunds. See Exhibit 3-1 for sample of a bank deposit analysis.

While doing this, make various oral inquiries of the taxpayer, paying particular attention to sales slips and check stubs to see that income is properly accounted for. Any differences between the records of original entry and the taxpayer's records should be noted on a work sheet. Issues are developed and determination of adjustments are usually made at this time.

Other areas you should also keep in mind and look for when going over records for possible adjustments to income are:

1. Dairy sales - The last check stub for the year usually shows the gross dairy sales for the year, the net amount received for the year, and the amount deducted to arrive at the net sales. This information is very useful for the following reasons:

   a. If the gross amount for the year reconciles to the return, time can be saved in examining the taxpayer's record book or ledger and checking account deposits.

   b. If the taxpayer includes only the net amount of receipts and also deducts the items (such as trucking, ADA dues, etc.) deducted from the check as expenses, adjustments must be made to income. Also, it is not unusual to find that part of sales are assigned to banks to pay off loans or put into savings, with the farmer reporting only the net check as income.

2. Grain sales check stubs should be reviewed because many times the farmer will report the net check and deduct, as expense, the deduction from the check for accounts receivable by the elevator for feed, seed, fertilizer, and supplies purchased. This has the effect of a double deduction.

3. Livestock sales slips should be reviewed to be sure gross versus net proceeds reporting is handled correctly to properly reflect income and that the various sales are reported correctly on the return. Many times farmers show sales of steers on Form 4797 and take capital gains. Also, the weight figures can give you an idea as to whether or not there is a holding period issue to pursue on breeding stock sales.

4. Loan liability ledgers from banks and other lenders can be sources of income adjustments. Deposits that are identified as loans can be verified as such and principal and interest payments shown on the ledger should be reconciled to canceled checks. Many times commodity checks are turned over to pay loans and not reported as income.

5. Regarding CCC loans, be aware of the election provided by IRC section 77 and the fact that these loans are not income unless the election was made. It is common practice to make this election. The accounting for these loans, the various ways they are paid off, and requirements with respect to the election are sometimes very confusing to the farmer and errors can be made. Part of the examination should include inquiries to see if these transactions are handled correctly on the return. Some examples of adjustments found are:

   a. Taxpayers who have not made the election report only the overruns as income

when the grain is sold. This is because the taxpayers rely only on bank deposits to compute income. Thus, when they get the loan, they do not report it as income. In subsequent years, the grain is sold and the loan is paid off by the elevator, which issues a check directly to ASCS and gives any balance (overrun) to the farmer. The farmer deposits the overrun and when computing income at the end of the year from deposits, may not report the entire grain sale, only the overrun.

b. Another issue that has been showing up recently occurs when a taxpayer has made the election to report loans as income but has not been given approval to change the method of accounting back to the regular method. For example, a calendar year farmer who obtains a CCC loan in January of 1996 and repays it in the following November might fail to include the loan in 1996 income. Even if the farmer includes the full proceeds of a 1997 sale of the grain in income, the inclusion has been inappropriately deferred one year.

c. If the election has been made to treat these loans as income in the year in which the proceeds are received, and the loan is subsequently repaid, the Service's position is that the repayment cannot be deducted. Instead, the amount of the loan so reported is added to the basis of the crops for purposes of computing gain or loss on the later sale of the crops. See IRC section 1016(a)(8) and Treas. Reg. section 1.1016-5(e). Reduction of basis of the pledged crops is required if the taxpayer has been relieved of any part of the liability for the loans.

6. When grain on a CCC loan is stored on the farm and the loan is extended (resealed) by ASCS, the farmer then earns storage payments from ASCS. These storage payments are not included on the Form 1099 given to the farmer by ASCS. Sometimes the storage payments are not even paid to the farmer because they have been assigned back to ASCS to apply on storage facility loans the farmer obtained in prior years to build or buy storage facilities. These storage facilities are on the depreciation schedule and are probably those in which the loan grain was stored.

   Since many farmers use bank deposits to compute income, the income from the storage payments is sometimes not reported but deductions for depreciation for the assets bought with unreported income are being deducted. Since the facilities on which the storage payments are applied were bought in prior years, their cost verification is part of the examination. Thus, this unreported income is hard to find. Some recommended examination techniques are:

   a. Ask the taxpayer

   b. Request CCC Form 500

c. Go over the taxpayer's files for the report or statement from ASCS showing the storage payment and receipt for payment on the facility loan

d. Look over the farmer's interest expense ledger to see if the interest deduction included ASCS facility loan interest for which the farmer has no canceled checks

e. Contact the local ASCS office to get storage payments.

7. Assets acquired during the tax year should be verified to make sure that if commodity checks are turned over directly to the vendor for payment of the purchase price they are reported as income.

8. There may be IRC section 1245 gains on sales of equipment. Used equipment can be sold for almost as much as it was bought for new in prior years, resulting in good gains upon the sale. Many farmers and some tax preparers still do not understand the ordinary income under IRC section 1245. Make sure that Schedule D and Form 4797 of farm returns are reviewed to see if there is an issue. Livestock is also IRC section 1245 property.

   NOTE: See Government Programs section for more information.

