PRINCIPLES OF AGRICULTURAL LAW

by

Roger A. McEowen, J.D

Kansas Farm Bureau Professor of Agricultural Law and Taxation
Washburn University School of Law

Member of the Iowa, Kansas and Nebraska Bar Associations and licensed to practice in Nebraska.

Spring 2017 Edition
by McEowen, P.L.C.

All Rights Reserved

Printed in U.S.A.


MCEOWEN, P.L.C.
1105 S.E. Michael Dr.
Ankeny, Iowa 50021
1-515-963-7914

e-mail: mceowen525@gmail.com
IN MEMORIAM

This book is dedicated

To the Memory of my parents

H.D. (Mac) McEowen

7/19/18 - 1/26/77

and

Nedra R. McEowen

5/31/18 - 8/9/09
ACKNOWLEDGMENT

I wish to acknowledge publicly the help that I have received, in researching and writing this text. I am especially grateful to my research assistants who assisted me in researching the topical areas for certain parts of the book. Ali Javahery, a 1996 graduate of Washburn University School of Law, Topeka, KS, and currently an intern at the Attorney General's Office in Los Angeles, CA, and David Hansen, a 1997 graduate of Washburn were very helpful in researching current statutory and case law and proofing the text for typological errors.

I am also grateful to Paul Wright, an attorney in private practice, Dublin, Ohio; L. Leon Geyer, a professor in the Department of Agriculture and Life Sciences at Virginia Tech University; Margaret R. Grossman, a professor in the Department of Agricultural Economics at the University of Illinois; Marcia L. Tilley, a professor in the Department of Agricultural Economics at Oklahoma State University; Terence J. Centner, a professor in the Department of Agricultural and Applied Economics at the University of Georgia; David G. Barton, a professor in the Department of Agricultural Economics at Kansas State University; and Michael B. Kearns, private practitioner in Manhattan, Kansas, and former Assistant Riley County Attorney, Riley County, Kansas. Each made comments on various chapters of the book and the overall content and structure of the initial version of the book.

Special recognition is due my secretary at Kansas State University, Marcella Budden, who handled all of the word processing and correspondence relating to the creation of the book. All of the original chapters were revised several times and, as is necessary with a textbook of this nature, daily revisions were made to several of the chapters. Her patience in dealing with a sometimes irritable author and seemingly endless pressing deadlines is greatly appreciated. Without her, this project would not have been possible. Beginning with Release 3 (Fall 2016), special thanks to Tammy Haggerty of Navarre, Kansas, for her assistance with word processing, proofing and updating all of the case tables. Her assistance is greatly appreciated.

The input of the Agricultural Law Press, the initial publisher of this text is also appreciated. Many helpful comments concerning style, format and placement of particular areas of content of the text are greatly appreciated.

Finally, I thank my wife, Jean, not only for her encouragement, but simply for putting up with me. For a full-time professor with a major extension appointment at a land grant university, a writing project such as this brings many hundreds of hours of "spare-time" work and occasionally a restless night. My family has certainly shared in the toll that writing this book has taken. However, Jean and my children, Randi and Michael, and our grandchild, Brooklyn, share in my hope that for you the reader, the work on this text will have been worthwhile.

Roger A. McEowen
Ankeny, Iowa
January 2017
PREFACE

Although legal problems involving agriculture producers, rural landowners and ag-related businesses have existed for centuries, agricultural law has been developed as an area for study largely in the twentieth century. Over the past 60 years, agricultural law courses have been developed and are offered widely at land grant universities, law schools, junior colleges and two-year vocational-technical institutions.

Agricultural law covers a wide array of topics and issues that illustrate the many areas where agriculture intersects the law. The reader will note how the law often treats “agriculture” and “farmers” and “ranchers” in a unique manner. But, the legal concepts and principles addressed in this text have application that is broader than simply to agriculture, and the reader will find that fact apparent upon reading the material.

A one-semester academic course could be created out of many of the individual chapters of this text. However, a one-semester course that covers the full volume (or numerous chapters thereof) can only realistically accomplish the objectives of (1) providing students with an ability to identify legal problems and an understanding of the steps that can be taken to avoid such problems; (2) illustrating how legal decisions are made; and (3) building an appreciation in students for the difficulty inherent in many legal issues based on the facts of each situation, and the various statutory and common-law factors that may be involved in any particular situation. However, a one-semester survey course cannot hold, as an objective, the development of abilities sufficient to yield confidence in one’s own legal problem solving ability. But, students’ awareness of the need for legal counsel should be enhanced, and students should develop an ability to make effective use of available legal materials.

It is my hope that students find the material in this text enjoyable and much more than a mere academic exercise. While numerous college courses don’t have much relevance to real-life situations, that is not true of agricultural law. This text addresses real-life issues faced by real persons. Agricultural law is reality, and students will benefit from having used this text in a course on agricultural law, whether or not they pursue a career in law or in agriculture in general.

As you use this text (instructors, students, lawyers CPAs and others), please let me know of any suggestions for future revisions. I update the full volume twice annually, including copies in use for which the updates are available on a subscription basis. Abridged versions of the full volume are available such that the book can be tailored for any use an instructor may desire. The book is also available on CD and, for instructors and other interested persons, Powerpoint slides are available for each chapter.

Roger A. McEowen
Ankeny, Iowa
January 2017
# Table of Contents

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chapter 1</td>
<td>Introduction to Agricultural Law and the Legal System</td>
</tr>
<tr>
<td>Chapter 2</td>
<td>Contracts</td>
</tr>
<tr>
<td>Chapter 3</td>
<td>Secured Transactions</td>
</tr>
<tr>
<td>Chapter 4</td>
<td>Negotiable Instruments</td>
</tr>
<tr>
<td>Chapter 5</td>
<td>Bankruptcy</td>
</tr>
<tr>
<td>Chapter 6</td>
<td>Income Tax Planning and Management</td>
</tr>
<tr>
<td>Chapter 7</td>
<td>Real Property</td>
</tr>
<tr>
<td>Chapter 8</td>
<td>Estate Planning</td>
</tr>
<tr>
<td>Chapter 9</td>
<td>Business Planning</td>
</tr>
<tr>
<td>Chapter 10</td>
<td>Cooperatives</td>
</tr>
<tr>
<td>Chapter 11</td>
<td>Civil Liabilities</td>
</tr>
<tr>
<td>Chapter 12</td>
<td>Criminal Liabilities</td>
</tr>
<tr>
<td>Chapter 13</td>
<td>Water Law</td>
</tr>
<tr>
<td>Chapter 14</td>
<td>Environmental Law</td>
</tr>
<tr>
<td>Chapter 15</td>
<td>Regulatory Law</td>
</tr>
<tr>
<td>Glossary</td>
<td></td>
</tr>
<tr>
<td>Table of Cases</td>
<td></td>
</tr>
<tr>
<td>Index</td>
<td></td>
</tr>
</tbody>
</table>
CHAPTER 1
Introduction
SYNOPSIS

§ 1.01 Overview
§ 1.02 History and Sources of American Law
   [1] Basic Sources of Law
   [2] Stare Decisis
§ 1.03 Classifications Of Law
   [1] Substantive Law
      [a] Criminal Law
      [b] Civil Law
      [c] Law of Equity
   [2] Uniform Laws
§ 1.04 Court Systems
   [1] State Court Systems
§ 1.05 Civil Procedure
   [1] Stages of a Civil Lawsuit
      [a] The Pleading Stage
      [b] The Discovery and Pre-trial Stage
      [c] The Trial and Appeals Stage
   [2] Enforcing a Judgment
§ 1.06 Legal Research
CHAPTER 2
Contracts

SYNOPSIS

§ 2.01 Overview
§ 2.02 Contract Formation - The Common Law
[1] Offer and Acceptance
§ 2.03 Application of UCC Article 2 To Contracts
[1] Scope of Article 2
§ 2.04 Contract Formation Under The UCC
[1] Contracts Involving Merchants
[2] Auction Sales
§ 2.05 Requirement That Contracts Be In Writing
[1] Merchant’s Confirmatory Memo Rule
[2] Other Exceptions to the Statute of Frauds
[a] Agricultural Leases as Personal Services Contracts
§ 2.06 The UCC And Contract Provisions
[1] Quantity
[2] Price
[3] Delivery
§ 2.07 Agricultural Lease Provisions - Common Law Concerns
[1] In General
[a] Crop and Livestock Leases
[b] Oil and Gas Leases
[c] Wind Energy Leases
[d] Hunting Leases
§ 2.08 Warranties
[1] Express Warranties
[2] Implied Warranties
[a] Implied Warranty of Merchantability
[b] Implied Warranty of Fitness For A Particular Purpose
[3] Disclaiming Implied Warranties
[4] One-Sided Contracts
[a] Agricultural Production Contracts
[b] Genetically Modified Organism (GMO) Contracts
§ 2.09 Contract Performance
[1] Risk of Loss
[2] Right of Inspection
[3] Commercial Impracticability
§ 2.10 Remedies Upon Breach Of Contract
[1] Buyer’s Remedies
[a] Right Of Rejection
[b] Right To “Cover”
[c] Right Of Specific Performance
[d] Nonconforming Goods
[e] Timeframe for Exercising Remedies
[2] Seller’s Remedies
[3] Liquidated Damages
[4] Handling Deposits After Breach
§ 2.11 Statute Of Limitations
CHAPTER 3
Secured Transactions

SYNOPSIS

§ 3.01 Overview
§ 3.02 Secured Transaction Basics

[1] Scope of Article 9
  [a] Overview
  [b] Application to Leases
  [c] Consignment Situations

[2] Definitions
  [a] Security Agreement
  [b] Security Interest
  [c] Financing Statement
  [d] Debtor
  [e] Collateral
  [f] Buyer in the Ordinary Course of Business
  [g] Fixture

  [a] Against the Debtor
    [i] The Need to Properly Identify the Debtor
    [b] Attachment
      [i] The Giving of Value
      [ii] Rights in the Collateral
      [iii] Attachment of After-Acquired Property
  [c] Against Third Parties
    [i] Perfection
    [ii] Methods of Perfection
      [A] Possession of Collateral
      [B] Filing
      [C] Automatic Perfection
    [iii] Continuation Statement
    [iv] Termination Statement

[4] Perfection Against Proceeds
  [a] Classification of Government Farm Program Payments

[5] Priorities Among Security Interests
  [a] PMSI in Crops Rule
  [b] PMSI in After-Acquired Property
  [c] PMSI in Livestock Rule


[7] Fixtures

[8] Unperfected Security Interests

§ 3.03 Rights of Purchasers Acquiring Property Subject to a Security Interest

[1] Debtor’s Right to Sell Collateral
[2] Inventory Property
[3] Farm Products
[4] Rights of Farmer in Failure of Elevator

§ 3.04 Default by the Debtor

[1] Right to Possession
[2] Right and Duty to Dispose of Collateral
  [a] In General
  [b] Commercial Reasonableness
  [c] Revised Article 9
[3] Proceeds of Disposition
[4] Effect of Creditor’s Disposition of Property
§ 3.05 Secured Party's Liability for Failure to Comply With the Code

Statutory Priority Rules

[1] General Priority Rules for Liens
[2] Ag Supply Dealer Liens
[3] Revised Article 9 and Agricultural Liens
   [a] Rules for Perfection and Priority
   [b] The Landlord’s Lien
   [c] Summary
CHAPTER 4
Negotiable Instruments

SYNOPSIS

§ 4.01 Overview
§ 4.02 Requisites of Negotiability
  [1] In Writing, Signed by Maker or Drawer
  [2] Unconditional Promise or Order
  [3] Sum Certain or Fixed Amount of Money
  [4] Payable on Demand or at a Definite Time
  [5] Contains Words of Negotiability
§ 4.03 Liability of Parties to a Negotiable Instrument
  [1] Contract Liability
    [a] Primary Liability
    [b] Secondary Liability
  [2] Tort Liability
§ 4.04 Liability of Accommodation Parties and Guarantors
§ 4.05 Holder in Due Course
  [1] In General
  [2] Requisites of HDC Status
    [a] Value
    [b] Good Faith
    [c] No Notice of Claim or Defense
    [d] No Notice That Instrument Is Overdue
  [3] Defenses
    [a] Real Defenses
    [b] Personal Defenses
§ 4.06 1976 Federal Trade Commission Rule
§ 4.07 Insufficient Funds Checks
CHAPTER 5
Bankruptcy

SYNOPSIS

§ 5.01 Overview
§ 5.02 Types of Bankruptcy
  [1] Liquidation
  [2] Reorganization
§ 5.03 Who Can Be a Debtor?
§ 5.04 Involuntary Bankruptcy
§ 5.05 Commencing a Voluntary Bankruptcy Case
  [1] The Automatic Stay
  [2] Lifting the Automatic Stay
  [3] Exempt Property
    [a] Federal Exemptions
    [b] State Law Exemptions
    [c] “Tools of the Trade”
    [d] Lien Avoidance
§ 5.06 Chapter 7 Bankruptcy (Liquidation)
  [1] Means Test
  [2] Meeting of Creditors
  [3] Distributions of Property
    [a] Debts Ineligible for Discharge
    [b] Debtors Ineligible for Discharge
    [c] Frequent Discharge
§ 5.07 Chapter 11 Bankruptcy (Reorganization)
  [1] The Reorganization Plan
    [a] Contents
    [b] Submission of the Plan
    [c] Plan Confirmation
    [d] Plan Treatment of Secured Claims
§ 5.08 Chapter 12 Bankruptcy (Reorganization)
  [1] The Debtor
    [a] Family Farmer
      [i] Gross Income From Farming
      [ii] Debts Arising From Farming
    [b] Debtor in Possession
  [2] The Trustee
    [a] Filing the Plan
    [b] Plan Confirmation
      [i] Feasibility of the Reorganization Plan
      [ii] Good Faith Proposal
      [iii] Funding the Reorganization Plan
      [iv] The “Cram-Down” Rule
The Disposable Income Requirement

Determining “Present Value”

Meaning of “Present Value”

Determining the Appropriate Discount Rate

Conversion and Dismissal

Debtor’s Right to Convert
Debtor’s Right to Dismiss
Conversion or Dismissal for Cause

Protection of Farmer Interests

Authority to Operate the Farm Business
Authority to Sell Property
Adequate Protection

Discharge

Modification of Plans

Tax Provisions

No Separate Tax Entity
Non-Priority Provision
Timing of Asset Sales
“Farm Asset Used in Farming”
Computation of Priority and Non-Priority Tax Claims
Planning Points

Chapter 13 Bankruptcy (Reorganization)

The Plan
Discharge

Income Taxation in Bankruptcy

Bankruptcy Estate as New Taxpayer

Election to Close the Debtor’s Tax Year
Tax Attributes
Bankruptcy Estate
Abandonment

Discharge of Indebtedness

Nature of the Debt—Recourse or Nonrecourse
Handling Discharge of Indebtedness Income
Bankruptcy
Insolvent Debtors
Real Property Business Debt
Solvent Farmers
Primary Residence Indebtedness
Purchase Price Adjustment
CHAPTER 6
Income Tax Planning And Management

