IOWA BAN ON PACKER OWNERSHIP OF LIVESTOCK RULED UNCONSTITUTIONAL
— by Roger A. McEowen* and Neil E. Harl**

In Smithfield Foods, Inc. et. al. v. Miller,¹ the Federal District Court for the Southern District of Iowa ruled unconstitutional Iowa’s prohibition against swine processors owning, controlling or operating swine operations in the state.² The opinion is viewed by many as crucial with respect to its potential impact on the maintenance of competition in hog procurement for slaughter, and on the overall structure of the hog industry in Iowa. The key questions that remain after the court’s opinion are whether the case will be upheld on appeal, and whether the court’s opinion will generate additional momentum for federal legislation addressing the issue of packer ownership of livestock.

Anti-Corporate Farming Statutes

For decades, legislatures in states where agriculture plays a predominant role in the state’s economy have expressed concern with corporate involvement in agricultural production activities. Presently, nine states prohibit corporations (with numerous statutory exceptions for certain forms of corporations) from engaging in agriculture to various degrees.³ More recently, consolidation in almost every aspect of the farm economy has further threatened the continued viability of a vibrant, independently owned and widely dispersed farm production sector with the specter of being vertically integrated (largely through contractual arrangements) in the production, processing and marketing functions. Thus, as concentration of agricultural production has accelerated in recent years, legislatures in many of these same states have attempted to legislate protections for the economic autonomy of individual farmers and the environmental health and safety of both the rural and non-rural sectors.

Iowa, through its anti-corporate farming provisions, prohibits unauthorized vertical integration in the cattle and pork sectors.⁴ The Iowa provision makes it “unlawful… for a processor of beef or pork… to own, control or operate a feedlot in Iowa in which hogs or cattle are fed for slaughter.”⁵ The statute excepts cooperatively-owned processors.⁶ Non-exempted corporations, however, may still participate in agriculture by contracting with farmers who own or lease land. But, the Iowa provision, as originally enacted, was designed to restrict a corporate processor’s ability to control all aspects of production. Processors soon realized, however, that they could avoid the reach of the statute by feeding hogs under contract in neighboring states and transporting them to

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Iowa for processing, or feeding them in Iowa and transporting them out of state for processing.

**The Iowa Smithfield Matter**

Smithfield is the nation’s largest pork processor, with more than half of its sows owned by Murphy Farms which, in turn, is wholly-owned by Smithfield Foods. An Iowa corporation, Prestage-Stoecker, financed by Smithfield, contracted with Murphy Farms to buy feeder pigs. The feeders pigs were shipped to Iowa, where Prestage-Stoecker contracted with over 200 Iowa farms to finish the hogs. The finished hogs were then sold to IBP, Inc. for processing. In September of 1999, Smithfield announced its plan to acquire all of Murphy Farm’s capital stock. The Iowa Attorney General challenged the transaction under Iowa Code § 9H.2, and Smithfield modified the transaction. In early, 2000, Stoecker Farms, Inc. was formed as an Iowa family farm corporation. Murphy Farms sold its Iowa-based assets to Stoecker and also assigned its contract with IBP, Inc. to Stoecker. Smithfield then purchased the non-Iowa assets of Murphy Farms, with Murphy Farms providing out-of-state feeder pigs to Stoecker, which contracted with Iowa farms for finishing. The finished hogs were then sold to IBP, Inc. for processing.

The Iowa Attorney General challenged the transaction as a sham. The Iowa legislature amended the law effective July 1, 2004, to tighten the contracting loophole by prohibiting processors from “directly or indirectly contracting for the care and feeding of swine in this state.” The amendment also expanded the exemption for cooperatives organized under Iowa law. The law was further amended in 2002 (again with an effective date of July 1, 2004) to prohibit swine processors from financing swine operations in Iowa or financing a person who, either directly or indirectly, contracts for the care and feeding of swine in Iowa. The 2002 amendment also expanded the definition of “processor” to include an individual who either holds, or within the past two years has held, an executive position in a processor that has direct or indirect control of processing operations valued at over $260 million. Based upon the amended statutory language, the Iowa Attorney General advised Smithfield that it would be in violation of the law as of July 1, 2004, unless they discontinued their operations in the state. In response, Smithfield challenged the constitutionality of the amended Iowa law on “dormant commerce clause” grounds.