Exhibit 3-1 (1 of 3)

APPENDIX A
BANK DEPOSIT ANALYSIS

BANK: ANYBANK
ACCOUNT NO: 1234

DATE	TOTAL DEPOSIT	LOANS	RICE	OTHER GRAIN	PATR. REFUND	HANDLING/ PROMOTION	OTHER
1994							
01/05	28200.00			27000.00(B)	1200.00(*)		
01/16	16340.68		14741.00(b)		2000.00(*)	-400.32	
01/30	130.94				130.94(#)		
02/01	22117.58			20295.02(B)	2361.43(*)	-538.87	
02/05	8903.28		7903.28(b)		1000.00(*)		
03/10	40000.00	40000.00(a)					
04/15	20000.00	20000.00(a)					
05/05	30000.00	30000.00(a)					
07/01	30000.00	30000.00(a)					
08/03	912.19				912.19(#)		
09/10	22403.00			24750.00(B)		-2347.00	
09/20	3930.00			4000.00(B)		-70.00	
10/15	11088.00		12431.00(b)			-1343.00	
10/20	3000.00						3000.00(M)
10/25	12628.00		14371.00(b)			-1743.00	
10/30	539.44			389.44(W)	150.00(*)		
11/30	96.40				96.40(#)		
12/01	1790.71			1347.23(W)	443.48(*)		
12/05	1447.55				1447.55(I)		
12/20	1612.56				1612.56(#)		
TOTAL	255140.33	120000.00	49446.28	77781.69	11354.55	-6442.19	3000.00
Deposits with funds directed to Farm Credit Services							
09/01	23983.64		27169.51			-3185.87	
10/01	15573.01		16898.88			-1325.87	
	39556.65		44068.39			-4511.74	
Combined Totals							
	294696.98	120000.00	93514.67	77781.69	11354.55	-10953.93	3000.00
				76045.02(B)	2752.09(#)		3000.00(M)
				1736.67(W)	11354.55(*)		
				-----------	1447.55(I)		
				77781.69	-----------		
					15554.19		

B Beans W Wheat * Refund in cash # Redemption of shares I Interest M Machine Hire

Explanations:

a) Loans per deposits 12000.00
(Verify loans through loan

ledger card and/or notes.)

b) Rice sales per deposits 93514.67
per settlement statements:

90 Rice	22644.28	
91 Rice	70870.39	
		93514.67
Difference		0.00

c) Other grains per deposits:

Other grains per deposits:	77781.69	
Per settlements:	76045.02(B)	
Difference:		1736.67

Beans/per settlements 76045.02
per settlement statements:

90 Beans	47295.02	
91 Beans	4000.00	
		51295.02
Difference		24750.00

Deposit on September 10 was not recorded in income. Could be purchase pool or sale direct to another dryer.

Wheat per deposits	1736.67
per statements	389.44
Difference	1347.23

Deposit on 12/1 from purchase pool. Form 212 has patronage

refund from purchase pool but no income from purchase pool.

d) Patronage refund dividend and redemptions
Redemptions per deposits 2752.13(#'s)

Per statements & non-taxable

	1052.85	
	912.19	
	559.71	
	38.54	
	65.35	
	2628.64	
Difference		123.49

Redemption of certificates and allocated reserves are taxable in year certificates are received and therefore are not taxable when redeemed.

Unallocated reserves ($57.86 + 65.59) are taxable in the year redeemed since they have not been previously taxed. These were omitted from income.

Patronage Refunds - per deposits	7154.91(*)
per statements	12801.51
Difference	-5646.60

This difference should be in refunds received as certificates rather than cash. The individual crop sales give the amounts received as certificates and can be reconciled. However, the Form 212 can be used to verify non-cash payments to the farmer. Consideration should be made for fiscal year taxpayers and for refunds received from other cooperatives.

e) Handling and Promotion

Total per deposits	10953.93
Total per statment	8606.93
Difference	2347.00

The difference is from the 9/10 bean sale not reported in income.

SUMMARY AND RECONCILIATION

Total Receipts (Bank Deposits)			255140.33
Deposits in bank account (Farm Credit Services)			39556.65
Payments directly to Farm Credit Services			5646.80(d)
Total receipts			300343.78
Less Non-taxable receipts:			
Loans		120000.00(a)	
Redemption of certificates			
	2752.13		
	-123.49	2628.64(d)	
			122628.64
Total taxable deposits:			177715.14
Taxpayer reported on return:			
Rice	22644.28		
	70870.39		
Beans	47295.02		
	4000.00		
Wheat	389.44		
Machine Hire	3000.00		
Interest	1447.55		
Patronage dividends	12801.51		
Less Handling & Promotion	-8609.93		153838.26
Understatement of income:			23876.88

Understate made up of:

c)	Bank Deposit Analysis	24750.00 (c)
	Less promotion	-2347.00 (e)
	12/1 sale	1347.23 (c)
d)	Bank Deposit Analysis	123.49 (d)
		23873.72

Comment: Non-cash payment received on certificate will be obtained from breakdown of patronage dividends.

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Chapter 4

GROSS V. NET PROCEEDS

Many times the proceeds from the sale of various farm products are received in the form of a net check. Some of the items that are deducted from the gross sale price to arrive at the net include: hauling expenses, commissions, personal health or life insurance, personal purchases, assignments for loan repayments, and assignment for payment on installment sales. Some farmers record the net check as their gross receipts.

In other cases farmers take a check from the sale of a farm product directly to a bank to pay off a loan. If the money is not deposited in the farmer's checking account, it is possible that the sale may not be picked up.

Grain storage payments made by the ASCS may be credited to an outstanding loan account. These storage payments may be overlooked in reporting gross receipts.

The tax return will not generally give the examiner a clue as to whether part of a farmer's gross receipts have been omitted. This is because most farmers are on a cash basis and, therefore, can hold back crops from one year to another, or cash flows are not consistent because of variations in production and fluctuations in market prices from year to year.