SYNOPSIS

§ 6.01 Overview
§ 6.02 Federal Income Tax Structure
§ 6.03 Reporting Farm Income

[1] Methods of Accounting

   [a] In General
   [c] Deferred Payment Contracts
      [i] Alternative Minimum Tax
   [d] Marketing Agreements with Value-added Cooperatives

[3] Commodity Credit Corporation (CCC) Loans
   [a] Loan Method
   [b] Income Method
   [c] Tax Planning Issues
   [d] Treatment of CCC Loan Buy-Back As Current Year Expense


   [a] Conservation Reserve Program Payments
   [b] “Value-Added” Payments to Cooperative Members
   [c] Contract Production Income
   [d] Lease Arrangements
   [e] Imputation of Activities

[7] Federal Gas Tax Credit

[8] Crop Insurance Proceeds

   [a] Involuntary Conversion
   [b] One-Year Deferral
   [c] Other Points

[10] Livestock Sold or Destroyed Because of Disease


[12] Other Income Items
   [a] Breeding Fees
   [b] Mineral and Soil Sales
   [c] Crop Share Rents
   [d] Sale of Livestock and Produce Raised and Held Primarily for Sale
   [e] Sales of Farm Business Assets

[13] Easement Payments
   [a] Severance Damage Payments
   [b] Temporary Easement Payments
   [c] Damage Payments
   [d] Negative Easement Payments

§ 6.04 Deductions From Income
Overview

Depreciation

[a] Pre-1981 Depreciation Rules
[d] Depreciation Conventions
[e] Anti-Churning Rules
[f] Depreciation of Business Automobiles
[g] Depreciation of Property Received in a Like-Kind Exchange or by Involuntary Conversion
[h] Depreciation Recapture
   [i] Depreciable Personal Property
   [ii] Depreciable Real Property
[i] Expense Method Depreciation
[j] Additional First-Year “Bonus” Depreciation
[k] Depreciation Summary

Depletion

§ 6.05 Miscellaneous Farm and Ranch Business Deductions

[1] Deductible Repairs Versus Capitalization
[3] Soil and Water Conservation Expenses
   [a] Deductibility Requirements
   [b] Recapture
[4] Land Clearing Expenses
[5] Lease Payments
   [a] The Tax Distinction Between Owning and Leasing An Asset
   [b] Historical Context of Deductibility
   [c] Deductibility of Lease Payments—Factors For Consideration
   [d] Leasing and Tax Planning
   [e] Proper Handling of Equipment Trades
[7] Labor Costs
[8] Fertilizer and Lime
[9] Taxes
[10] Prepurchased or Prepaid Inputs
    [a] The “Farming Syndicate” Rule
    [b] 50 Percent Limitation
    [c] Key Case
    [a] Personal Interest
    [b] Investment Interest
    [c] Business Interest
    [d] Classification of Interest
    [e] Segregation of Interest
    [f] Prepayment of Interest
    [g] Deductibility of “Points”
    [h] Proper Handling of Year-End Interest Payments and Loan Rollovers
[12] Business Trips, Conventions and Cruises
§ 6.06 Losses

[1] Hobby Losses
[2] Operating Losses
[3] Casualty and Theft Losses
  [a] Material Participation
  [b] Grouping
  [c] Real Estate Professional
  [d] Carryforward Rule
  [e] Dispositions

§ 6.07 Reducing Tax Imposed On Income

[1] Investment Tax Credit
[2] Earned Income Credit
[3] Child Tax Credit
[4] Education Credits
  [a] Coverdell Education Savings Accounts (CESA)
  [b] American Opportunity Tax Credit
  [c] Lifetime Learning Credit
  [d] Qualified Education Loan Interest Deduction

[5] Income Averaging
[6] Health Savings Accounts (HSAs)

§ 6.08 Capital Gains Taxation

§ 6.09 Medicare Surtaxes

[1] Surtax on Earned Income
  [a] Implications for Farmers

[2] Surtax on “Passive” Sources of Income
  [a] What is NII?
  [b] Business Income – Material Participation
  [c] Self-Rental Income
  [d] Grouping Election
  [e] Treatment of Net Losses
  [f] Self Charged Interest
  [g] Planning Strategies
CHAPTER 7
Real Property

SYNOPSIS

§ 7.01 Overview
§ 7.02 Nature And Ownership Of Real Property
      [a] The Feudal System
      [b] The Demise of the Feudal System and the Residual Carryover to America
   [2] Estates in Land
      [a] The Fee Simple
      [b] The Life Estate
      [c] Agricultural Leases as Estates in Land
         [i] The Importance of Leasing to Agriculture
         [ii] Allocation of Risk Between Landlord and Tenant
         [iii] Custom Farming Arrangements
   [3] Other Interests in Land
      [a] Easements and Profits
         [i] Easements in Gross and Appurtenant Easements
         [ii] Affirmative and Negative Easements
         [iii] Implied Easements
         [iv] Prescriptive Easements (Adverse Possession)
         [v] Termination of Easements
      [b] Ownership and Use of Abandoned Railways
§ 7.03 Forms of Co-ownership of Land
§ 7.04 Transferring Title To And Interests in Real Property
      [a] Names of Parties and Type of Ownership
      [b] Signed Writing
      [c] Legal Description of Land
      [d] Selling Price and Time of Payment
      [e] Real Estate Taxes
      [f] Risk of Loss
      [g] Personal Property
      [h] Quality of Title and Real Estate Deeds
         [i] General Warranty Deed
         [ii] Special Warranty Deed
         [iii] Quitclaim Deed
         [iv] Recording the Deed
            [A] The delivery Requirement
      [i] Rights of Seller Upon Buyer's Default
   [2] Real Estate Mortgages
      [a] In General
      [b] Remedies Available to Mortgagees Upon Default
§ 7.05 Income Tax Aspects Of Property Transfers

1. Income Tax Basis and the Computation of Gain
2. Options For Postponing or Avoiding the Recognition of Gain on Sale or Exchange of Real Property
   a. Exclusion of Gain on Sale of a Principal Residence—Sales After May 6, 1997
   b. Involuntary Conversion
   c. Like-kind Exchange
3. Income Tax Aspects of Installment Sales
   a. Installment Reporting of Gain
   b. Minimum Interest Rules
   c. Disposition of the Contract by the Seller
      i. Cancellation of the Contract
      ii. Pledging the Contract
      iii. Related Party Rules
   d. Apportioning Purchase Price on Acquisition of Real Property

§ 7.06 Property Tax Aspects of Real Property Ownership

§ 7.07 Special Income Tax Problems For Sellers of Assets

1. Modification of Contract Terms

§ 7.08 Repossession Of Property Sold Under An Installment Sale

1. Repossession of Land
   a. Calculating Gain on Repossession of Real Property

2. Repossession of Personal Property Under Installment Sale
   a. Voluntary Repossessions
   b. Involuntary Repossessions

§ 7.09 Rescission of Contract

§ 7.10 Bad Debt Deduction

1. Elements Necessary For Deductibility
2. Business Bad Debts
3. Nonbusiness Bad Debts
4. Guarantees
5. Reporting Bad Debts

§ 7.11 Recoveries From Settlements And Court Judgments
CHAPTER 8
Estate Planning for the Farm and Ranch Family

SYNOPSIS

§ 8.01 Overview

§ 8.02 Property Ownership
[1] In General
[2] Forms of Co-Ownership
   [a] Community Property
   [b] Tenancy in Common
   [c] Joint Tenancy
   [d] Tenancy by the Entirety
[3] Estate Planning Implications of Property Ownership Forms

§ 8.03 Intestate Succession
[1] In General
[2] Distribution of Property at Death

§ 8.04 When an Individual Dies Testate
[1] Will Requirements
[2] Will Contents

§ 8.05 Federal Estate Taxation
[1] Overview
[2] When is Property Valued?
   [a] Date of Death and Alternate Valuation Date
   [a] In General
   [b] Special Use Valuation
      [i] Rent Capitalization Approach
      [ii] Five Factor Formula
      [iii] Pre-Death Eligibility Requirements
         [A] The 50 Percent Test
         [B] The 25 Percent Test
         [C] The Qualified Use Test
         [D] Material Participation Test
         [E] The Ownership Test
         [F] “Passing to Qualified Heir” Test
         [iv] The Present Interest Test
      [v] Rules for Partnerships and Corporations
      [vi] The Recapture Tax and Events Causing Recapture of Tax Benefits
         [A] Transfer Outside The Family
         [B] Lack of Material Participation
         [C] Change in Use
         [D] No Qualified Use
[E] Death of Qualified Heir

[vii] Amount Recaptured
[viii] Estate Tax Lien

[a] In General
[b] Retained Interests
[c] Powers of Appointment
[d] Gifts Within Three Years of Death

[5] Deductions From the Gross Estate
[a] Administrative Expenses
[b] Marital Deduction
[i] Qualified Terminable Interest Property
[c] The Family-Owned Business Deduction
[d] Charitable Deduction

[6] The Taxable Estate

[7] The Applicable Exclusion Amount

§ 8.06 Federal Gift Tax
[1] In General
[2] Lifetime Gifting - Advantages
[3] Lifetime Gifting - Disadvantages

§ 8.07 Generation Skipping Transfer Tax

§ 8.08 Fundamental Approaches to Federal Estate Tax Savings
[1] In General
[a] Zone One
[b] Zone Two
[c] Zone Three
[a] Model I
[b] Model II
[c] Modified Model II
[3] Optimizing the Marital Deduction

§ 8.09 Liquidity
[1] In General
[2] Installment Payment of Federal Estate Tax
[a] In General
[b] Eligibility Requirements
[c] Points to Watch After Death
[d] One-year Extensions
[3] Corporate Stock Redemption
[a] In General
[b] Eligibility Requirements

§ 8.10 State Estate/Inheritance Tax

§ 8.11 Use of the Trust
[1] In General
[2] Types of Trusts
[a] Revocable Living Trust
[i] Joint or Separate Trusts?
[ii] Federal Estate and Gift Tax Implications
[iii] Income Tax Implications
[iv] Advantages of the Revocable Living Trust
[v] Disadvantages of the Revocable Living Trust
[b] Irrevocable Living Trust
[c] Testamentary trusts
[d] Family Estate Trusts


§ 8.12 Long-Term Health Care Planning

[1] In General
[2] Planning Strategies
   [a] Transfer of Assets
   [b] Asset Sheltering Trusts
CHAPTER 9
Farm And Ranch Business Planning

SYNOPSIS

§ 9.01 Overview
§ 9.02 Fundamental Importance of Objectives in Selecting Among Alternatives in Planning
§ 9.03 Different Styles of Parent-Child Business Relationships
  [1] In General
  [2] Possible Organizational Methods
    [a] The Spin-off Model
    [b] Landlord/Tenant Model
    [c] The “Superfirm” Model
  [3] Critical Problem Areas
    [a] Sharing of Annual Income
    [b] Opportunity to Invest
    [c] Participation in Decision Making
§ 9.04 Basic Considerations in Structuring The Farm Or Ranch Business
  [1] Multiple Entities
    [a] Advantages of Multiple Entities
    [b] Disadvantages of Multiple Entity Approach
      [i] Personal Holding Company Tax
      [ii] Impact on Liquidity Plans
      [iii] Self-Employment Tax Liability
      [iv] Practical Problems
    [2] Why Is the Organizational Structure Being Changed?
  [3] Federal Farm Program Payment Limitation Rules
    [a] In General
    [b] PLC/ARC Election
    [c] AGI Limitation
    [d] Attribution Rule
    [e] The “Active Engagement” Test
    [f] The “Separate and Distinct” Requirement
    [g] The Combination Rule
    [h] The Substantive Change Rule
§ 9.05 The Sole Proprietorship
§ 9.06 The General Partnership
  [1] In General
    [a] Management
    [b] Instability
    [c] Unlimited Liability
    [d] Transfer of Partnership Interests
    [e] Income Taxation
      [i] Formation
      [ii] Available Elections
      [iii] Taxable Year
      [iv] Liquidation
§ 9.07 The Limited Partnership
[a] Limited Liability of Limited Partners
[b] Filing Requirement
[c] Income Taxation

Where Does The Limited Partnership Fit?

§ 9.08 The Family Limited Partnership
§ 9.09 The Corporation

[1] State Restrictions On Agricultural Corporations
   [a] Kansas
   [b] North Dakota
   [c] Oklahoma
   [d] Minnesota
   [e] South Dakota, Missouri and Wisconsin
   [f] Nebraska
   [g] Iowa
   [h] Colorado
   [i] Texas
   [j] West Virginia
   [k] South Carolina

[2] Corporate Characteristics
   [a] Chartered by State Law
   [b] Shareholder Limited Liability
   [c] Taxation
   [d] Management

[3] Developing the Capitalization Structure
   [a] Stock Transfer Restrictions

   [a] Midstream Incorporation Problems
   [b] Income Tax Effects of Farm Incorporation
      [i] No Basis Adjustment at Death
      [ii] Estimated Tax
      [iii] Tax Brackets
      [iv] Gains, Losses and Dividends
      [v] Penalty Taxes

[5] The S Corporation
   [a] Requirements
   [b] Taxation
      [i] Passive Income Limits
      [ii] Taxable Year
      [iii] Employee Fringe Benefits

   [a] Should the Corporation Own the Residence?
   [b] Meals and Lodging Furnished to Employees
   [c] Should the Corporation Own the Vehicles?

[7] Section 1244 Stock

[8] Social Security
[a] In-Kind Wages Paid to Agricultural Labor

[9] Other Fringe Benefits

[10] Liabilities

[11] Conducting Business in Other States

[12] Problems of Financing

[13] Estate Planning Aspects

[a] Facilitation of Intergenerational Property Transfers
[b] Stock Transfer Restrictions
[c] Elimination of the Right to Partition and Sale
[d] Uniform Gifts to Minors Act
[e] Simplified Estate Settlement
[f] Easing the Retirement Process
[g] Discounts for Minority Interest, Lack of Marketability, Fractional Interest and Built-in Gain
[h] Disadvantages

[14] Possible Scenarios for Family Farm and Ranch Incorporation

[15] The Incorporation Process

[16] Corporate Management and Control

[17] Dissolution and Liquidation

[18] Buy-Out of Minority Shareholders

[19] Corporate Reorganizations

§ 9.10 Limited Liability Companies

[1] Management of LLCs
[2] Conducting Business in Multiple Jurisdictions
[4] Income Tax Treatment of LLCs

§ 9.11 Limited Liability Partnerships

§ 9.12 Medicare Surtax on Passive Income

[1] What is NII?