The “Dormant Commerce Clause”

The Commerce Clause of the U.S. Constitution (Article I, §8, Clause 3) forbids discrimination against commerce, which repeatedly has been held to mean that the state and localities may not discriminate against the transactions of out-of-state actors in interstate markets even when the Congress has not legislated on the subject. The overriding rationale of the commerce clause was to create and foster the national market principles with federalism, and was never intended to eliminate the states’ power to regulate local activity, even though it is incidentally related to interstate commerce. Indeed, if state action also involves an exercise of the state’s police power, the impact of the action on interstate commerce is largely ignored. Absent an exercise of a state’s police power, the courts evaluate dormant commerce clause claims under a two-tiered approach. If the state has been motivated by a discriminatory purpose, the court bears the burden to show that it is pursuing a legitimate purpose that cannot be achieved with a nondiscriminatory alternative. However, if the state regulates without a discriminatory purpose but with a legitimate purpose, the provision will be upheld unless the burden on interstate commerce is clearly excessive in relation to the benefits that the state derives from the regulation.

The Court’s “Dormant Commerce Clause” Analysis

The court opined that the amended version of the law facially discriminated against Smithfield, and was enacted with a discriminatory purpose to eliminate Smithfield from operating in Iowa. The court also found a discriminatory purpose in the amended provision’s exemption for cooperatives organized under Iowa law. The court went on to state that Iowa’s attempt to protect family farmers by restricting vertical integration in the hog industry was disingenuous, did not serve a legitimate state purpose, and constituted nothing more than unconstitutional economic protectionism.

Serious questions can be raised concerning the court’s analysis. Clearly, the test is whether the Iowa provision has an extraterritorial reach that imposes restrictions on packers attempting to own, control or operate a feedlot outside the state of Iowa. It appears that Smithfield can easily avoid the impact of the Iowa law by not attempting to own, control or operate an Iowa feedlot in ways the statute forbids by contracting with producers outside Iowa’s borders. In that event, the Iowa restriction would be constitutional on dormant commerce clause grounds. Similarly, the statute makes no distinction between in-state and out-of-state processors, but prohibits specific conduct by all processors regardless of location. The only exception is for processors organized as a cooperative under the Iowa laws. Importantly, Iowa law provides that a foreign cooperative may be organized under Iowa law as an Iowa cooperative without being physically present in Iowa. Thus, the court’s claim that the legislation discriminates between Iowa and non-Iowa cooperatives seems questionable. To operate in Iowa within the parameters of the law, Smithfield would need to reorganize its business enterprise in the cooperative form. Thus, the law does not prevent the conduct that Smithfield is desirous of engaging in, but merely requires that it be conducted in a specific organizational form with sufficient farmer ownership.

The court seemingly downplayed the rationale of the state in enacting restrictions on vertical integration in pork processing in Iowa. The United States Court of Appeals for the Eighth Circuit (the court that will hear the appeal in this case) has noted that preservation of the family farm and the rural economy are legitimate reasons for state legislation. Also, the rationale for such legislation has been well documented. Likewise, the preamble to Iowa Code § 9H.2 states that the purpose of the law is “… to preserve free and private enterprise, prevent monopoly, and protect consumers.” That would appear, under the Eighth Circuit test, to be a legitimate state interest.

*Agricultural Law Manual (ALM).*
What Does the Future Hold?
A ban on packer ownership of livestock has been proposed at the federal level and has passed the U.S. Senate on two occasions. If the Iowa court’s opinion is upheld on appeal, it could undermine existing ownership bans in other states, and forestall additional states from attempting to pass similar laws. Also, the opinion could increase pressure to pass federal legislation banning packer ownership.

In any event, the court’s decision is important for the future structure of agriculture and what state governments can do, if anything, to help shape that structure.