Various examination techniques can be used to uncover unreported income. Some of them are:

1. Reconcile milk vouchers to the farm record book.

2. Reconcile livestock sales vouchers to the farm record book.

3. Reconcile loan payments to canceled checks. If the examiner finds loan repayments without a corresponding check, it may be that the payment was made with unreported income.

4. Question the county ASCS regarding payments made to or on behalf of the taxpayer.

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Chapter 5

GOVERNMENT FARM PROGRAMS

COMMODITY CREDIT CORPORATION LOANS (CCC LOANS)

The Commodity Credit Corporation makes loans to farmers using their crops as collateral. The grain is valued at a certain dollar amount per unit and the farmer can borrow up to a certain percentage of this dollar amount. The producer can pay back the loan to CCC and then sell the grain or store it. If the loan is repaid the farmer pays interest on the loan to CCC. However, if the farmer forfeits the grain, then no interest is due.

The producer can elect, per IRC section 77, to report the loan proceeds as income in the year the loan is received. This election is made when a farmer receives the first loan from CCC. All subsequent CCC loans must be reported as income in the year received unless the IRS gives permission to withdraw the election. If a farmer has treated all previous CCC loans as loans, the election to treat subsequent loans as income can be made without the approval of the IRS.

EFFECT ON INCOME WHEN ELECTION UNDER IRC SECTION 77 HAS BEEN MADE

If grain pledged for a CCC loan is forfeited in satisfaction of the loan, there are no tax consequences from the forfeiture.

If the loan is repaid and the grain is redeemed, there are no tax consequences from the repayment.

When redeemed grain is sold, the sales proceeds minus the basis in the grain under IRC section 1016 are included in income on Schedule F (as ordinary income). (Note that the redeemed grain is not treated as a capital asset in the hands of the producer. See, Rev. Rul. 80-19, 1980-1 C.B. 185. A contrary result was reached in **Asmussen v. United States**, 603 F.Supp. 60, (D.C. South Dakota, 1984), 85-1 U.S.T.C. 9304.)

Where an IRC section 77 election is in effect from a prior year, note that if the loan is repaid in the same year that it is received, the repayment does not offset the IRC section 77 inclusion. See, Rev. Rul. 80-19 and **United States v. Isaak**, 400 F. 2d 122 (5th Cir. 1963), 63-2 U.S.T.C. 9676, **rev'g** 38 T.C. 158 (1962) on this point.

EFFECT ON INCOME WHEN NO ELECTION HAS BEEN MADE

If grain pledged for a CCC loan is forfeited in satisfaction of the loan, the loan amount is included in income on Schedule F.

If the loan is repaid and the grain is redeemed, there are no tax consequences from the repayment.

When redeemed grain is sold, the total sales proceeds are included in income on Schedule F.

MARKET GAIN RESULTING FROM CCC LOANS

Beginning in 1991, the farmer could pay back less than the loan amount and redeem his or her crop. The language used by the ASCS Office and the farmer is "buy back" his or her crop. The CCC reports this difference between the amount paid back and the loan amount as "Market Gain." This is reported to the farmer and to the IRS on Form 1099-G. The farmer can then sell the grain when the market is higher than the loan amount and realize still further gain. There will not be an information report made for this third party sale. Whenever a farmer has a Form 1099-G for Market Gain, the examiner should follow-up to confirm that the loan amount, as well as any gain from the final sale, has been properly reported. Whether or not any Market Gain is recognized depends on whether the farmer made the IRC section 77 election to include CCC loans in income when received.

A farmer who did not include the loan amount in income must report the Market Gain as farm income, which is subject to the self-employment tax, and not as cancellation of indebtedness income, which is not subject to that tax. The farmer's basis in the grain is not affected by the recognition; it remains zero.

A farmer who included the loan amount in income does not recognize the Market Gain. Instead, the farmer reduces the basis of the grain. It is possible that a double inclusion in income can occur when the producer has made the IRC section 77 election and reported the loan in income when received. This can occur when the loan amount had been reported in income and the producer received the Form 1099-G for Market Gain and reports the Form 1099-G amount in income.

When the producer reported the loan amount in income, it included the difference between the loan and the actual payoff. Therefore, when the producer receives the Form 1099-G for this difference in the loan and the payoff, it is not taxable to him or her in the year received. It has already been taxed in the year the loan amount was reported in income.

Nevertheless, the farmer with Market Gain is repaying less than the amount that was borrowed from the Commodity Credit Corporation. Therefore, the basis of the redeemed crop must be reduced to account for the Market Gain. Note that the farmer who has erroneously reported Market Gain in income might also overlook reducing the basis of the crop and thereby set up a later underreporting.

COMMODITY CERTIFICATES

The Food Security Act of 1985 authorized certain program payments to be made on a noncash basis. Accordingly, farmers earning payments under the diversion and set-aside, and conservation reserve programs received commodity certificates instead of cash. The commodity certificate specifies the dollar amount, the farmer's name, the issue date, county where issued, expiration date, and type of commodity.

Farmers commonly refer to commodity certificates as PIK certificates or simply as certs. PIK stands for Payment in Kind, which was a former government program in which farmers received payments in actual commodity.

The farmer can return the certificate to the issuing county ASCS office for cash. He or she can sell or transfer the certificate to another farmer or commercial entity either for cash or for products used in farming. The certificates are frequently sold to elevators. Farmers often use the certificates to pay off CCC loans. When valuing a certificate used to pay off a loan, the face value of the certificate is converted to a bushel equivalent based on terminal market prices which are adjusted for location (usually by county). While the Commodity Credit Corporation only redeems a commodity certificate at face value, private parties have been willing to pay farmers a premium for certificates under certain market conditions.