[a] Using an LLC to Reduce Self-Employment Tax and the NII

§ 9.13 Comparison of Business Organizational Options
CHAPTER 10
Cooperatives

SYNOPSIS

§ 10.01 Overview
§ 10.02 Nature of Co-ops
  [1] Marketing Co-ops
  [2] Supply Co-ops
§ 10.03 Formation of Co-ops
§ 10.04 Management
§ 10.05 Financial Structure
  [1] Stock and Membership Purchases
  [2] Patronage Based Financing
  [3] Borrowed Capital
§ 10.06 Liability of Co-op Directors to Member-Shareholders and Others
  [1] Obedience to Articles of Incorporation, Bylaws, Statutes and Laws
    [a] Illegality
    [b] Ultra Vires
    [a] Conflicts of Interest
    [b] Corporate Opportunities
    [c] Fairness
    [d] Confidentiality
  [3] Duty of Care
    [a] Attention to Co-op Matters
    [b] Reliance on Officers and Employees
    [c] Delegation of Duties
    [d] Decision Making—The Business Judgment Rule
    [a] Fraud
    [b] Conversion
    [c] Tort
    [d] Corporate Waste
    [e] Nuisance
  [5] Shareholder Derivative Suits
§ 10.07 Income Tax Treatment of Co-ops and Their Members
  [1] In General
    [a] Nonexempt Co-ops
      [i] Deductibility of Losses
      [ii] Income Tax Effects of Bankruptcy
    [b] “Exempt” Co-ops
§ 10.08 Antitrust Laws
  [1] The Sherman Act
  [3] The Capper-Volstead Act
  [4] Other Laws Granting Limited Immunity to Agricultural Co-ops
[a]  The Cooperative Marketing Act
[b]  The Robinson-Patman Act
[c]  The Agricultural Marketing Agreement Act
[d]  The Agricultural Fair Practices Act
CHAPTER 11
Civil Liabilities
SYNOPSIS

§ 11.01 Overview

§ 11.02 Intentional Torts
   [1] Intentional Interference With A Person
      [a] Assault
      [b] Battery
      [c] False Imprisonment
   [2] Intentional Interference With Real Property
      [a] Trespass
   [3] Intentional Interference With Personal Property
      [a] Trespass to Chattels
   [4] Intentional Disparagement of Food Products

§ 11.03 Privileged Invasions
   [1] Self-defense

§ 11.04 Liability To Persons Entering One’s Property
   [1] In General
   [2] Trespasser
   [3] Child Trespasser
   [4] Licensee
   [5] Social Guest
   [6] Invitee
      [a] Liability For Injuries On Leased Premises
      [b] Recreational Use of Land
      [c] Equine Activity Liability Acts
      [d] Agritourism Acts
      [e] Natural Conditions

§ 11.05 Negligence
   [1] In General
   [2] Defenses to Negligent Torts
      [a] Contributory Negligence
      [b] Assumption of Risk
      [c] Act of Nature
   [3] Special Situations
      [a] Guest Statutes
      [b] Good Samaritan Laws
      [c] Bailments
      [d] Manufacturer’s Liability
         [i] FIFRA Preemption
         [ii] Alterations and/or Multiple Component Parts
         [iii] “Economic Loss” Doctrine
      [e] Last Clear Chance to Avoid Injury
§ 11.06  Strict Liability
[1] Wild Animals
[2] Dogs and Other Domestic Animals
[4] Unnatural Land Uses
[5] Conversion

§ 11.07  Other Liabilities Arising From Land Use
[1] Noxious Weeds
[2] Nuisance
   [a] In General
   [b] Remedies
   [c] Classification of Nuisances
   [d] Potential Defenses Against Nuisance Actions
      [i] In General
      [ii] Right-to-Farm Laws
   [e] Constitutional Challenges to Right-to-Farm Laws
   [f] Policy Options For Handling Agricultural Odors
      [i] Frederick County, Maryland, Approach

§ 11.08  Employer’s Liability For Injuries to Employees
[1] Employment Not Covered By Workers’ Compensation
   [a] Duty to Provide Reasonably Safe Tools and Appliances
   [b] Reasonably Safe Workplace
   [c] Duty to Warn of Hidden Dangers
   [d] Duty to Hire Reasonably Competent Fellow Employees
   [e] Duty to Make Reasonable Rules for Conduct of Employees
   [f] An Employer’s Common Law Defenses
      [i] Assumption of Risk
      [ii] Negligence of a Co-employee
      [iii] Contributory Negligence and Comparative Fault
   [2] Employment Covered By Workers’ Compensation

§ 11.09  Employer’s Liability To Third Persons For Acts Of Employees
[1] Master-Servant or Independent Contractor Relationship

§ 11.10  Liability for Communication of Animal Diseases
[1] Trespassing or Straying Animals
[2] Landlord’s Duty Regarding Diseased Premises

§ 11.11  Fence Laws and Trespassing Livestock
[1] Fence Law Theories
[2] Distraint
[3] Impregnating Female Animals
[4] Partition Fences
   [a] Boundary by Acquiescence
   [b] Adverse Possession
   [c] Location of Partition Fence
[5] Duty to Build and Maintain a Partition Fence
   [a] What Is a Legal Fence?
   [b] Division of Partition Fence Responsibility
[7] Railroad Fences
CHAPTER 12
Criminal Law

SYNOPSIS

§ 12.01 Overview
[1] Punishment
[2] Elements of Criminal Conduct
[ a] Mens Rea
[ b] Actus Reus
[3] Strict Liability

§ 12.02 Crimes Against Persons
[1] Homicide
[2] Battery
[3] Assault
[4] Rape
[ a] Forcible Rape
[ b] Statutory Rape

§ 12.03 Crimes Against Property
[1] Larceny
[2] Embezzlement
[6] Robbery
[7] Burglary
[8] Extortion
[9] Trespass
[10] Arson
[12] Cruelty to Animals

§ 12.04 Inchoate Crimes
[1] Criminal Attempt
[2] Abandonment
[3] Conspiracy

§ 12.05 Defenses to Criminal Liability
[1] Insanity
[2] Infancy
[3] Intoxication
[5] Cruel and Unusual Punishment
[6] Entrapment

§ 12.06 Environmental Crimes
[1] In General
[3] Clean Air Act
[8] Federal Insecticide, Fungicide and Rodenticide Act
[9] Environmental Crimes and Mens Rea
CHAPTER 13
Water Law

SYNOPSIS

§ 13.01 Overview

§ 13.02 Natural Streams And Lakes
      [a] Riparian Systems
      [b] Prior Appropriation
      [c] Permit (Administrative) Systems

§ 13.03 Recreational Use of Rivers and Streams
   [1] Public Access
   [2] Fencing Across a Watercourse

§ 13.04 Diffused Surface Water
   [1] Rules Governing Drainage of Surface Water
      [a] English Rule—Absolute Ownership
      [b] Civil Law Rule
      [c] Reasonable Use Rule
      [d] Drainage Codes

§ 13.05 Underground Water
      [a] Rule of Absolute Ownership—English Rule
      [b] Reasonable Use Rule
      [c] Prior Appropriation
      [d] Correlative Rights
   [2] State Groundwater Regulation

§ 13.06 Boundary Disputes
   [1] Accretions and Avulsions

§ 13.07 Weather Modification Systems
   [1] In General
      [a] Different Public Interests
      [b] Tort Liability Issues.
CHAPTER 14

Environmental Law

SYNOPSIS

§ 14.01 Overview
[1] Reasons Why Legal Constraints Are Necessary
[2] Possible Solutions to Problems of Environmental Preservation
[3] The Legal Basis of Environmental Law
  [a] Statutory Law
  [b] Common Law
  [a] Eminent Domain
  [b] Regulatory (Non-Physical) Takings
[5] The “Commerce Clause”

§ 14.02 Federal Regulatory Approach - Air
[1] Clean Air Act
  [a] In General
  [b] Greenhouse Gas Emissions
  [c] Preemption of State Common Law Claims
[3] Preemption of State Common Law Claims

§ 14.03 Federal Regulatory Approach – Soil and Water
[1] Soil Erosion
[2] Conservation Reserve Program
  [a] Point Source Pollution and the NPDES System
  [b] Control of Nonpoint Source Pollution
  [c] Wetlands
    [i] Isolated and Nonadjacent Wetlands
    [ii] Exemption for “Normal Farming Activities”
    [iii] Swampbuster
    [iv] The Interplay of Swampbuster and CWA § 404
    [v] Wetlands Case Law Developments
    [vi] Wetlands “Takings” Implications
[5] Safe Drinking Water Act
[6] Surface Mining Control and Reclamation Act

§ 14.04 Federal Regulatory Approach - Land
[1] Hazardous Waste
  [a] Comprehensive Environmental Response, Compensation & Liability Act
    [i] CERCLA Components
    [ii] Elements of Liability
    [iii] Secured Creditor Exemption
    [iv] Pesticide Exemption
    [v] Proposed Exemption for Recyclers and Small Businesses
    [vi] Defenses Against Liability
    [vii] Summary
  [b] Resource Conservation & Recovery Act
[2] Chemicals
[a] Federal Insecticide, Fungicide, Rodenticide Act
[b] Toxic Substance Control Act

[3] Plant, Fish and Wildlife
[a] Endangered Species Act
   [i] The Listing Process
   [ii] Recovery Plans
   [iii] The Prohibition Against “Taking” Species
   [iv] Citizen Suits
   [v] Exemptions
   [vi] Constitutional Issues

[4] Livestock
[a] Taylor Grazing Act
[b] Federal Land Policy and Management Act
[c] Federal Grazing Permits and the Clean Water Act
   [i] Constitutional Issues
CHAPTER 15

Regulatory Law

SYNOPSIS

§ 15.01 Overview

§ 15.02 Antitrust Laws
[1] Resale Price Maintenance
  [a] In General
  [b] State Fair Trade Laws
[2] Packers and Stockyards Act
  [a] History of the Act
  [b] Provisions of the Act
    [i] Registration Requirement
    [ii] Prompt Payment
    [iii] Bonding
    [iv] False Weighing
    [v] Gratuities
    [vi] Coordinated Buying
    [vii] Bribery
    [viii] Recordkeeping
    [ix] Price Manipulation
    [x] Other Prohibited Practices
    [xi] Enforcement
  [c] Livestock Packers and Market Structure
[4] Federal Marketing Orders and Check-Offs
[5] Antitrust and Concentration in Agriculture

§ 15.03 Regulation of Animals and Plants
[2] Horse Protection Act
[3] 28 Hour Law
[4] Seed Sales
  [a] Federal Seed Act
  [b] Plant Patents
    [i] Plant Patent Act
    [ii] Plant Variety Protection Act
  [iii] Trade Secrets
  [a] Federal and State Regulation
  [b] Labeling of Genetically Modified Organisms

§ 15.04 Regulation of Agricultural Commodities
[1] Perishable Agricultural Commodities Act
  [a] Covered Persons
  [b] Provisions of the Act
  [c] Enforcement Proceedings
[2] United States Grain Standards Act
[3] United States Warehouse Act

§ 15.05 Regulation of Food Products
[1] In General

§ 15.06 Federal Labor Laws Impacting Agriculture
  [a] Wage Requirements
§ 15.07 Foreign Ownership of Agricultural Land

[1] In General

[2] State Restrictions

[a] Illinois
[b] Indiana
[c] Iowa
[d] Kentucky
[e] Minnesota
[f] Missouri
[g] Nebraska
[h] North Dakota
[i] Oklahoma
[j] South Dakota
[k] Wisconsin

[3] Foreign Investment Disclosure Act
## INDEX

<table>
<thead>
<tr>
<th>A</th>
<th>B</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>ABANDONMENT</strong>&lt;br&gt;Bankruptcy&lt;br&gt;Generally……………………………………...</td>
<td><strong>ASSET CONSERVATION, LENDER LIABILITY, AND DEPOSIT INSURANCE PROTECTION ACT OF 1996</strong>&lt;br&gt;Liability of lenders and fiduciaries</td>
</tr>
<tr>
<td><strong>ACCELERATED COST RECOVERY SYSTEM (ACRS)</strong>&lt;br&gt;Generally……………………………………...</td>
<td><strong>ASSET DEPRECIATION RANGE</strong>&lt;br&gt;Generally……………………………………...</td>
</tr>
<tr>
<td><strong>ACCOUNTING</strong>&lt;br&gt;Generally……………………………………...</td>
<td><strong>ASSETS</strong>&lt;br&gt;LIquidity of forestate tax payment&lt;br&gt;Generally……………………………………...</td>
</tr>
<tr>
<td><strong>ACCUMULATED EARNINGS TAX</strong>&lt;br&gt;C corporation, applicability to……………………………………...</td>
<td><strong>ASSIGNMENT OF INCOME</strong>&lt;br&gt;Liability of corporation, midstream……………………………………...</td>
</tr>
<tr>
<td><strong>ADMINISTRATIVE EXPENSE</strong> (See ESTATE TAX, FEDERAL)</td>
<td><strong>ATTRACTIVE NUISANCE DOCTRINE</strong>&lt;br&gt;Children and……………………………………...</td>
</tr>
<tr>
<td><strong>ADMINISTRATIVE AGENCIES</strong>&lt;br&gt;Generally……………………………………...</td>
<td><strong>AUCTIONS</strong>&lt;br&gt;Contract formation……………………………………...</td>
</tr>
<tr>
<td>Administrative Procedures Act…………………………………...</td>
<td>Statute of frauds……………………………………...</td>
</tr>
<tr>
<td></td>
<td>Powers of……………………………………...</td>
</tr>
<tr>
<td><strong>ADVERSE POSSESSION</strong>&lt;br&gt;Fence disputes……………………………………...</td>
<td><strong>B</strong>&lt;br&gt;BAD DEBTS&lt;br&gt;Business bad debts……………………………………...</td>
</tr>
<tr>
<td></td>
<td>In relation to prescriptive easements……………………………………...</td>
</tr>
<tr>
<td></td>
<td><strong>ACRAL CHEMICAL CROP SPRAYING</strong>&lt;br&gt;Independent contractor's negligence, employer's liability for……………………………………...</td>
</tr>
<tr>
<td></td>
<td>Strict liability……………………………………...</td>
</tr>
<tr>
<td></td>
<td><strong>AGRICULTURAL FAIR PRACTICES ACT</strong>&lt;br&gt;Purpose and enforcement of……………………………………...</td>
</tr>
<tr>
<td></td>
<td><strong>AGRICULTURAL FOREIGN INVESTMENT DISCLOSURE ACT OF 1978</strong>&lt;br&gt;Agricultural land defined……………………………………...</td>
</tr>
<tr>
<td></td>
<td>Reporting provisions……………………………………...</td>
</tr>
<tr>
<td></td>
<td><strong>AGRITOURISM LAWS</strong>……………………………………...</td>
</tr>
<tr>
<td></td>
<td>Clean Air Act of 1990……………………………………...</td>
</tr>
<tr>
<td></td>
<td>Feedlot odors as cause of (See FEEDLOT ODORS)……………………………………...</td>
</tr>
<tr>
<td><strong>ANIMAL WELFARE ACT</strong>&lt;br&gt;Generally……………………………………...</td>
<td><strong>BAILMENTS</strong>&lt;br&gt;Definition of……………………………………...</td>
</tr>
<tr>
<td></td>
<td><strong>ANTI-TRUST LAWS</strong>&lt;br&gt;Cooperatives (exemption from)……………………………………...</td>
</tr>
<tr>
<td></td>
<td>Capper-Volstead Act……………………………………...</td>
</tr>
<tr>
<td></td>
<td>Clayton Act……………………………………...</td>
</tr>
<tr>
<td></td>
<td>Packers and Stockyards Act……………………………………...</td>
</tr>
<tr>
<td></td>
<td>Robinson Patman Act……………………………………...</td>
</tr>
<tr>
<td></td>
<td>Sherman Act……………………………………...</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>ARSON</strong>&lt;br&gt;Crime of, generally……………………………………...</td>
</tr>
<tr>
<td></td>
<td><strong>ARTICLES OF INCORPORATION</strong> (See CLOSELY-HELD CORPORATIONS)</td>
</tr>
<tr>
<td></td>
<td><strong>ASSAULT</strong>&lt;br&gt;Crime……………………………………...</td>
</tr>
<tr>
<td></td>
<td>Intentional tort……………………………………...</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(McEown, P.L.C.)</td>
</tr>
<tr>
<td><strong>Market value</strong>:</td>
<td>7.06</td>
</tr>
</tbody>
</table>

(PAL Rel 38)
PRINCIPLES OF AGRICULTURAL LAW

I-2

Real property business debt ................. 5.10[2][b][i][ii]
Solvency farmers ......................... 5.10[2][b][iv]
Tax attributes .................................. 5.10[1][a]
Involuntary ................................ 5.04

Liquidation

Chapter 7 .................................. 5.06

Distributions of property .................. 5.06[2]
Eligible debtors .......................... 5.06[3][b]
Eligible debts .................................. 5.06[3][a]
Frequent discharge ......................... 5.06[3][c]
Meeting of creditors .................... 5.06[1]
Nonrecourse debt ......................... 5.10[2][a]
Recourse debt .................................. 5.10[2][a]
Reorganization bankruptcy ............... 5.07

Chapter 11 .................................. 5.08

Conversion and dismissal ................. 5.08[4][a]; [c]
Discharge .................................. 5.08[6]
Eligible debtor tests ....................... 5.08[1]
Debtor in possession .......................... 5.08[1][b]
Family farmer .................................. 5.08[1][a]
Modification of plans ..................... 5.08[7]
Protection of farmer interests .......... 5.08[5]
Adaptable protection ....................... 5.08[5][c]
Authority to operate the farm .......... 5.08[5][a]
Authority to sell property .......... 5.08[5][b]
Trustee's fee .................................. 5.08[2]
Chapter 13 .................................. 5.09

Discharge .................................. 5.09[2]
Reorganization plan ............... 5.07[1][a]
Confession .................................. 5.07[1][c]
Contents .................................. 5.07[1][a]
Submission of the plan .................. 5.07[1][b]
Treatment of secured claims .......... 5.07[1][d]

Chapter 12 plan ......................... 5.07[1][a]

Confirmation .................................. 5.08[3][b]
Determined present value .......... 5.08[5][c]
Discount rate problem ............. 5.08[3][c][i]; [ii][A]

Chapter 13 plan .................................. 5.09[1]

Discharge .................................. 5.09[2]
Filing of plan .................................. 5.09[1]

Types of bankruptcy .................. 5.02
Liquidation .................................. 5.02[1]
Reorganization .................................. 5.02[2]
Voluntary .................................. 5.04

BANKS AND BANKING

Farm Credit Banks ......... Special use valuation .................................. 8.05[3][b][i]

BASIS

Adjustment to ......................... 6.04[1][a]
Gifted property ......................... 6.04[1][a]; 7.05[1]; 8.06[3]
Inherited property ....................... 6.04[1][a]; 7.05[1]; 8.06[3]

BATTERY

Crime .................................. 12.02[2]
Intentional tort ................................. 11.02[1][b]

BOOT

Exchange of property ................. 7.05[2][d]

BREACH OF CONTRACT

Buyer's remedies ....................... 2.10[1]
Right of action .......................... 2.10[1][a]
Right to cover .................................. 2.10[1][b]
Nonconforming goods ................. 2.10[1][d]
Deposits, handling of .................. 2.10[4]
Liabilities .................................. 2.10[5]
Seller's remedies ....................... 2.10[2]

BREACH OF WARRANTY

Express warranty, breach of .............. 2.08[1]
Fitness of product ....................... 2.08[2][b]
Implied warranty, breach of .......... 2.08[2]

(Pal Reo 38)
INDEX

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Oklahoma</td>
<td>9.08[1][c]</td>
</tr>
<tr>
<td>South Carolina</td>
<td>9.08[1][k]</td>
</tr>
<tr>
<td>South Dakota</td>
<td>9.08[1][c]</td>
</tr>
<tr>
<td>Texas</td>
<td>9.08[1][i]</td>
</tr>
<tr>
<td>West Virginia</td>
<td>9.08[1][j]</td>
</tr>
<tr>
<td>Wisconsin</td>
<td>9.08[1][e]</td>
</tr>
<tr>
<td>Fundamentals importance of objectives in selecting among alternatives in planning</td>
<td>9.02</td>
</tr>
<tr>
<td>General partnership</td>
<td>9.06[2]</td>
</tr>
<tr>
<td>Features</td>
<td>9.06[3][c]</td>
</tr>
<tr>
<td>Income taxation</td>
<td>9.06[2][a][ii]</td>
</tr>
<tr>
<td>Available elections</td>
<td>9.06[2][a][ii]</td>
</tr>
<tr>
<td>Formation</td>
<td>9.06[2][a][i]</td>
</tr>
<tr>
<td>Liquidation</td>
<td>9.06[2][a][iv]</td>
</tr>
<tr>
<td>Taxable year</td>
<td>9.06[2][a][ii]</td>
</tr>
<tr>
<td>Instability</td>
<td>9.06[2][b]</td>
</tr>
<tr>
<td>Management</td>
<td>9.06[2][a]</td>
</tr>
<tr>
<td>Transfer of partnership interests</td>
<td>9.06[2][d]</td>
</tr>
<tr>
<td>Unlimited liability</td>
<td>9.06[2][c]</td>
</tr>
<tr>
<td>In general</td>
<td>9.06[1]</td>
</tr>
<tr>
<td>Limited liability companies (LLCs)</td>
<td>9.09</td>
</tr>
<tr>
<td>Conducting business in multiple states</td>
<td>9.09[2]</td>
</tr>
<tr>
<td>Dissolution</td>
<td>9.09[3]</td>
</tr>
<tr>
<td>Management of LLCs</td>
<td>9.09[1]</td>
</tr>
<tr>
<td>Tax of …</td>
<td>9.09[4]</td>
</tr>
<tr>
<td>Limited liability partnerships</td>
<td>9.10</td>
</tr>
<tr>
<td>Features of a limited partnership</td>
<td>9.07[1]</td>
</tr>
<tr>
<td>Filing requirement</td>
<td>9.07[1][b]</td>
</tr>
<tr>
<td>Income taxation</td>
<td>9.07[1][c]</td>
</tr>
<tr>
<td>Liability of limited partners</td>
<td>9.07[1][a]</td>
</tr>
<tr>
<td>Where does the limited partner fill?</td>
<td>9.07[2]</td>
</tr>
<tr>
<td>Organizational structure change</td>
<td>9.04[2]</td>
</tr>
<tr>
<td>Sole proprietorship</td>
<td>9.05</td>
</tr>
<tr>
<td>Styles of parent-child business relationships</td>
<td>9.03</td>
</tr>
<tr>
<td>Critical problem areas</td>
<td>9.03[3]</td>
</tr>
<tr>
<td>Opportunity to invest</td>
<td>9.03[3][b]</td>
</tr>
<tr>
<td>Participation in decisionmaking</td>
<td>9.03[3][c]</td>
</tr>
<tr>
<td>Sharing of annual income</td>
<td>9.03[3][a]</td>
</tr>
<tr>
<td>In general</td>
<td>9.03[1]</td>
</tr>
<tr>
<td>Possible organizational methods</td>
<td>9.03[2]</td>
</tr>
<tr>
<td>Landlord/tenant model</td>
<td>9.03[2][b]</td>
</tr>
<tr>
<td>Spin-off model</td>
<td>9.03[2][a]</td>
</tr>
<tr>
<td>&quot;Superfirm&quot; model</td>
<td>9.03[2][c]</td>
</tr>
</tbody>
</table>

C

CAPITAL GAINS

Generally                                    6.08
Deemed sale rules, generally                6.08

CAPITALIZATION OF EXPENSES

Generally                                    6.05[1]
Environmental clean-up costs                 6.05[14]
Pre-productive period expenses               6.05[13]

CASUALTY LOSSES

Generally                                    6.06[3]

CHAPTER 7 BANKRUPTCY (See BANKRUPTCY)

CHAPTER 11 BANKRUPTCY (See BANKRUPTCY)

CHAPTER 12 BANKRUPTCY (See BANKRUPTCY)

CHAPTER 13 BANKRUPTCY (See BANKRUPTCY)

CHARITABLE DEDUCTION

Estate tax deduction                        8.05[6][a][c]
Income tax deduction                        8.05[6][b][c]

CIVIL LIABILITIES

Bailment situations                        11.05[3][c][e]
Civil law                                    1.05
  Enforcing a judgment                      1.05[2]
  Stages of a civil lawsuit                 1.05[1]
  Discovery and pre-trial stage             1.05[1][b]
  Pleading stage                            1.05[1][a]
  Trial and appeals stage                   1.05[1][c]
  Court systems                             1.04

Federal court systems                      1.04[2]
State court systems                        1.04[1]
Employer's liability to employees          11.08
Common law defenses                        11.08[1][f][j]
Assumption of risk                          11.08[1][f][i]
Contributory negligence                     11.08[1][f][ii]
Negligence of a co-employee                 11.08[1][f][iii]
Common law duties                          11.08[1]
Duty to hire reasonably competent fellow employees 11.08[1][d]
Duty to make reasonable rules for conduct of employees 11.08[1][e]
Duty to provide reasonably safe tools and appliances 11.08[1][a]
Duty to warn of hidden dangers              11.08[1][c]
Reasonably safe workplace                   11.08[1][b]
Employment covered by workers' compensation 11.08[2]
Occupational Safety and Health Act of 1970  11.08[3]
Employer's liability to third persons       11.09
Fence laws and trespassing livestock        11.11
Distrait                                    11.11[2]
What is a legal fence?                      11.11[5][a]
Duty to build and maintain                  11.11[5]
Fence responsibility                        11.11[5][b]
Legal fence                                 11.11[5][a]
Fence law theories                         11.11[1]
Highway fences                              11.11[6]
Impregnating female animals                 11.11[3]
Partition fences                            11.11[4]
Railroad fences                             11.11[7]
Good Samaritan laws                         11.05[3][b]
Guest statutes                              11.05[3][a]
Intentional torts                           11.02
To persons                                 11.02[1]
Assault                                    11.02[1][a]
Battery                                    11.02[1][b]
False imprisonment                         11.02[1][c]
To personal property                        11.02[3]
Conversion                                  11.02[3][b]
To real property                            11.02[2]
Trespass                                    11.02[2][a]
Last clear chance doctrine                  11.05[3][e]
Liability for communication of animal diseases 11.10
Disposal of animal carcasses                11.10[3]
Landlord's duty regarding deceased premises 11.10[2]
Trespassing or stringing animals            11.10[1]
Liability of accommodation parties and guarantors  4.04
Manufacturer's liability                    11.05[3][c]
Premises liability                          11.04
Child Trespasser                           11.04[3]
In general                                  11.04[1]
Inviter                                    11.04[6]
Licensee                                   11.04
Modern approach                            11.04[7]
Leased Premises                            11.04[7][a]
Recreational use of land                    11.04[7][b]
Social guest                               11.04[5]
Trespasser                                 11.04[2]
Negligence                                 11.05
Defenses                                   11.05[2]
Actual nature                               11.05[2][c]
Assumption of risk                          11.05[2][b]
Contributory negligence                     11.05[2][a]
In general                                  11.05[1]
Noxious weeds                              11.07[1]
Nuisance                                   11.07[2]
Defenses against nuisance actions           11.07[1][c]
Frederick County, MD, approach               11.07[2][c][iii]
Right-to-Farm Laws                          11.07[2][c][iii]
Policy options for handling odors           11.07[2][b]
Remedies                                   11.07[2][a]
Privileged invasions                        11.03
Citizen's arrest                            11.03[3]
Defense of property                         11.03[2]
Reclaiming property                        11.03[4]
Self-defense                                11.03[1]

(McEown, P.L.C.)                            (PAL Rel 38)
PRINCIPLES OF AGRICULTURAL LAW

CIVIL PROCEDURE
Civil lawsuit ............................................................... 1.05
Discovery & pre-trial ........................................... 1.05[b]
Pleadings ......................................................... 1.05[a]
Trial & appeals .................................................. 1.05[c]
Enforcement of judgment ..................................... 1.05[2]

CLASSIFICATIONS OF LAW
Civil procedure generally ........................................... 1.05
Substantive law .......................................................... 1.03
Uniform laws ............................................................ 1.03[2]

CLEAN AIR ACT
1963 amendments ..................................................... 1.40[2]
1970 amendments ..................................................... 1.40[2]
1977 amendments ..................................................... 1.40[2]
1990 amendments ..................................................... 1.40[2]
Criminal penalties ..................................................... 12.06[3]
Odorous emissions study ........................................... 14.02[2]
Ruckelshaus case ..................................................... 14.02[2]

CLEAN WATER ACT
Civil penalties ............................................................. 14.03[3]
Constitutional issues ............................................... 14.03[3][c][vi]
Criminal penalties ..................................................... 12.06[2]
Nonpoint source pollution ........................................ 14.03[3][b]
Point source pollution ............................................... 14.03[3][a]
Swampbuster
Generally ................................................................. 14.03[3][i][iii]
Relation to Clean Water Act ........................................ 14.03[3][v]
Wetlands, regulation of
Exemption for normal farming activities ....................... 14.03[3][c][ii]
Isolated wetlands ....................................................... 14.03[3][c][i]
Nonadjacent wetlands ............................................... 14.03[3][c][i]

CLOSERLY HELD CORPORATIONS
Accumulated earnings tax ......................................... 9.08[4][b][v]
Articles of incorporation .......................................... 9.08[15]
Baby group plans ..................................................... 9.08[9]
Bonds
Debt security as ....................................................... 9.08[3]
Continuity of business
Generally ............................................................... 9.08
Dissolution and liquidation ........................................ 9.08[17]
Estate planning aspects of (See BUSINESS PLANNING)
Farm Service Agency, extension of credit by ............... 9.08[12]
Formation of ......................................................... 9.08[3]; 9.08[15]
Minority shareholders
Cumulative voting ..................................................... 9.08[16]
Pooling agreements .................................................. 9.08[16]
Pre-emptive rights ................................................... 9.08[16]
Proxy ................................................................. 9.08[16]
Voting trusts ......................................................... 9.08[16]
Personal use of corporate assets
Fringe benefits ....................................................... 9.08[9]
Lodging ............................................................... 9.08[6][a]
Vehicles .............................................................. 9.08[6][b]
Restrictions on transfers of stock
Absolute restrictions ............................................... 9.08[3][a]
Buy-sell agreements ................................................ 9.08[3][a]
Consent restrictions ................................................ 9.08[3][a]
First option .......................................................... 9.08[3][a]
Valuation of corporate stock
Appraisal ............................................................. 9.08[3][a]
Book value ........................................................... 9.08[3][a]
Periodically renegotiated fixed price ............................ 9.08[3][a]

COMMERCIAL (See UNIFORM COMMERCIAL CODE)

COMMERCE
Commerce clause .................................................... (McEwen, P.L.C.)