The face value of the certificate is includible in income in the year received. The amount included becomes the farmer's cost basis for computing any gain or loss when the certificates are sold or exchanged. This is all ordinary income and should be reported on Schedule F. The face value of the certificate is included in the Form 1099-G sent to the farmer and to the IRS. (Form CCC-182 prior to 1991.)

The basis of an issued certificate (a certificate issued directly to the farmer by USDA as part of the agricultural subsidy program) is the amount included in income. Such a certificate is often referred to as an "own" certificate. The basis of a purchased certificate is the amount paid for the certificate. A purchase invoice and a canceled check are the best means of verification for a "purchased" certificate. Holders of the certificates purchased from the farmer can sell or transfer the certificates, pay off their own CCC loans, or exchange the certificates for commodities from CCC inventory.

USING CERTIFICATES TO PAY OFF CCC LOANS ("PIK AND ROLL")

The method used by ASCS to determine the terminal market prices for the different counties sometimes makes it profitable for a farmer to pay off a CCC loan with a commodity certificate. This is the "PIK and Roll" procedure. Generally, the following occurs:

1. The farmer applies for and receives a CCC loan. Grain is pledged as collateral.

2. The farmer either receives commodity certificates as Government payments or purchases them from another farmer.

3. The farmer redeems the grain from the CCC by repaying the loan with the commodity certificates instead of cash (the "PIK and Roll").

4. The farmer then sells the redeemed grain or uses it to feed livestock.

When valuing a certificate that is used to pay off a loan and redeem grain, the face amount of the certificate is converted to a bushel equivalent based on terminal market prices which are adjusted for location (usually by county).

The face value of the certificate used to pay off a loan and redeem grain does not have to equal the loan amount. The loan repayment amount is the lesser of the loan amount or the value of the collateral on the date of repayment.

In Rev. Rul. 87-17, 1987-1 C.B. 20, the Service had treated a "PIK and Roll" as a sale of the redeemed grain. Rev. Rul. 87-17 was revoked by Rev. Rul. 87-103, 1987-2 C.B. 41, which treats the "PIK and Roll" as the repayment of a loan. The resulting tax consequences will differ depending on whether the farmer made the IRC section 77 election to include CCC loans in income when received.

USING CERTIFICATES TO PAY OFF CCC LOANS WHEN NO IRC SECTION 77 ELECTION HAS BEEN MADE

If a farmer does not include CCC loans in income when received, the following tax consequences result from the receipt of a CCC loan and the use of commodity certificates to pay off the loan.

1. No income is reported on receipt of the loan proceeds.

2. Income equal to the face value of the commodity certificate is reported on Schedule F on receipt of the certificate. The basis of an issued certificate is the amount included in income. The basis of a purchased certificate is the amount paid for the certificate.

3. The excess of the loan amount over the basis in the certificate used to pay off the loan is reported as income on Schedule F when the certificate is used to pay off the loan. If the basis in the certificate is less than the loan amount, the difference is income on Schedule F. If the basis in the certificate is greater than the loan amount, the difference is a loss on Schedule F. The basis in the grain is not affected by the repayment; it remains zero.

4. A subsequent sale of the grain would result in income equal to the sales price. If the farmer feeds the grain to livestock, no deduction is allowed as there is no tax basis in the grain.

USING CERTIFICATES TO PAY OFF CCC LOANS WHEN AN IRC SECTION 77 ELECTION HAS BEEN MADE

If a farmer has elected to include CCC loans in income when received, the following tax consequences result from the receipt of a CCC loan and the use of commodity certificates to pay off the loan.

1. Income in the amount of the loan is reported in income when the loan proceeds are received.

2. Income equal to the face value of the commodity certificate is reported on Schedule F on receipt of the certificate. The basis of an issued certificate is the amount included in income. The basis of a purchased certificate is the amount paid for the certificate.

3. There will be no income recognized or expense deducted on repayment of the loan. The PIK and Roll profit is not taxable at the time of the PIK and Roll transaction. Instead, the PIK and Roll profit is used to reduce the basis of the grain which is the CCC loan amount. The tax basis in the certificates used to pay off the loan becomes the tax basis in the grain redeemed.

4. A subsequent sale of the grain will result in gain or loss equal to the difference between the tax basis in the grain and the sales price. If the grain is used to feed livestock, a deduction is allowed in the amount of the tax basis in the grain.

CERTAIN COST-SHARING PAYMENTS

The ASCS pays part or all the cost directly, or reimburses the farmer for part or all of the cost for certain projects which are primarily for conserving soil and water resources, protecting or restoring environment, improving forests, or providing habitat for wildlife.

These payments are also reported to the farmer and IRS on Form 1099-G (prior to

1991 they were reported on Form CCC 182). The amount to be included is the value of the improvement reduced by the farmer's share of the cost of the improvement and any excludable portion of the payments. See Pub. 225, **Farmer's Tax Guide**, concerning how to value the improvement. All or a portion of the payments are excludable only if the payments or portions thereof meet all three of the following tests:

1. The payment must be for a capital expenditure. Farmers cannot exclude any payment for an expense that could be deducted in the current tax year. Payments for current expenses must be included in income and the expense deducted on Schedule F. Rental payments and compensation for services cannot be excluded.