COLLATERAL (See UNIFORM COMMERCIAL CODE)

COMMUNITY PROPERTY
Form of co-ownership ............................................. 7.03

COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION & LIABILITY ACT
Civil penalties ......................................................... 14.04[1][a]
Covered facility ...................................................... 14.04[1][a]
Covered person ....................................................... 14.04[1][a]
Criminal penalties ................................................... 12.06[4]
Defenses to liability
Acts of God ............................................................ 14.04[1][a]
Act of third party .................................................... 14.04[1][a]
Act of war ............................................................. 14.04[1][a]
Innocent purchaser ................................................ 14.04[1][a]
Environmental audits .............................................. 14.04[1][a]
Fiduciary liability .................................................... 14.04[1][a]
Filer Factors case .................................................. 14.04[1][a]
Lender liability ....................................................... 14.04[1][a]
Response costs ...................................................... 14.04[1][a]
Retroactive application ............................................ 14.04[1][a]
Secured creditor exemption ...................................... 14.04[1][a]

CONCEALMENTS
Contagious disease damages tenant, landlord's liability when ............. 11.10[2]
Latent defects, bailed goods ........................................ 11.10[5][c]

CONCENTRATION IN AGRICULTURE
Generally ............................................................... 15.02[5]

CONSERVATION RESERVE PROGRAM
Generally ............................................................... 14.03[2]

CONTRACTS
Contract formation - the common law ........................................ 2.02
Offer and acceptance ............................................... 2.02[a]
Solicitations .......................................................... 2.02[e]
Leases ................................................................. 2.07
Remedies upon breach of contract ................................... 2.10
Buyer's remedies ...................................................... 2.10[1]
Handling deposits after breach .................................. 2.10[4]
Liquidated damages .................................................. 2.10[3]
Nonconforming goods ............................................. 2.10[1][d]
Right of rejection ................................................... 2.10[1][a]
Right of specific performance .................................... 2.10[5][c]
Right to "cover" ..................................................... 2.10[1][b]
Seller's remedies ..................................................... 2.10[2]
Scope of Article 2 ................................................................ 2.03[1]
Statute of frauds ....................................................... 2.05[5]
Agricultural leases .................................................... 2.05[4]
Auction sales .......................................................... 2.05[3]
Personal services contracts ........................................ 2.05[4][a]
Exceptions to ................................................................ 2.05[2]
Merchant's confirmatory memo rule .............................. 2.05
Statute of limitations ................................................ 2.11
Warranties .............................................................. 2.08
Adhesion contracts ................................................... 2.08[4]
Disclaimer implied warranties .................................... 2.08[3]
Express warranties .................................................... 2.08[1]
Implied warranties .................................................... 2.08[2][b]
Merchantability ....................................................... 2.08[2][a]
Fitness ..................................................................... 2.08[2][a]
UCC Article 2 issues ................................................ 2.03
Contract formation ................................................... 2.04
Auction sales .......................................................... 2.04[2]
Contracts involving merchants .................................... 2.04[1]
Contract performance
Assurances .............................................................. 2.09[4]
Commercial impracticability ....................................... 2.09[3]
Right of inspection ................................................... 2.09[2]
Risk of loss ............................................................. 2.09[1]
Contract provisions ................................................... 2.06
Delivery ................................................................. 2.06[3]
Price ................................................................. 2.06[2]

(PAL Ref 38)
<table>
<thead>
<tr>
<th>Quantity</th>
<th>2.06[1]</th>
</tr>
</thead>
</table>

## INDEX

<table>
<thead>
<tr>
<th></th>
<th>12.03[5]</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>CONVERSION</strong></td>
<td></td>
</tr>
<tr>
<td>Tort</td>
<td>11.02[3][b]</td>
</tr>
</tbody>
</table>

## COOPERATIVE ASSOCIATIONS

| Antitrust Laws                     | 10.08    |
| Capper-Volstead Act                | 10.08[3] |
| Clayton Act                        | 10.08[2] |
| Sherman Act                        | 10.08[1] |
| Financial structure                | 10.05    |
| Borrowed capital                   | 10.05[3] |
| Patronage based financing          | 10.05[2] |
| Stock and membership purchases    | 10.05[1] |
| Formation                          | 10.03    |
| Income tax treatment               | 10.07    |
| "Exempt" co-ops                    | 10.07[3][b] |
| In general                         | 10.07[1] |
| Nonexempt co-ops                   | 10.07[3][a] |
| Of members                         | 10.07[2] |
| Taxation of co-op                  | 10.07[2] |
| Laws granting immunity to co-ops   | 10.08[4] |
| AMAA                               | 10.08[4][c] |
| Agricultural Fair Practices Act    | 10.08[4][d] |
| Cooperative Marketing Act          | 10.08[4][a] |
| Robinson-trying Act                | 10.08[4][b] |
| Sherman Act                        | 10.08[1] |
| Liability of co-op directors       | 10.06    |
| Common law liability               | 10.06[4] |
| Conversion                         | 10.06[4][b] |
| Corporate waste                    | 10.06[4][d] |
| Fraud                              | 10.06[4][a] |
| Nuisance                           | 10.06[4][c] |
| Tort                               | 10.06[4][c] |
| Duty of care                       | 10.06[3] |
| Attention to co-op matters         | 10.06[3][a] |
| Business judgment rule             | 10.06[3][d] |
| Delegation of duties               | 10.06[3][c] |
| Reliance on officers and employees | 10.06[3][b] |
| Fiduciary duty of loyalty          | 10.06[2] |
| Confidentiality                    | 10.06[2][d] |
| Conflicts of interest              | 10.06[2][a] |
| Corporate opportunities            | 10.06[2][b] |
| Fairness                           | 10.06[2][c] |
| Obedience to articles of incorporation, bylaws, statutes and laws | 10.06[1] |
| Illegality                         | 10.06[1][a] |
| Ultra vires                        | 10.06[1][b] |
| Shareholder derivative suits       | 10.06[5] |
| Management                         | 10.04    |
| Nature of co-ops                   | 10.02    |
| Marketing co-ops                   | 10.02[1] |
| Supply co-ops                      | 10.02[2] |
| Patronage dividends                | 10.05[2] |
| Self-employment tax on value-added payments | 6.03[8][b] |

## CO-OWNERSHIP OF PROPERTY

| Generally                          | 7.03     |
| "Gallenstein" Rule                | 8.02[3]  |
| Community property                 | 8.02[2][a] |
| Joint tenancies                    | 8.02[2][c] |
| Tenancies in common                | 8.02[2][b] |
| Tenancies by entirety              | 8.02[2][d] |

## CORPORATE REORGANIZATION

| Generally                          | 9.08[18] |

## COURT SYSTEMS

| Federal                            | 1.04[2]  |
| State                              | 1.04[1]  |

## CRIMINAL LAW

| Burden and standard of proof       | 12.05[5] |
| Classification of crimes           | 12.01[4] |
| Crimes against person              | 12.02    |
| Assault                            | 12.02[3] |
| Battery                            | 12.02[1] |
| Homicide                           | 12.02[3] |
| Kidnapping                         | 12.02[5] |
| Rape                               | 12.02[4] |
| Forcible                           | 12.02[4][a] |
| Statutory                           | 12.02[4][b] |

(McEwen, P.L.C.)

| Crimes against property            | 12.03[9] |
| Burglary                           | 12.03[7] |
| Embezzlement                       | 12.03[2] |
| Extortion                          | 12.03[8] |
| False pretenses                     | 12.03[3] |
| Forgery                            | 12.03[4] |
| Larceny                            | 12.03[1] |
| Mail fraud                          | 12.03[10] |
| Receiving stolen goods              | 12.03[5] |
| Robbery                            | 12.03[6] |
| Defenses to criminal liability      | 12.05    |
| Cruel & unusual punishment         | 12.05[5] |
| Entrapment                          | 12.05[6] |
| Infamy                             | 12.05[2] |
| Insanity                            | 12.05[1] |
| Intoxication                        | 12.05[3] |
| Necessity                          | 12.05[4] |
| Elements of criminal conduct       | 12.01[2] |
| Actus rea                           | 12.01[2][b] |
| Mens rea                            | 12.01[2][a] |
| Environmental crimes                | 12.06    |
| Clean Air Act                       | 12.06[3] |
| Clean Water Act                     | 12.06[2] |
| Compensation and Liability Act      | 12.06[4] |
| Endangered Species Act              | 12.06[6] |
| Federal Insecticide, Fungicide & Rodenticide Act | 12.06[8] |
| Migratory Bird Treaty Act           | 12.06[7] |
| Inchoate crimes                     | 12.04    |
| Abandonment                        | 12.04[2] |
| Criminal attempt                    | 12.04[1] |
| Conspiracy                          | 12.04[3] |
| Punishment                          | 12.01[1] |
| Strict liability                    | 12.01[3] |

## CROP INSURANCE

| Deferral of proceeds                | 6.03[10] |
| Filing of false claims, liability for | 12.03[10] |
| Taxation of proceeds                | 6.03[10] |

## CRUEL AND UNUSUAL PUNISHMENT

As defense to criminal liability | 12.05[5] |

## CRUELTY TO ANIMALS

Crime of, generally | 12.03[11] |

## "CRUMMEY" TRUSTS

Generally | 8.06[1] |

## DAMAGES

Casualty losses (See CASUALTY LOSSES)

## DEATH TAX

Federal estate tax (See ESTATE PLANNING)
Federal gift tax (See ESTATE PLANNING)
Generation skipping transfer tax (See ESTATE PLANNING)

## DEDUCTIONS

Federal estate tax
Charitable deduction | 8.05[5][d] |
Family-owned business deduction | 8.05[5][e] |
Marital deduction | 8.05[5][b] |
Income tax - generally | 6.04 |

## DEPLETION

Deduction for natural resources | 6.04[3] |

## DEPRECIATION

(See ACCELERATED COST RECOVERY SYSTEM (ACRS) & MODIFIED ACRS (MACRS))

## DISCHARGE OF INDEBTEDNESS

Bankruptcy (See BANKRUPTCY)

(PAL Rel 38)
PRINCIPLES OF AGRICULTURAL LAW

DISCLAIMERS
Generally................................................. 8.08[3]

DISTRAINT
Generally.................................................. 11.11[2]

DISPARAGEMENT OF FOOD PRODUCTS
Generally.................................................. 11.02[4]
State laws.................................................. 11.02[4]

DOGS
Bite by animal, liability for ................................ 11.06[1]
Trespassing (dog-kill statutes).......................... 11.03[2]

DROUGHT
Catastrophe losses ........................................ 6.06[3]
Excuse of performance on contract for sale of grain for drought or other condition beyond control of seller ................. 2.09[3]
Sales of livestock .......................................... 6.03[11]

EASEMENTS
Affirmative easements.................................... 7.02[3][a][i]
Application to special use valuation ...................... 8.05[3][v][A]
Appurtenant .................................................. 7.02[3][a][ii]
Implied ...................................................... 7.02[3][a][iii]
In gross ...................................................... 7.02[3][a][iv]
Termination of .............................................. 7.02[3][c][v]

ECONOMIC LOSS DOCTRINE
Generally................................................... 11.05[2][d]

EMBEZZLEMENT
Crime of .................................................... 12.03[2]

ENDANGERED SPECIES ACT
Generally.................................................... 14.04[3][a]
Citizen suits ................................................ 14.04[3][a][iv]
Civil penalties .............................................. 14.04[3][a][iii]
Criminal penalties ........................................ 14.04[3][a][ii]; 12.06[6]
Endangered defined ........................................ 14.04[3][a][i]
Harm defined .............................................. 14.04[3][a][iii]
Prohibited acts ............................................. 14.04[3][a][iii]
Take defined ............................................... 14.04[3][a][iii]

ENTERTAINMENT EXPENSES
Generally................................................... 6.05[11]

ENTRAPMENT
As defense to criminal liability ......................... 12.05[6]

ENVIRONMENTAL LAW
Commerce clause ........................................ 14.01[5]
Environmental Quality Incentives Program ......... 14.03[3][b]
Federal regulatory approach – air ..................... 14.02[1]
Clean Air Act ............................................... 14.02[1]
Chemicals .................................................. 14.04[2]
Federal Insecticide, Fungicide, Rodenticide Act .... 14.04[2][a]
Toxic Substance Control Act .......................... 14.04[2][b]
Hazardous waste ......................................... 14.04
Comprehensive Environmental Response Compensation & Liability Act .................................. 14.04[1][a]
Resource Conservation & Recovery Act ............. 14.04[1][b]
Plant, fish & wildlife ..................................... 14.04[5]
Endangered Species Act ................................ 14.04[3][a]
Citizen suits ............................................... 14.04[3][a][iv]
Constitutional issues .................................... 14.04[3][a][v]
Exemptions ............................................... 14.04[3][a][v]
Listing process .......................................... 14.04[3][a][iv]
Prohibitions against taking species .................. 14.04[3][a][ii]
Recovery plans .......................................... 14.04[3][a][ii]
Livestock ................................................... 14.04[4]
Federal grazing permits & CWA ....................... 14.04[4][c]
Taylor Grazing Act ....................................... 14.04[4][a]
Federal regulatory approach – water ................. 14.03

(EMcEwen, P.L.C.)