2. The payment cannot substantially increase the farmer's annual income from the property for which it is made. An increase in annual income is substantial if it exceeds the greater of:

   a. Ten percent of the average annual income derived from the affected property before receiving the improvement

   b. An amount equal to $2.50 times the number of affected acres.

3. The Secretary of Agriculture certifies that it was made primarily for conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife. IRC section 126(a) provides a list of the federal programs that have been certified by the Secretary of Agriculture.

If these tests are not met, the farmer may not exclude the conservation program payments.

If a farmer excludes conservation program payments, he or she cannot include this amount in the basis of the property improved. No depreciation, amortization, or depletion deduction is allowed for the part of the cost of the property for which a cost-sharing conservation payment is received and excluded from income.

CONSERVATION RESERVE PROGRAM (CRP)

Under this program, landowners bid for annual payments from the Government in exchange for not farming the land for a 10-year period. The payments received are income to the recipient in the year received. These are reported on Form 1099-G (Form CCC 182 prior to 1991).

The annual payments are to compensate the owners for the potential income from their land had they devoted such land to the production of an agricultural commodity. As

such, the payments received by owners who materially participate in the production or management should be included in income on Schedule F and will be subject to self-employment tax. However, if the owner does not materially participate, the payment should be reported as rental income and excluded from net earnings for self-employment tax. For example, a retired farmer who would have rented the property to someone else had it not been in the Conservation Reserve Program. Thus, the proper treatment of the payment must be determined on a case by case basis.

CROP INSURANCE AND DISASTER PAYMENTS

Generally crop insurance proceeds received as a result of crop damage must be included in income on Schedule F in the year received. Crop disaster payments received under the Agricultural Act of 1949 as a result of damage to crops or the inability to plant crops because of a natural disaster are treated as crop insurance proceeds.

For cash method farmers, there is an exception to the general rule that these payments must be reported in the year received. The exception allows the farmer to postpone reporting a payment for one year if it can be shown that, under normal business practices, the income from the crop would not have been reported until a year following the receipt of payment. That is, the crop destroyed or damaged would have been sold in the year following the receipt of the payment.

Farmers who qualify for this exception have the option of reporting the insurance proceeds as income in the year received or as income in the following year.

To make this election, a statement must be attached to the farmer's tax return, or amended return, for the year the damage took place. The statement must include the farmer's name and address and contain the following information:

1. A statement that they are making this election under IRC section 451(d).

2. Identification of the specific crop or crops destroyed or damaged.

3. A statement that under their normal business practice they would have included income derived from the destroyed or damaged crops in their gross income for a tax year following the tax year of the destruction or damage.

4. The cause of the destruction or damage and the date it occurred.

5. The total amount of insurance payments received, itemized with respect of each specific crop, and the date each payment was received.

6. The name(s) of the insurance carrier or carriers from whom they received payments.

One election covers all the crops from a farmer's farm. If a farmer has more than one separate and distinct farming business on which different crops are grown and separate books are kept, then two separate elections should be made to defer reporting insurance proceeds received for crops grown on each of the farms.

DAIRY TERMINATION PROGRAM (MILK PRODUCTION TERMINATION PROGRAM OR DAIRY HERD BUY)OUT PROGRAM)

The farmer entered into a contract providing for payments from the CCC in return for stopping all production of milk, disposing of the entire herd, and agreeing not to use the dairy facilities for milk production for 5 years.

The payment is made up of two parts. The portion that is compensation for the difference between the amount received when the dairy herd is sold for slaughter purposes and the amount that would have been received if the cattle had been sold for dairy purposes is treated as an addition to sales price and is reported on Form 4797. The portion that is intended to replace income from the milk production is ordinary income reported on Schedule F and subject to self-employment tax.

To determine how much of the Dairy Termination Payment (DTP) that should be reported on Form 4797 as part of the sale price and the amount of ordinary income to be reported on Schedule F, subtract the portion that is compensation for the difference in the price of slaughter cattle and the price of dairy cattle (this price difference is the Form 4797 amount) from the total payment received. The remainder of the payment is the ordinary income amount to compensate the farmer for milk sales and is reported on Schedule F.

Notice 87-26, 1987-1 C.B. 470, issued on March 9, 1987, provides that the IRS will accept as specific evidence of the price at which the farmer could have sold the cattle for dairy purposes the price published in "Agricultural Statistics Board" for milk cow sales in the state in which the farmer sold the cattle during the year and month in which the farmer actually sold the cattle.

DEFICIENCY PAYMENTS

If the market price is lower than the target price set by the ASCS when the farmer sells his or her crop, the ASCS will pay the difference between the market price and the target price. This deficiency payment is taxable in the year received and must be included in income whether they are received in cash, materials, services, or commodity certificates. Prior to 1991, payments were reported to the IRS on Form

CCC 182. Subsequent to 1991, they are reported on Form 1099-G. The full amount is reported even if the farmer refunds part or all of the payment to the USDA. However, any amount refunded is deductible on Schedule F in the year of repayment.

DIVERSION AND SET-ASIDE PAYMENTS

In order to decrease the supply of grain on the market, the ASCS pays farmers not to grow crops on their land. The amount of these payments depends upon the number of acres put into the program and the prior production per acre of these acres. These payments are treated the same as Deficiency Payments discussed above.

FARM AND WAREHOUSE STORAGE

Farmers sometimes store grain owned by the Government and the ASCS pays the farmer for the use of their storage facilities. This income is taxable in the year received.