Clean Water Act ........................................... 14.03[2]
Control of nonpoint source pollution .................. 14.03[3][b]
Point source pollution ................................... 14.03[3][a]
Wetlands .................................................... 14.03[3][c]
Exemption for normal farming activities .............. 14.03[3][c][ii]
Interplay of swampland & CWA ....................... 14.03[3][c][iv]
Isolated and nonadjacent wetlands ..................... 14.03[3][c][i]
Swamplands ............................................... 14.03[3][c][iii]
Wetlands case law ....................................... 14.03[3][c][iv]
Wetlands takings implication .......................... 14.03[3][c][v]
Conservation Reserve Program ......................... 14.03[2]
Soil erosion ............................................... 14.03[1]
Surface Mining Control and Reclamation Act ....... 14.03[5]
Legal basis ................................................ 14.01[3]
Common law ............................................. 14.01[3][b]
Statutory law ............................................. 14.01[3][a]
Possible solutions ....................................... 14.01[2]
Reasons why legal constraints are necessary ........ 14.01[1]
Unconstitutional “takings” issues ....................... 14.01[4]

ENVIRONMENTAL PROTECTION AGENCY
Generally.................................................. 14.01[3][a]
Investigatory powers .................................... 12.06[1]

EQUINE LIABILITY ACTS
Generally.................................................. 11.04[7][c]

ESTATE PLANNING
Federal estate taxation .................................. 8.05
Deductions ............................................... 8.05[6]
Administrative expenses ................................ 8.05[5][a]
Charitable .................................................. 8.05[5][d]
Marital ..................................................... 8.05[5][b]
Optimization of .......................................... 8.05[3]
QTIP ....................................................... 8.05[6][b][i]
Valuation ................................................... 8.05[3]
Alternate ................................................... 8.05[2][a]
In General ............................................... 8.05[3]
Special use .............................................. 8.05[3][b]
Amount recaptured ...................................... 8.05[3][b][vii]
Estate tax lien ............................................ 8.05[3][b][vii]
Recapture events ......................................... 8.05[3][b][vi]
Change in use ............................................ 8.05[3][b][v]
Death of qualified heir .................................. 8.05[3][b][vi][E]
Lack of material participation .......................... 8.05[3][b][vi][B]
No qualified use .......................................... 8.05[3][b][vii][D]
Transfer outside the family ............................. 8.05[3][b][vi][A]
Factor formula ........................................... 8.05[3][b][ii]
Pre-death requirements .................................. 8.05[3][b][iii]
50% test .................................................... 8.05[3][b][iii][A]
25% test ................................................... 8.05[3][b][ii][B]
Material participation test .............................. 8.05[3][b][ii][D]
Ownership test ........................................... 8.05[3][b][iii][E]
"Passing" test ............................................. 8.05[3][b][iii][F]
Present interest test ..................................... 8.05[3][b][iv]
Qualified use test ........................................ 8.05[3][b][iii][C]
Rent capitalization approach ......................... 8.05[3][b][ii]
Rules for entities ........................................ 8.05[3][b][iv]
Taxable estate ............................................ 8.05[6]
Unified credit ............................................ 8.05[7]
What is included in the gross estate? ................. 8.05[4]
Gifts within three years of death ....................... 8.05[4][d]
In general .................................................. 8.05[4][a]
Powers of appointment .................................. 8.05[4][c]
Retained life interests .................................... 8.05[4][b]
Disclaimers .............................................. 8.08[3]
Family-owned business deduction .................... 8.05[3][c]
Amount of .............................................. 8.05[5][c][i]
Amount recaptured ...................................... 8.05[5][c][iv]
Estate tax lien ............................................ 8.05[5][c][iv]
Events causing recapture ............................... 8.05[5][c][iii]
Death of qualified heir .................................. 8.05[5][c][ii][E]
Disposal of interest ...................................... 8.05[5][c][ii][D]
Lack of material participation .......................... 8.05[5][c][ii][B]
No qualified use .......................................... 8.05[5][c][iii][C]
Transfer outside family .................................. 8.05[5][c][iii][A]

(PAL Rel 38)
INDEX

Planning considerations .................................................. 8.05[5][c][v]
Pre-death requirements .................................................. 8.05[5][c][v]
Decedent citizenship ....................................................... 8.05[5][c][v][A]
50% test ................................................................. 8.05[5][c][v][B]
Material participation test ............................................... 8.05[5][c][v][E]
Passing to qualified heir test ........................................... 8.05[5][c][v][C]
Present interest test ...................................................... 8.05[5][c][v][F]
Qualified use test .......................................................... 8.05[5][c][v][D]
Federal gift tax ............................................................... 8.06
Federal gift tax return ...................................................... 8.06[4]
In general ................................................................. 8.06[1]
Lifetime gifting - advantages ............................................ 8.06[2]
Lifetime gifting - disadvantages ....................................... 8.06[3]
Generation skipping transfer tax ........................................ 8.07
Intestate succession ......................................................... 8.03
Distribution of property at death ........................................ 8.03[2]
In general ................................................................. 8.03[1]
Liquidity ................................................................. 8.09
Corporate stock redemption ............................................. 8.09[3]
Eligibility requirements ................................................. 8.09[3][b]
In general ................................................................. 8.09[3][a]
"Flower" bonds ............................................................ 8.09[4]
Installment payment of federal estate tax ............................... 8.09[2]
Eligibility requirements .................................................. 8.09[2][b]
One-year extensions ..................................................... 8.09[2][d]
Planning aspects .......................................................... 8.09[2][c]
Optimizing the marital deduction ....................................... 8.08[3]
Planning approaches ..................................................... 8.08[1][a][2][c]
Property ownership ....................................................... 8.02
Estate planning implications ........................................... 8.02[3]
Forms of co-ownership .................................................. 8.02[2]
Community property ..................................................... 8.02[2][a]
Joint tenancy ............................................................. 8.02[2][c]
Tenancy by the entirety .................................................. 8.02[2][d]
Tenancy in common ....................................................... 8.02[2][b]
State inheritance tax ....................................................... 8.10
Testate succession ........................................................ 8.04
Power of attorney ......................................................... 8.04[3]
Probate process .......................................................... 8.04[4]
Will contents ............................................................. 8.04[2]
Will requirements ........................................................ 8.04[1]
Trusts ..................................................................... 8.11
In general ................................................................. 8.11[1]
Types of trusts ............................................................ 8.11[2]
Asset sheltering trusts ................................................... 8.11[2][c]
"Crummy" trusts .......................................................... 8.06[1]
Family estate trusts ...................................................... 8.11[2][e]
Irrevocable living trust ................................................... 8.11[2][b]
Revocable living trust .................................................... 8.11[2][a]
Advantages of ............................................................ 8.11[2][a][iv]
Disadvantages of .......................................................... 8.11[2][a][v]
Federal estate and gift tax implications of ................................ 8.11[2][a][ii]
Income tax implications of .............................................. 8.11[2][a][iii]
Joint or separate trusts? .................................................. 8.11[2][a][i][v]
Tax implications .......................................................... 8.11[2][a][iii]
Testamentary trusts ....................................................... 8.11[2][d]

ESTATE TAX, FEDERAL (See ESTATE PLANNING)

EXTORTION
Crime of, generally ....................................................... 12.03[8]

FAIR LABOR STANDARDS ACT
Generally ................................................................. 15.05[1]
"Agriculture" defined ..................................................... 15.05[1][a]
Child labor ................................................................. 15.05[1][a]
Joint employment situations ............................................. 15.05[1][b]
Strawberry amendment ................................................... 15.05[1][a]
Wage requirements ....................................................... 15.05[1][a]

FAIR MARKET VALUE
Gifts, test for ............................................................. 8.06[1]

FALSE PRETENCES
Crime of, generally ....................................................... 12.03[3]

(Freeman, P.L.C.)

FEDERAL FARM PROGRAM PAYMENTS
Payment limitation rules ................................................ 9.04[3][a]

FEDERAL INSECTICIDE, FUNGICIDE AND RODENTICIDE ACT
Civil penalties ............................................................. 14.04[2][a]
Criminal penalties ....................................................... 12.06[8][a], 14.04[2][a]
Enforcement ............................................................. 14.04[2][a]
Pesticides
Registration of ............................................................. 14.04[2][a]
State regulation of ....................................................... 14.04[2][a]
Preemption of state law breach of warranty claims ................. 14.04[2][a]

FEDERAL PROGRAM FRAUD
Crime of, generally ....................................................... 12.03[10]

FEDERAL SEED ACT
Generally ................................................................. 15.03[4][a]
Civil penalties ............................................................ 15.03[4][a]
Criminal penalties ....................................................... 15.03[4][a]
Seizure of seed ........................................................... 15.03[4][a]

FEDERAL WATER POLLUTION CONTROL ACT (See CLEAN WATER ACT)

FEEDLOT ODORS
Nuisance per se .......................................................... 11.07[2]
Nuisance private .......................................................... 11.07[2]
Nuisance public ........................................................... 11.07[2]
Policy options ............................................................ 11.07[2][b]
Remedies
Actual damages ........................................................... 11.07[2][a]
Injunction ................................................................. 11.07[2][a]
Punitive damages .......................................................... 11.07[2]
Right to farm laws ....................................................... 11.07[2]
Zoning as defense to nuisance action ................................ 11.07[2][c][ii]

FENCES AND FENCING
Generally ................................................................. 11.11
Animal trespass, liability for .......................................... 11.11[1]
Fence-in theory ........................................................... 11.11[5]
Fence-out theory .......................................................... 11.11[5]
Highway fences ........................................................... 11.11[6]
Partition fences
Division of responsibility for ........................................... 11.11[5][b]
Duty to build and maintain ............................................ 11.11[5]
Legal requirement of .................................................... 11.11[5][a]
Location of ............................................................... 11.11[4]
Railroad fences ............................................................ 11.11[7]

FIFRA (See FEDERAL INSECTICIDE, FUNGICIDE AND RODENTICIDE ACT)

FOOD AND DRUG ADMINISTRATION
Role under Food Quality Protect Act ................................ 14.04[2][a]

FOOD DISPARAGEMENT LAWS
Constitutionality of ....................................................... 11.02[4]

FOOD QUALITY PROTECTION ACT
Elements of Act ........................................................... 14.04[2][a]
Relationships to genetically modified organisms .................... 15.03[5][a]

FOREIGN OWNERSHIP OF AGRICULTURAL LAND
Agricultural Foreign Investment Disclosure Act ..................... 15.06[3]
State restrictions .......................................................... 15.06[2]

FORGERY
Crime of, generally ..................................................... 12.03[4]

FRACTIONAL INTEREST RULE
Jointly owned property .................................................. 8.02[3]

GENERATION SKIPPING TRANSFER TAX (See ESTATE PLANNING)

GENETICALLY MODIFIED ORGANISMS
Labeling ................................................................. 15.03[5][b]
Regulation of ............................................................. 15.03[5][a]

(PAL Rel 38)
PRINCIPLES OF AGRICULTURAL LAW

I-8

GIFT TAX
Adjusted taxable gifts .......................................................... 8.06[3]
Annual exclusion .................................................................. 8.06[1]
Crummey trusts .................................................................. 8.06[1]
Payment of tax - impact on basis ............................................ 6.04[3]

GIFTS
Advantages of making .......................................................... 8.06[2]
Disadvantages of making ...................................................... 8.06[3]
Gift splitting ......................................................................... 8.06[1]
Incomplete gifts defined ......................................................... 8.06[1]
Installment sales .................................................................. 8.06[2]

GRASSLANDS RESERVE PROGRAM
Generally .............................................................................. 14.03[2]

GRAIN
U.S. Grain Standards Act ....................................................... 15.04[2]
U.S. Warehouse Act ............................................................... 15.04[3]

GRAZING
Clean Water Act, impact on ................................................... 14.04[4][c]
Federal Land Policy and Management Act
Generally .............................................................................. 14.04[4][b]
Constitutional issues ............................................................. 14.04[4]
Grazing fee calculation ......................................................... 14.04[4][b]
Taylor Grazing Act ................................................................ 14.04[4][a]

H

HEDGE-TO-ARRIVE CONTRACTS
Generally ................................................................................ 2.06[3]

HOBBY LOSSES
Accounting practices .............................................................. 6.06[1]
Case law ............................................................................. 6.06[1]
Presumption of for-profit activity .......................................... 6.06[1]

HOG LEDGER CONTRACTS
Executory contract in bankruptcy ........................................... 5.08[3][a]
Potential violation of Packers and Stockyards Act ............... 15.02[2][b]

HOMICIDE
Crime of, generally .............................................................. 12.02[1]

HORSE PROTECTION ACT
Generally .............................................................................. 15.03[2]

ILLINOIS
Foreign ownership of agricultural land, restrictions on ....... 15.06[2][a]

INCHOATE CRIMES
Abandonment ...................................................................... 12.04[2]
Conspiracy ........................................................................... 12.04[3]
Criminal Attempt ................................................................ 12.04[1]

INCOME TAX
Accounting methods ............................................................. 6.03[1]
Basis ................................................................................. 6.04[2][c]
Capital gains ....................................................................... 6.08
Constructive receipt .............................................................. 6.03[2]
Deferred sales .................................................................... 6.03[2]
Credits ................................................................................ 6.07
Child credit ........................................................................ 6.07[3]
Earned income credit .......................................................... 6.07[2]
FARRM accounts ................................................................. 6.07[7]
HOPE scholarship credit .................................................... 6.07[4]
Income averaging ................................................................. 6.07[6]
Investment tax credit .......................................................... 6.07[1]
Lifetime Learning credit ...................................................... 6.07[5]
Deductions ......................................................................... 6.04
Business trips, conventions and cruises ............................... 6.05[10]
Business use of the home ................................................... 6.05[12]
Depreciation ...................................................................... 6.04[5]
(Continued on next page)

(Continued from previous page)

McEwen, P.L.C.)
INDEX

Depreciation recapture .......................................................... 7.05[3][b]
Gift tax .................................................................................. 7.05[3][b]; 8.06[2]
Below market interest rates ................................................... 7.05[3][b]; 8.06[2]
Interest rates
Consideration less than $3,823,100 ....................................... 7.05[3][b]
Intra-family sales of land ....................................................... 7.05[3][b]
Reporting of gain .................................................................... 7.05[3][a]
Repossession of property sold under installment sale .............. 7.08

INVESTMENT TAX CREDIT
Generally ................................................................................ 6.07[1]

IN_VOLUNTARY CONVERSIONS
Treatment of gain (real estate) .............................................. 7.05[2][c]

IOWA
Closely-held corporations, limitations on formation of .......... 9.08[1][g]
Foreign ownership of agricultural land, restrictions on ........... 15.06[2][c]

KANSAS
Closely-held corporations, limitations on formation of .......... 9.08[1][a]

KENTUCKY
Foreign ownership of agricultural land, restrictions on ............ 15.06[2][d]

KIDNAPPING
Crime of, generally ................................................................. 12.02[5]

LABOR HIRED
FICA taxes ............................................................................ 9.08[8][a]
Payment-in-kind .................................................................... 9.08[8][a]

LABOR LAWS
Generally .............................................................................. 15.05
Migrant and Seasonal Worker Protection Act ................................ 15.05[2]

LAND-CLEARING EXPENDITURES
Generally .............................................................................. 6.05[3]
Deductibility of Post-1986 rules ............................................ 6.05[3]
Pre-1986 rules ........................................................................ 6.05[3]
Recapture of ........................................................................... 6.05[3]

LANDLORDS AND TENANTS
Contagious disease, liability for spread of .............................. 11.10[2]
Liability of landlord ............................................................... 11.04[7][a]
Liability of tenant ................................................................. 11.04[7][a]

LANDOWNERS
Entrants onto land; liability for ............................................. 11.04

LARCENY
Crime of, generally ................................................................. 12.03[1]

LAW
Classifications of .................................................................. 1.03
Civil Law .............................................................................. 1.03[1][b]
Criminal Law ......................................................................... 1.03[1][a]
Law of Equity ..................................................................... 1.03[1][c]
Substantive Law .................................................................. 1.03[1]
Uniform Laws ....................................................................... 1.03[2]
History and sources of .......................................................... 1.02
Doctrine of stare decisis ...................................................... 1.02
Legal research ........................................................................ 1.06

LEASES AND LEASING (See also CONTRACTS)
Bankruptcy unexpired lease, assumption of ......................... 5.08[3][a]
Contractual nature of lease .................................................. 2.05[4][a]
Personal services contract .................................................... 2.05[4][a]
Statute of frauds, application of .......................................... 2.05[4]

(Foundations, P.L.C.)

LIENS
Agister liens ........................................................................... 3.05[1]
Agricultural ............................................................................ 3.05[2]
Estate tax, federal ................................................................. 8.05[3][b][viii]
Landlord's lien ...................................................................... 3.05[1]
Mechanic's lien ...................................................................... 3.05[1]
Supply dealer's lien ............................................................. 3.05[1]
Uniform Commercial Code, establishment of priorities under .. 3.02[5]

LIFE ESTATES
Generally .............................................................................. 7.02[2][b]
Death of property-owning spouse ........................................... 8.05[6][b][i]; 8.08

LIKE-KIND EXCHANGE
Income tax aspects of ............................................................ 7.05[2][d]

LIMITED LIABILITY COMPANIES (See BUSINESS PLANNING)

LIMITED PARTNERSHIPS (See BUSINESS PLANNING)

LIQUIDATION
Corporate ............................................................................. 9.08[17]

LIVESTOCK
Agister liens ........................................................................... 3.05[1]
Breeding fees ........................................................................ 6.03[14][a]
Capital gain treatment .......................................................... 6.08
Casualty loss deduction for Disease ...................................... 6.03[5]
Death of animal ....................................................................... 11.03[3]
Disposal of carcass ................................................................ 11.10[3]
Implied warranty of merchantability, UCC provision .......... 2.08[2][a]

LODGING
Hired labor ............................................................................ 9.08[6][a]

LOSES
Generally .............................................................................. 6.06
Casualty losses ..................................................................... 6.06[3]
Hobby losses ......................................................................... 6.06[1]
Operating losses ................................................................... 6.06[2]
Passive losses ........................................................................ 6.06[4]
Theft losses .......................................................................... 6.06[3]

M

MAIL FRAUD
Crime of, generally ................................................................. 12.03[10]

MARITAL DEDUCTION (See ESTATE PLANNING)

MARKETING ORDERS AND CHECK-OFFS
Constitutionality of ................................................................. 15.02[2][4]

MARSHALLING ASSETS
Partnership dissolution ......................................................... 9.06[2][c]

MEALS
Deductibility of meal expenses ............................................. 6.05[11]

MENS REA
As element of criminal conduct .......................................... 12.01[2][a]
Diminished in environmental crimes ...................................... 12.06[9]

MIGRATORY BIRD TREATY ACT
Generally ............................................................................... 12.06[7]

MIGRANT AND SEASONAL LABOR
Generally ............................................................................... 15.05[2]
Migrant and Seasonal Worker Protection Act .......................... 15.05[2][b]
PRINCIPLES OF AGRICULTURAL LAW

 Covered employers........................................................................... 15.5[2][a]
 Defenses to liability ........................................................................ 15.05[2][a]
 Exemptions ....................................................................................... 15.05[2][e]
 Penalties ......................................................................................... 15.05[2][f]

 MINNESOTA
 Closely-held corporations, limitations on formation of......................... 9.08[1][d]
 Foreign ownership of agricultural land, restrictions on......................... 15.06[2][e]

 MISSOURI
 Closely-held corporations, limitations on formation of......................... 9.08[1][e]
 Foreign ownership of agricultural land, restrictions on......................... 15.06[2][e]

 MULTIPLE ENTITY FARM ORGANIZATION
 Advantages of .................................................................................. 9.04[1][e]
 Capital build-up in land owning entity................................................ 9.04[1][b][ii]
 Disadvantages of ............................................................................... 9.04[1][b][iii]
 Miscellaneous .................................................................................. 6.03[8]; 9.04[1][b][iii]

 MODIFIED COST RECOVERY SYSTEM (MACRS) (See INCOME TAX)

 N

 NATIONAL ENVIRONMENTAL POLICY ACT OF 1969
 Generally.......................................................................................... 14.01[3]

 NATIONAL FOREST SYSTEM
 Grazing within.................................................................................... 14.04[4][b]

 NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM
 Generally......................................................................................... 14.03[3][a]
 Feedlots, requirements for ................................................................. 14.03[3][a]
 Permit requirements ......................................................................... 14.03[3][a]

 NEBRASKA
 Closely-held corporations, limitations on formation of......................... 9.08[1][f]
 Foreign ownership of agricultural land, restrictions on......................... 15.06[2][d]

 NECESSITY
 As defense to criminal liability .......................................................... 12.05[4]

 NEGLIGENCE
 Aerial chemical crop spraying, employer liability for (See AERIAL CHEMICAL CROP SPRAYING)
 Comparative negligence .................................................................. 11.05[2][a]
 Contagious diseases ......................................................................... 11.10
 Generally.......................................................................................... 11.10
 Disposal of animal carcasses .............................................................. 11.10[3]
 Landlord's duty regarding diseased premises ...................................... 11.10[2]
 Trespassing or straying animals ......................................................... 11.10[1]
 Contributory negligence as defense ................................................. 11.05[2][a]
 Employee's torts ................................................................................ 11.09
 Feedlot odors and .............................................................................. 11.07[2]
 Incompetent help, hiring of .............................................................. 11.08[1][d]
 Independent contractor's negligence, employer liability for (See INDEPENDENT CONTRACTOR)
 Nuisance distinguished from .............................................................. 11.07[2]
 Products liability ............................................................................... 11.05[3][d]
 Component parts .............................................................................. 11.05[3][d]
 Premises ............................................................................................. 11.05[3][d]
 Foreseeable misuse .......................................................................... 11.05[3][d]
 Privity limitation ............................................................................... 11.05[3][d]
 Weeds, spread of................................................................................ 11.07[1]

 NEGOCIABLE INSTRUMENTS
 1767 Federal Trade Commission Rule ................................................. 4.06
 Holder in due course .......................................................................... 4.05
 Defenses ............................................................................................. 4.05[5]
 Personal defenses .............................................................................. 4.05[3][b]
 Real defenses ..................................................................................... 4.05[3][a]
 Requisites of HDC status ................................................................. 4.05[2]
 Good faith ........................................................................................... 4.05[2][b]
 No notice of claim or defense ........................................................... 4.05[2][c]
 No notice of overdue instrument ....................................................... 4.05[2][d]
 Value .................................................................................................. 4.05[2][e]
 Insufficient funds checks ................................................................. 4.05[2][e]
 Liability .............................................................................................. 4.03
 Contract liability ............................................................................... 4.03[1]
 Primary liability ............................................................................... 4.03[1][a]
 Secondary liability ............................................................................. 4.03[1][b]

 (McEowen, P.L.C.)

 Liability of accommodation parties & guarantors............................. 4.04
 Tort liability ........................................................................................ 4.03[2]
 Requisites of negotiability ................................................................. 4.02
 Contains words of negotiability ......................................................... 4.02[5]
 In writing ............................................................................................ 4.02[1]
 Pay on demand or definite time ....................................................... 4.02[4]
 Sum certain or fix amount of money ............................................... 4.02[3]
 Unconditional promise or order ....................................................... 4.02[2]

 NET OPERATING LOSSES
 Generally.......................................................................................... 6.06[2]

 NONRECOVERY DEBT
 Discharge of ...................................................................................... 5.10[2]
 Income tax treatment of.................................................................... 5.10[2][a]

 NORTH DAKOTA
 Closely-held corporations, limitations on formation of......................... 9.08[1][b]
 Foreign ownership of agricultural land, restrictions on......................... 15.06[2][b]

 NUISIBLE
 Right-to-farm laws .............................................................................. 11.07[2][c][ii]

 OCCUPATIONAL SAFETY AND HEALTH ACT (OSHA)
 Generally.......................................................................................... 11.08[3]
 Employer compliance requirements .................................................. 11.08[3]
 Health and safety standards ............................................................... 11.08[3]
 Recordkeeping requirements ............................................................. 11.08[3]
 Penalties ............................................................................................. 11.08[3]
 Civil .................................................................................................... 11.08[3]
 Criminal ............................................................................................ 11.08[3]

 OKLAHOMA
 Closely-held corporations, limitations on formation of......................... 9.08[1][c]
 Foreign ownership of agricultural land, restrictions on......................... 15.06[2][b]

 OPEN RANGE STATES
 Trespassing livestock in...................................................................... 11.11[1]

 OUT-OF-COURT SETTLEMENTS
 Taxation of.......................................................................................... 7.10

 PACKERS AND STOCKYARDS ACT
 Generally.......................................................................................... 15.02[2]
 Administrative proceedings ................................................................ 15.02[2][b]
 Antitrust laws, effect on ................................................................. 15.02[2][a]
 Big Five, companies referred to as ................................................... 15.02[a]
 Civil penalties for violation .............................................................. 15.02[2][b]
 Consent decree and .......................................................................... 15.02[2][a]
 History of act ..................................................................................... 15.02[2][a]
 Prohibitions ....................................................................................... 15.02[2][b]
 Bribery of weighmasters .................................................................. 15.02[2][b]
 Failure to keep books and records .................................................... 15.02[2][b]
 False weighing of livestock............................................................... 15.02[2][b]
 Gratuities ........................................................................................... 15.02[2][b]
 Price manipulation .......................................................................... 15.02[2][b]
 Turn system of selling livestock ....................................................... 15.02[2][b]
 Provisions .......................................................................................... 15.02[2][b]
 Bonding ............................................................................................. 15.02[2][b]
 Bookkeeping requirements .............................................................. 15.02[2][b]
 Stafford v. Wallace and constitutionality of ...................................... 15.02[2]
 Truckers, gratuities to ................................................................. 15.03[2][b]

 (PAL Ref 38)
PATENT LAW
Protection of germplasm .................................................. 15.03[4]

PATRONAGE DIVIDENDS (See COOPERATIVE ASSOCIATIONS)

PERFECTION (See UNIFORM COMMERCIAL CODE)

PERISHABLE AGRICULTURAL COMMODITIES ACT
Generally ................................................................. 15.04[1]
Enforcement proceedings .................................................... 15.04[1][c]
Licenses
Generally ......................................................... 15.04[1][b]
Reparation proceedings .................................................. 15.04[1][c]
Violations
Failure to pay promptly .................................................. 15.04[1][b]
Fraudulent transactions .................................................. 15.04[1][b]

PLANT PATENT ACT
Generally ................................................................. 15.03[4][b]
Bacteria, exclusion from act ............................................... 15.04[4][b][i]

PLANT VARIETY PROTECTION ACT
Gene engineering of plants, applicability of act ......................... 15.03[4][b][ii]
Saved seed exception
1994 amendments ...................................................... 15.03[4][b][ii]
Winterboer case .................................................................. 15.03[4][b][ii]

PREPAID EXPENSES
Generally ................................................................. 6.05[8]
Current law ....................................................................... 6.05[8]
Feed, seed and fertilizer
Generally ................................................................. 6.05[8]
Business purpose defined ................................................. 6.05[8]
Current law ....................................................................... 6.05[8]
Deposit defined .................................................................... 6.05[8]
Farming syndicates ......................................................... 6.05[8]
Post-1986 rules ................................................................. 6.05[8]
Pre-1987 rules .................................................................... 6.05[8]
Qualified farm related taxpayer ............................................. 6.05[8]

PREPRODUCTIVE PERIOD EXPENSES
Capitalization rules ......................................................... 6.05[13]
Deductible expenses ......................................................... 6.05[13]
Post-1986 rules ................................................................. 6.05[13]
Pre-1987 rules ................................................................. 6.05[13]

PROBATE
Generally ......................................................................... 8.04[4]
Revolving living trusts, probate avoidance ................................ 8.11[2][a][iv]

PROCEEDS
Crops as ................................................................. 3.02[4]
Definition ........................................................................ 3.02[4]

PRODUCTION CONTRACTS
Attachment of security interest in goods produced under ...... 3.02[3][b]
Self-employment tax on income received under .................. 6.03[8]
Status of employees in vertically integrated businesses ........... 15.05[1][b]

PRODUCTS LIABILITY (See CIVIL LIABILITIES)

Q

QUALIFIED TERMINABLE INTEREST PROPERTY (See ESTATE PLANNING)

R

RAILS-TO-TRAILS
National Trails System Act ................................................... 7.02[3][b]
RRRR Act ........................................................................... 7.02[3][b]

RAILROADS
Abandonment of lines ....................................................... 7.02[3][b]

(FcEowen, P.L.C.)