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Chapter 6

COOPERATIVES

BACKGROUND

Cooperatives play an important role in the farming industry. By participating in a cooperative purchasing and marketing system, farmers benefit from sharing the investments necessary to receive and store their crops and from the strength large volume purchases and sales can generate. Farmers may deliver their crops to a cooperative for storage, milling, transportation, and marketing. They may also purchase fertilizer, seed, and fuel from a cooperative.

Cooperatives were first organized by farmers within a common geographical area for the convenient delivery and sale of their crops. Originally, most farmers belonged only to the cooperative closest to their farming operation. But with improvements in trucks and the expansion of farming operations, many farmers now belong to more than one cooperative.

Local cooperatives provide the physical facilities necessary to market the patron's crops. They are controlled by a board of directors elected by the membership. The board is responsible for maintaining the facilities and deciding how much service and equipment the cooperative will provide. For example, some cooperatives require more truck dumps and storage, others may clean seed for their members. But basically, cooperatives meet the purchasing and marketing needs of their patrons.

A cooperative charges a drying and/or handling fee for the crops delivered through its facilities. Drying charges are levied against crops that must have moisture removed before storage. The energy costs and specialized equipment necessary for this process are paid for by the patrons delivering this grain. Handling charges are levied against all other grains to cover labor and other charges associated with their receipt.

Under cooperative accounting practices, these fees are generally set high enough to ensure an adequate amount of revenue to cover all the cooperative's expenses. If the fees are not high enough, a loss occurs. But a cooperative earns a profit when revenues exceed expenses and it is the board of directors responsibility to decide how to return these profits to the patrons.

Most cooperatives distribute profits by making patronage payments to those farmers who used the cooperative's facilities during the year. Under law, these patronage payments must be at least 20 percent cash. The remaining portion of the patronage

distribution can be retained by the cooperative by issuing qualified notices of allocation, often called certificates of equity, to the patron. These equity certificates represent the patron's investment in the operations of the cooperative. This particular capitalization method is known as a "Revolving Fund Plan."

The funds represented by the certificates of equity are used by the cooperative to revolve older certificates of equity, pay interest on certificates, pay interest on delivery debentures, finance capital improvements, and provide working capital for the daily operation of the cooperative.

Usually cooperatives revolve their certificates of equity periodically, such as every 10 years, meaning that certificates issued in 1986 will be redeemed in 1996. However, the board of directors has the authority to alter this redemption period if desired.

All cooperatives provide for a discounted redemption from the estate of a deceased patron. Discount charts are calculated based on the value of borrowed funds and the age of the certificates. If desired, the heirs of a former patron may elect to have an immediate redemption of all certificates owned by the estate at these discounted values. Such a redemption gives rise to an ordinary loss to the farmer in the amount of the discount. See Rev. Rul. 70-407, 1970-2 C.B. 52. Otherwise, the certificates will be redeemed as authorized by the board.

Certificates may earn annual interest. This interest is taxable upon receipt. Current federal and state laws require patrons to pay income taxes on the value of the certificates during the year they are received. Therefore, patrons do not pay taxes on the cash received when certificates are redeemed at their face amount.

Some cooperatives allow certificates of equity to be transferred and/or sold to any individual. However, notification of transfer must be made to the cooperative so ownership records may be kept accurate. This Revolving Plan has been used by cooperatives for many years. It is a very common plan and most patrons are familiar with its operation.

DELIVERY DEBENTURES

A delivery debenture is a funding instrument which cooperatives have also used to raise money for facility expansions and to control deliveries. Delivery debentures are actually two-part documents. The top portion of the document is a registered note with a specified interest rate and maturity date. The bottom portion is a delivery privilege contract which gives the owner a right over other patrons without contracts to deliver grain to the cooperative. During years of unrestricted deliveries, the delivery privilege contracts have little value. However, patrons who possess these contracts will have first priority on deliveries when storage space is scarce.

There is often confusion between the delivery debentures and the certificates of equity. Most delivery debentures are issued to raise money for facility expansions. Any individual, whether they farmed or not, could purchase these registered notes as an investment and they may be bought and sold subject to approval of the boards of directors. The notes pay annual interest; they do not represent equity ownership of the cooperative, but are debt instruments that the cooperative must eventually retire. Owners of the certificates of equity actually own the cooperative.

Although cooperatives are not required to retire the registered notes until their maturity date, many cooperatives make partial repayments of these obligations to avoid the large payments when the notes mature.

BASE CAPITAL PLAN

The financial structure of Base Capital Plans can easily be described. First, a required amount of equity for the cooperative's operations is determined. This is usually based on some unit of measurement like bushels handled or some other easily identified factor. Each patron is then expected to invest his or her proportionate share of the needed capital and contributes according to the volume of business done with the cooperative.

Then each patron's investment in the cooperative is based on his or her use of the facilities during a specific time period. For example, the cooperative may determine the patron's use over a 7-year period; a delivery average is calculated to determine each patron's share of the total receipts. Under the Revolving Fund Plan, every patron makes an investment each year regardless of how much money had been previously invested. But under the Base Capital Plan, a patron who has already invested his or her proportionate share of equity receives all cash settlements.

This capital level is based on several factors which can fluctuate with changing farm legislation, a change in crop plantings, or other factors which affect farming from year-to-year. The board of directors has the authority to adjust this number each year as circumstances indicate.

Each patron's individual share of this investment is collected from his or her settlements just like the Revolving Fund Plan. Limits are placed on each year's investment to avoid an undue hardship on new growers or those expanding their operations. Under these limits, patrons generally have 7 years to make their investment in the cooperative. Once a patron contributes his or her share of equity, his or her settlements are made all in cash.