INDEX

Personal service activities .................................................. 6.06[4]
Regulatory definition ....................................................... 6.06[4]
Significant participation activity ......................................... 6.06[4]
Passive income generators .................................................. 6.06[4]

Fencing, provisions for ...................................................... 11.11[7]

RAPE
Crime of, generally ........................................................... 12.02[4]
Forcible ........................................................................... 12.02[4][a]
Statutory ........................................................................ 12.02[4][b]

REAL PROPERTY
Bad debt deduction ......................................................... 7.09[3]
Business bad debts .......................................................... 7.09[2]
Elements necessary for deductibility ................................... 7.09[1]
Guarantees ....................................................................... 7.09[4]
Nonbusiness bad debts ..................................................... 7.09[3]
Reporting bad debts ......................................................... 7.09[5]
Deeds ............................................................................ 7.04[1][b]
General warranty ............................................................. 7.04[1][b][ii]
Quintain .......................................................................... 7.04[1][b][iii]
Special warranty .............................................................. 7.04[1][b][ii]
Forms of co-ownership ...................................................... 7.03
FSA loans ....................................................................... 7.04[3]
Income tax aspects of property transfers ......................... 7.05
Appropriation purchase price ............................................ 7.05[3][d]
Computation of gain .......................................................... 7.05[1]
Deeds of contract by seller ............................................... 7.05[3][c]
Exclusion of gain ............................................................. 7.05[2][c]
Installment land contracts ................................................. 7.04[5]
Installment sales ............................................................... 7.05[3]
Reporting of gain ............................................................ 7.05[3][a][a]
Minimum interest rates ..................................................... 7.05[3][a]
Postponing or avoiding gain .............................................. 7.05[2]
Involuntary conversion ...................................................... 7.05[2][c]
Like-kind exchange .......................................................... 7.05[2][d]
Rollover of gain ............................................................... 7.05[2][a]
One-time exclusion .......................................................... 7.05[2][b]
Mortgage ........................................................................ 7.04[2]
Foreclosure moratoria ....................................................... 7.04[2][c]
Remedies available to mortgagee upon default .................. 7.04[2][b]
Nature and ownership of real property ................................. 7.02
Abandoned railways .......................................................... 7.03[2][b]
English history of American property law .......................... 7.02[1]
Feudal system ................................................................. 7.02[1][a]
Easements ...................................................................... 7.02[3]
Affirmative and negative ................................................... 7.02[3][a][i]
Appurtenant ...................................................................... 7.02[3][a][ii]
Implied ........................................................................... 7.02[3][a][iii]
In gross ........................................................................... 7.02[3][a][i]
Prescriptive ...................................................................... 7.02[3][a][iv]
Termination of ................................................................... 7.02[3][a][v]
Estates in land ................................................................... 7.02[2]
Agriculture leases ............................................................. 7.02[2][c]
Fee Simple ........................................................................ 7.02[2][a]
Life Estate ....................................................................... 7.02[2][b]
Profits ............................................................................ 7.02[3][a]
Property tax aspects .......................................................... 7.06
Recording of deed ............................................................. 7.04[1][b][v]
Delivery requirement ........................................................ 7.04[1][b][iv][A]
Rights of seller upon buyer's default .................................. 7.04[1][i]
Recoveries from settlements & judgments ......................... 7.10
Remedies available to mortgagees ....................................... 7.04[2][b]
Repossession ................................................................. 7.08
Repossession of land sold under ............................... 7.08[1]
installment sale ............................................................... 7.08[1]
Gain calculation ............................................................... 7.08[1][a]
Repossessors of personal property ..................................... 7.08[2]
Involuntary repossessions .................................................. 7.08[2][b]
Voluntary repossessions ..................................................... 7.08[2][a]
Restructuring farm credit system loans ............................... 7.04[4]
Short-term land sale contract elements ............................... 7.04[1]
Legal description ............................................................ 7.04[1][c]
Names of parties ............................................................. 7.04[1][a]
Personal property ............................................................. 7.04[1][b]
Quality of title ................................................................. 7.04[1][b]
Real estate taxes .............................................................. 7.04[1][e]
Risk of loss ...................................................................... 7.04[1][f]
Selling price and time of payment ....................................... 7.04[1][d]
Signed writing ................................................................. 7.04[1][b]
Type of ownership ........................................................... 7.04[1][a]
Special income tax problems for sellers of assets ............... 7.07

(PAL Rel 38)
RECAPTURE
Conservation and land clearing expenditures ........................................... 6.05[2][c][3]
Depreciation, generally ................................................................. 6.04[2][e]
Installment sales, application ......................................................... 7.05[3][b]

RECEIVING STOLEN GOODS
Crime of, generally ........................................................................... 12.03[5]

RECREATIONAL USE ACTS
Generally .......................................................................................... 11.04[7][b]

REGULATORY LAW
Administrative agencies ................................................................. 15.01[3]
Antitrust laws .................................................................................. 15.02
Agricultural Fair Practices Act ..................................................... 15.02[3]
Packers and Stockyards Act ........................................................... 15.02[2]
History of the Act ........................................................................... 15.02[2][a]
Provisions of the Act ..................................................................... 15.02[2][b]
Resale price maintenance ............................................................... 15.02[1]
In general ...................................................................................... 15.02[1][a]
State fair trade laws ........................................................................ 15.02[1][b]
Federal labor laws impacting agriculture ....................................... 15.05
Fair Labor Standards Act ............................................................... 15.05[1]
Enforcement proceedings .............................................................. 15.05[1][d]
Joint employment ......................................................................... 15.05[1][b]
Prohibited acts ............................................................................... 15.05[1][c]
Wage requirements ...................................................................... 15.05[1][a]
Regulation of agricultural commodities ....................................... 15.04
Perishable Agricultural Commodities Act ...................................... 15.04[1]
Covered persons ........................................................................... 15.04[1][a]
Enforcement proceedings .............................................................. 15.04[1][c]
Provisions of the Act ..................................................................... 15.04[1][b]
United States Grain Standards Act ............................................... 15.04[1]
United States Warehouse Act ....................................................... 15.04[3]
Regulation of animals & plants ..................................................... 15.03
Animal Welfare Act ....................................................................... 15.03[1]
Horse Protection Act ..................................................................... 15.03[2]
Seed sales ...................................................................................... 15.03[4]
Federal Seed Act ........................................................................... 15.03[4][a]
Plant patents ................................................................................ 15.03[4][b]
Plant Patent Act ............................................................................ 15.03[4][b][1]
Plant Variety Protection Act ........................................................... 15.03[4][b][4]
Trade Secrets ................................................................................ 15.03[4][b][iii]

REMEDIES
Breach of contract .......................................................................... 2.10
Nuisance ...................................................................................... 11.07[2][a]

REPOSESSION
Personal property .......................................................................... 7.08[2]
Real Property ................................................................................ 7.08[1]

RESIDENCE
Adjusted sale price ...................................................................... 7.05[2][e]
Age-55 sale exclusion .................................................................. 7.05[2][b]
Generally ...................................................................................... 7.05[2][b]
Eligibility requirements ................................................................ 7.05[2][b]
Holding requirements .................................................................... 7.05[2][b]
Roll-over provision, integration with ........................................... 7.05[2][b]
Home office .................................................................................. 6.05[12]
Deductibility of costs .................................................................. 6.05[12]
Roll-overs ..................................................................................... 7.05[2][b]

RES IPSA LOQUITUR
Livestock trespass cases ................................................................. 11.11[1]

RESOURCE CONSERVATION AND RECOVERY ACT
1976 amendments ........................................................................ 14.04[1][b]
1984 amendments ........................................................................ 14.04[1][b]
1986 amendments ........................................................................ 14.04[1][b]
Criminal penalties ......................................................................... 12.06[5]

RETIRED LIFE ESTATES
Gross estate, inclusion of property for federal estate tax purposes
Generally ...................................................................................... 8.05[4][b]
Powers of appointment, effect of retention .................................. 8.05[4][c]

REVOKEABLE LIVING TRUSTS
Generally ...................................................................................... 8.11[2][a]
Advantages .................................................................................. 8.11[2][a][iv]
(McEwen, P.L.C.)

SELF-EMPLOYMENT TAX

S

SALVAGE VALUE
Generally .......................................................................................... 6.04[2][a]

S CORPORATIONS (See BUSINESS PLANNING)

SECURED TRANSACTIONS
After-acquired property ................................................................. 3.02[3][b][i]
Default ......................................................................................... 3.04
Debtor's right to redeem ............................................................... 3.04[5]
Effect of creditor's disposition of property ............................... 3.04[4]
Proceeds of disposition .............................................................. 3.04[3]
Right and duty to dispose of collateral ....................................... 3.04[2]
Right to possession ..................................................................... 3.04[1]
Secured party's liability ............................................................... 3.04[6]
Definitions .................................................................................. 3.02[2]
Buyer in ordinary course ............................................................. 3.02[2][f]
Collateral ...................................................................................... 3.02[2][e]
Debtor ......................................................................................... 3.02[2][d]
Financing statement ................................................................... 3.02[2][c]
Fixture ......................................................................................... 3.02[2][a]
Security agreement ................................................................... 3.02[2][a]
Security interest ......................................................................... 3.02[2][b]
Fixtures ...................................................................................... 3.02[7]
Security agreement ................................................................... 3.02[3]
Attachment ................................................................................ 3.02[3][b]
Description of collateral ............................................................ 3.02[3][c][ii][B]
Identification of the debtor ........................................................ 3.02[3][d][ii][a]
Rights of collateral ........................................................................ 3.02[3]
Lease disposed of ....................................................................... 3.02[1]
Third parties ................................................................................ 3.02[2][c]

SECURITY AGREEMENTS (See SECURED TRANSACTIONS)

SECURITY INTEREST
Definition of .................................................................................. 3.02[2][b]
Fixtures ...................................................................................... 3.02[7]
Perfection .................................................................................... 3.02[3][c][i]
Methods ...................................................................................... 3.02[3][c][ii]
Against proceeds ........................................................................ 3.02[4]
Automatic .................................................................................... 3.02[3][c][ii][C]
Filing requirement ....................................................................... 3.02[3][c][ii][B]
Possession of collateral ............................................................... 3.02[3][c][ii][A]
Priorities among security interests ............................................. 3.02[5]
Rights of purchasers .................................................................... 3.03
Debtor's right to sell collateral ................................................... 3.03[1]
Farm products rule ....................................................................... 3.03[3]
Inventory property ....................................................................... 3.03[2]
Rights of farmer in failure of elevator ......................................... 3.03[4]
Scope of Article 9 ................................................................--------- 3.02[1]
Situational liens ........................................................................... 3.05
Agricultural liens ......................................................................... 3.05[2]
General priority rules .................................................................. 3.05[1]
Termination statement ............................................................... 3.02[3][c][iii]
Unperfected security interests ................................................... 3.02[8]
Using crops as feed .................................................................... 3.02[6]

RIGHT TO FARM LAWS (See FEEDLOT ODORS)

RISK OF LOSS
Contract performance .................................................................... 2.09[1]
Land sale contract ......................................................................... 7.04[1]

ROBBERY
Crime of, generally ........................................................................ 12.03[6]

ROBBERY

SELF-EMPLOYMENT TAX

(PAL Rel 38)
INDEX

TRUSTS

Generally................................................. 8.11[1]

Types of

Asset sheltering (Medicaid).......................... 8.11[1][c]

Family estate........................................... 8.11[1][e]

Irrevocable living ..................................... 8.11[1][b]

Revocable living....................................... 8.11[1][a]

Advantages of......................................... 8.11[2][a][iv]

Estate tax implications.............................. 8.11[2][a][ii]

Gift tax implications................................. 8.11[2][a][i]

Income tax implications.............................. 8.11[2][a][iii]

Testamentary........................................... 8.11[2][d]

24-HOUR LAW

Generally.............................................. 15.03[3]

Exceptions to requirements........................ 15.03[3]

U

UNIFORM COMMERCIAL CODE

Actual use test to determine definition of farm equipment........ 3.02[3][e][ii][B]

After-acquired property clause in security agreement and debtor rights........ 3.02[3][b][ii]

Article 9, property covered under.......................... 3.02[1]

Automatic perfection

Condition for........................................... 3.02[3][c][ii][C]

Crops as collateral

Debtor, rights in collateral, requirements for.................... 3.02[3][b]

New value provision.................................... 3.02[5]

Draft or other condition beyond control of seller, excuse of performance on contract for sale of grain for... 2.09[3]

Farm products defined.................................. 3.03[3]

Filing, perfection by

Place of filing......................................... 3.02[3][c][ii][B]

Financing statements

Errors..................................................... 3.02[3][c][ii][B]

Termination of......................................... 3.02[3][c][iii]

Fixtures.................................................. 3.02[7]

Forward contracts, breaches of

Knowledge and skill, farmers or ranchers as merchant by reason of.................. 2.09[1]

Landlord's lien, coverage of

Generally.............................................. 3.05[1]

Lien creditors

Priorities, statutory provisions for........................ 3.05[1]

Livestock

Implied warranty of, statutory limitation on.......................... 2.08[2]

Merchant, farmer or rancher as.......................... 2.05[1]

New value of crop provision............................ 3.02[5]

Oral contracts

Written confirmation of.................................. 2.05[1]

Priorities

Buyer in ordinary course of business...................... 3.02[2][f]

Conflicting security interests........................... 3.02[5]

Farm product buyers' exception.......................... 3.03[3]

Federal farm products statute

Generally.............................................. 3.03[3]

Central filing option.................................... 3.03[3]

Notice option........................................... 3.03[3]

Feed, collateral crops as.................................. 3.02[6]

Unperfected security interests

Generally.............................................. 3.02[8]

Grain elevator bankruptcy, unsecured claims of farmers in........ 3.03[4]

Proceeds

Crops..................................................... 3.02[4]

Defaced.................................................. 3.02[4]

Sales of goods

Generally.............................................. 2.06

Forward contracts, breaches of............................ 2.09[3]

"Printed forms" problems................................ 2.06[4]

Statute of frauds....................................... 2.05[1]

Warranty of merchantability

(PAL Rel 38)
PRINCIPLES OF AGRICULTURAL LAW

WEATHER MODIFICATION
In General .......................................................... 13.07[1]
Different public interests ...................................... 13.07[1][a]
Tort liability issues .............................................. 13.07[1][b]

WEEDS
Noxious weeds, liability for spread of ................... 11.07[1]

WEST VIRGINIA
Closely-held corporations, limitations on formation of .............................................. 9.08[1][e]
Foreign ownership on agricultural land, restrictions on ............................................ 15.06[2][k]

WISCONSIN
Closely-held corporations, limitations on formation of .............................................. 9.08[1][e]

WORKERS’ COMPENSATION
Agricultural exemption ........................................ 11.08[2]
Assumption of risk as defense ............................... 11.08[1][f][i]
Benefits ........................................................... 11.08[2]
Co-employee’s negligence as defense .................... 11.08[1][f][ii]
Common law duties of farmer ............................... 11.08[1]
Competent employees, farmer’s duty to hire .......... 11.08[1][d]
Safe tools doctrine ............................................. 11.08[1][a]
Safe workplace, duty to provide ......................... 11.08[1][b]
Warnings, duty to give proper ............................ 11.08[1][c]
Contributory negligence as defense ..................... 11.08[1][f][iii]

WATER
Boundary disputes involving ................................ 13.06
Accretions and avulsions .................................... 13.06[1]
Diffused surface water ........................................ 13.04
Civil law rule ................................................... 13.04[1][b]
Drainage codes .................................................. 13.04[1][d]
English rule - absolute ownership ........................ 13.04[1][a]
Reasonable use rule .......................................... 13.04[1][c]
Natural streams and lakes .................................. 13.02
Water rights in navigable waters ......................... 13.02[2]
Water rights in non-navigable waters ................. 13.02[1]
Permit (administrative) systems ......................... 13.02[1][c]
Prior appropriation .......................................... 13.02[1][b]
Riparian systems ............................................. 13.02[1][a]
Recreational use of rivers and streams ................. 13.03
Fencing across a watercourse .............................. 13.03[2]
Public access .................................................. 13.03[1]
Underground water .......................................... 13.05
Rules governing utilization of groundwater .......... 13.05[1]
Absolute ownership - English rule .................... 13.05[1][a]
Correlative rights ............................................. 13.05[1][d]
Prior appropriation .......................................... 13.05[1][c]
Reasonable use rule ........................................ 13.05[1][b]
State groundwater regulation ............................ 13.05[2]

WATER POLLUTION
Federal Water Pollution Control Act (See CLEAN WATER ACT) ........................................ 14.03[3][a]
Feedlots ......................................................... 14.03[3][a]
Non-point source pollution (See CLEAN WATER ACT) ................................................. 14.03[3][a]
Point source pollution (See CLEAN WATER ACT) ......................................................... 14.03[3][a]
Soil erosion
Generally ....................................................... 14.03[1]
Conservation Reserve Program .......................... 14.03[2]