Usually refunds are made to patrons who become overinvested. For example, if a patron's investment exceeds his or her delivery average by more than 120 percent, he or she may be eligible for authorized refunds. The 20 percent cushion was

created because patron's accounts fluctuate each year due to set-aside programs, droughts, and other factors. This cushion avoids the expense of exchanging checks with patrons each time the delivery average changes.

Equity invested under the Base Capital Plan can be returned under the 120 percent redemption formula, transferred to a family member, or passed on to heirs of an estate. If desired, discounted redemptions from estates will be made.

Cooperatives may issue two different types of equity for tax purposes. "Qualified Equity" (qualified written notices of allocation) is identical to the certificates of equity. Farmers pay taxes on the face amount of this equity during the year the investment is made. When they are redeemed at face value, no additional income should be reported. "Nonqualified equity" (nonqualified written notices of allocation) is not taxable to the farmer when issued. Therefore, the cash refunds of this equity are taxable as ordinary income when received.

AUDIT TECHNIQUES FOR COOPERATIVE TRANSACTIONS

Bank Deposits -- Do not overlook money received from a cooperative that is not deposited to the farmer's bank account.

Patronage Refund --Payments may be made as a combination of cash and stock. Examiners will need all the statements the farmer received from the cooperative for the year to reconcile a cash reporting taxpayer to the Form 1099 PATR or other form substituted for a Form 1099 the farmer receives from the co-op. One statement per year is sent to the farmer for each type of patronage refund. For example: a farmer sells only soybeans, but has income from seasonal and purchased pools and uses an affiliated grain dryer with the cooperative. The farmer will receive three statements for a final settlement with the cooperative; one for seasonal pool soybeans, one for purchase pool soybeans; and one for the Dryer affiliate. Each statement will show the non-cash portion of dividends for certificates, the non-cash portion for allocated reserves, and the cash portion for which a check is issued.

Final Settlements (Patronage Refunds) -- Statements will include both terms. Total from all statements for final settlements or patronage refunds in the year should agree with total patronage dividends shown on return. Patronage refunds for booked or purchase pool sales are shown on Form 1099 as "P. Pool. Pat. refund." Patronage refunds are paid partly in cash and partly in qualified written notices of allocation; the entire amount is taxable in year issued.

Information Not Included on Form 1099 PATR or other substituted form.

1. Payments for grain sold under purchase pool arrangement -- the farmer receives payment and receipt when grain is delivered.

2. Payments for crops booked (Forward Contracts) -- crops are delivered at a future time which is specified in an enforceable contract with the co-op farmers who are paid on the delivery date set out in the contract. Penalties are imposed if the contract is broken and farmer pays cost of storage up until the delivery date

Checks Payable Jointly to Lien Holder and Farmer

1. Farm Credit Services (formerly PCA) will give farmer a receipt stating who the check was from and how it was applied to the loan.

2. Farm Credit Services will advance money to farmer -- using crop as collateral.

Cooperative Expenses

Farmers may have expenses to the cooperative other than those shown on Form 1099 or other substituted form. The expense may be deducted from cash payments to the farmer. Examiners should be aware of the potential for a double deduction of expenses by the taxpayer.

An un)allocated reserve certificate is not taxable to the patron when issued, therefore it is taxable when this equity is redeemed for cash.

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Chapter 7

RULES OF THUMB AND OTHER INFORMATION ON FARMING

LIVESTOCK

Purchased for Resale

1. Beef cattle or steers are generally purchased at the age of a few days to 6 months and raised until 15 to 18 months old. Their normal selling weight is 1,000 to 1,200 pounds. Under normal conditions the purchase and sale occurs during two different tax years and their cost must be recovered in the year of sale.

2. Butcher hogs are generally purchased as "feeder pigs" at a weight of 40 to 60 pounds or about 6 to 8 weeks of age, and raised until 6 to 9 months old. Their normal selling weight is 200 to 240 pounds. The purchase and sale may or may not take place in the same tax year. Their cost must be recovered in the year of sale.

3. Lambs are generally purchased at approximately 20 pounds and 8 weeks of age, and raised until 8 or 9 months old. Their normal selling weight is 90 to 100 pounds. They are usually purchased in early summer and sold in late fall of the same year.

Raised

1. Steers or feeder cattle are either young dairy cattle raised for sale as meat, or beef animals raised for sale as meat. They are held until 15 to 18 months old and their usual selling weight is 1,000 to 1,200 pounds.

2. Calves are young animals that dairy farmers usually sell at less than 30 days of age.

3. Swine, or butcher hogs, are generally held until 6 to 9 months old. Their usual selling weight is 200 to 240 pounds.

4. Lambs are held until 8 to 9 months old. Their usual selling weight is 90 to 100 pounds.

5. Feeder pigs are held until 6 to 8 weeks of age. Their usual selling weight is 40 to 60 pounds.

Cattle

It takes about 1.5 acres of pasture per animal. This capacity can be increased by purchasing hay and corn and/or renting additional pasture. To be profitable, a cow must be bred at least once in 14 months. Most farmers breed their cows once in every 12 months. Calves are generally bred for the first time about 16 months after birth.

Calves, sold or on hand, have a direct relationship to the herd. Example:

30 cows x 12 months = 360 months

$$\frac{360 \text{ months}}{14} = 25+ \text{ calves born during a year}$$

The average farmer slaughters two calves a year for personal use.

Some common terms for cattle include:

1. Bull -- Breeding male.

2. Cow -- Adult female.

3. Heifer -- A female less than 3 years old, usually has not produced a calf.

4. Steer -- Castrated male.

5. Polled -- Naturally hornless, or with the horns cut off.

Dairy

Dairy farmers usually sell all their milk to a single dairy. Generally, they receive statements showing the total milk shipped, price per pound, gross receipts, amounts deducted for merchandise purchased by the farmer (butter, cream, filters, payments for the purchase of cattle, farm machinery, life & health insurance, etc.) and the net sales.

The farmer may report the net receipts and also deduct the supplies purchased. They have then had a double deduction for the farm expenses and taken a deduction for dairy products personally consumed.

Based on 1991 milk prices, a farmer should be milking one cow for each $1,800 of gross milk income.

The farmer will generally sell one calf per $1,800 of gross milk income reduced by 10 percent for loss of animals due to death. (This is based on 1 calf per cow each year.)

Poultry

Normal egg production is about 260 eggs per chicken per year. Farmers producing eggs should also have income from the sale of broilers or hens to meat packers or canneries such as Campbell's Soup for the birds replaced in the egg production.

Fryers are chickens purchased for resale when they are 1 or 2 days old. Hens or baby chicks bought for commercial egg production or for raising and resale can be deducted by a cash basis farmer in the year the costs are paid if this is done consistently and clearly reflects income.

Sheep

Wool is sheered in the spring. Amounts received for the wool on animals sold for slaughter will be received sometime after the sale.

Some common terms for sheep include:

1. Ewe -- Female sheep used for breeding.

2. Ram (bucks) -- Male sheep used for breeding.

3. Lamb -- Any sheep less than 1 year old.

4. Wether -- Castrated male.

Swine (Hogs)

Some common terms for swine include:

1. Boar -- Breeding male.

2. Sow -- Breeding female.

3. Barrow -- Castrated male.

4. Gilt -- Female less than a year old.

5. Shoat -- Young hog of 100 to 150 pounds.

6. Farrow -- Verb, meaning to give birth.

7. Litter -- Collective term for the pigs farrowed by a sow.

Horses

Some common terms for horses include:

1. Mare -- An adult female.

2. Stallion -- A breeding male.

3. Filly -- A young mare.

4. Colt -- A young stallion.

5. Foal -- A colt or filly less than a year old.

ROW CROPS

Tenant Farmers/Crop Sharing

Often farmers rent land based on a share of the profit. There are various arrangements regarding who furnishes the equipment and repairs to equipment and buildings.

Customary shares used are 25/75, 33/67, 40/60 and 50/50. The division depends on who is furnishing the expenses. Usually the landowner furnishes the land and buildings and pays for the expenses (repairs and taxes) related to the land and buildings only. The tenant farmer pays for all the operating expenses and uses his own equipment.

Double Cropping

Farmers can sometimes plant and harvest two crops on the same land in a year. For example, farmers often plant a wheat crop right after they harvest their soybean crop -- on the same land. Then in the spring when they harvest the wheat they go back again with soybeans.

An indication that the farmer is double cropping wheat and beans would be the months he or she incurs seed expense and receives income. If his or her receipts for bean seed and chemicals, etc., are in late June or early July, he or she has planted late for the growing season. Likely, he or she had to wait to get a wheat crop off before he or she could plant the beans. Otherwise, he or she would have planted the beans a month

earlier to maximize his or her yield and reduce his or her risk that the beans will not be mature before the end of the growing season.

Examiners will see wheat sales in mid to late June or early July and planting expenses for the soybeans. Then, soybean sales in mid-November as well as planting expense for the wheat. If the farmer is only reporting his or her bean sales and not his or her wheat crop, examiners may identify unreported income from wheat based on the time of planting and harvesting his or her soybeans. This may be the only indication of the wheat crop if he or she did not deduct expenses relating to the wheat, as well as not reporting the wheat sales.

Wheat-Beans

Farmers usually refer to soybeans planted behind wheat as "wheat-beans." The yield for wheat-beans is usually less than single crop beans.

No-Till

This is a planting practice becoming more common due to the increased emphasis on soil conservation. The farmer will plant soybeans with a bean drill right in the wheat stubble after harvesting the wheat. This saves the expense of tilling the soil as well as reducing the loss of top soil from erosion by water run off and wind on the loose, unprotected plowed, and prepared fields.

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Chapter 8

OTHER FARM RELATED ISSUES

AGRICULTURAL LABOR

See IRC sections 3121(g), 3306(k).

DISCHARGE OF QUALIFIED FARM INDEBTEDNESS

See IRC section 108(g).

FAMILY PARTNERSHIPS

IRC section 704(e).

A family farm partnership with 10 or fewer partners will usually be considered to have reasonable cause for not filing a partnership return if it can show that all partners have fully reported their shares of all partnership items on their timely filed income tax returns. In addition the partnership must have no foreign or corporate partners, and each partner's proportionate share of each partnership item must be the same.

FERTILIZER COSTS

Expensing -- See IRC section 180.

INVOLUNTARY CONVERSION

See IRC section 1033.

LANDCLEARING EXPENSES

See IRC section 182.

METHOD OF ACCOUNTING FOR CORPORATIONS ENGAGED IN FARMING

See IRC section 447.

RECAPTURE OF SOIL CONSERVATION AND LAND CLEARING EXPENSES

See IRC section 1252.

SOIL CONSERVATION EXPENDITURES

See IRC section 175.

UNHARVESTED CROPS SOLD WITH LAND

See IRC section 268.