FOOTNOTES
1 No. 4:02-cv-90324 (S.D. Iowa Jan. 22, 2003). The U.S. District Court for the Southern District of Iowa (Pratt, J.) entered an order on January 30 granting the state's request to stay the opinion in the case until the case is finally decided on appeal.
2 Iowa Code § 9H.2.
5 Id.
6 Id.
7 Murphy Farms also furnished Prestage-Stoecker with all necessary supplies and employees.
8 In early 2002, the Iowa District Court held the formation of Stoecker was valid and that neither Smithfield nor Prestage-Stoecker had violated Iowa Code § 9H.2.
9 Iowa Code § 9H.2(B)(1)(B).
10 Iowa Code § 9H.1 (19)(b).
11 See, e.g., Dean Milk Co. v. Madison, 340 U.S. 349 (1951) (holding as unconstitutional a city ordinance prohibiting the sale of milk in the city unless it had been bottled at an approved plant within five miles of the city); Hunt v. Washington State Apple Advertising Commission, 432 U.S. 333 (1977) (state statute requiring all closed containers of apples sold or shipped into the state to bear “no grade other than applicable U.S. grade or standard” held an unconstitutional discrimination against commerce).
12 See, e.g., American Meat Institute, et. al. v. Barnett, 64 F. Supp.2d 906 (D. S.D. 1999) (South Dakota price discrimination statute declared unconstitutional because it applied to livestock slaughtered in South Dakota regardless of where the livestock was purchased).
13 See, e.g., Huron Cement Co. v. Detroit, 362 U.S. 440 (1960) (state legislation designed to maintain clean air constituted legitimate exercise of police power allowing state to act in many areas of interstate commerce).
14 Id. A strong argument can be made that the Iowa legislature, in amending Iowa Code §9H.2, was also acting pursuant to its police power to protect Iowans from adverse health and environmental effects of large-scale, vertically integrated hog operations owned or controlled by packers. In that event, the impact of the law on interstate commerce would be less of a concern.
16 See, e.g., Pike v. Bruce Church, Inc., 397 U.S. 137 (1970)(state law prohibiting interstate shipment of cantaloupes not packed in compact arrangements in closed containers, even though furthering legitimate state interest, held unconstitutional due to substantial burden on interstate commerce).
17 Iowa Code § 9H.2.
18 The court made much of statements during the 2002 legislative session of the bill’s sponsor, Senator Stewart Iverson, that the legislature would attempt to amend § 9H.2 in response to a court decision permitting Smithfield to finance an Iowa-based hog producer.
19 See, e.g., Hampton Feedlot, et. al. v. Nixon, 249 F.3d 814 (8th Cir. 2001) (Missouri livestock price reporting law upheld as constitutional because statute indifferent to livelihood sales occurring outside Missouri and packers could easily purchase livestock other than in Missouri to avoid the impact of the provision).
20 See Hampton Feedlot, et. al. v. Nixon, 249 F.3d 814 (8th Cir. 2001)(upholding against dormant commerce clause challenge a state livestock marketing law).
23 See comments of Senator Grassley, Des Moines Register, Jan. 24, 2003, p. 1D.

TAXATION OF LIVESTOCK COMPENSATION PROGRAM PAYMENTS
By Roger A. McEowen
In the fall of 2002, the USDA announced the creation of the Livestock Compensation Program (LCP) designed to provide financial assistance to those livestock producers suffering from extreme drought in certain parts of the country. Signup began on October 1, 2002, with the program available to those in counties that received primary disaster designation due to drought in 2001 or 2002, as well as those in counties that had disaster designation requests pending as of September 19, 2002, that were subsequently approved.

The amount of payments under the program is based on standard feed consumption data for each eligible type of livestock (beef cows, dairy cows, stockers, buffalo and belfalo, sheep and goats), with the payment rate set at $18.00
per animal consuming unit. The animals must have been owned for 90 days or more before and/or after June 1, 2002.

Reports have surfaced that LCP payments are not subject to income tax. Unfortunately, there is no specific statutory exclusion for disaster payments. Apparently, the belief that LCP payments are not taxable is based upon a belief that LCP payments constitute welfare. While various types of disaster payments made to individuals have been excluded from gross income under a general welfare exception, see, e.g., Rev. Rul. 98-19, 1998-1 C.B. 840, that exception only applies if the payments are made under legislatively provided social benefit programs for the promotion of the general welfare. Indeed, in Rev. Rul. 76-144, 1976-1 C.B. 17 and Rev. Rul. 75-246, 1975-1 C.B. 24 the IRS addressed the general exception from income for welfare benefits received by individuals from governmental units under legislatively provided social benefit programs. However, in the rulings, IRS noted that payments under governmental programs that represent compensation for lost wages or lost profits are includible in gross income. For instance, under I.R.C. § 85, the exception from income for welfare benefits is made inapplicable to unemployment compensation. In addition, the legislative history of I.R.C. § 139(b)(4) states that the exclusion does not apply to payments that are in the nature of income replacement. I.R.C. § 139(b)(4) codifies the general welfare exception for payments to individuals in connection with a qualified disaster.

Consequently, there is little doubt that LCP payments constitute income replacement and are, therefore, subject to income taxation in the hands of the recipient.

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CASES, REGULATIONS AND STATUTES

by Robert P. Achenbach, Jr.

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BANKRUPTCY

GENERAL-ALM § 13.03.*

ESTATE PROPERTY. The debtor owned an interest in an ERISA qualified I.R.C. § 401(k) pension plan. Although the IRS agreed that the plan was not part of the bankruptcy estate, the IRS argued that the plan was subject to a tax lien such that the tax lien was a secured claim. The court held that the plan was not estate property for any bankruptcy purpose, including securing a tax lien. In re Wingfield, 284 B.R. 787 (E.D. Va. 2002).

FEDERAL TAX-ALM § 13.03[7].*

DISCHARGE. The debtor failed to file income tax returns for two tax years and the IRS made assessments based upon substitute returns created by the IRS. The taxpayer then filed income tax returns which used the amounts assessed by the IRS as the taxes owed. The IRS entered into an installment payment agreement with the taxpayer but the taxpayer failed to complete the payments and filed for bankruptcy. The court held that the taxes were nondischargeable because the taxpayer’s late returns did not qualify as returns for purposes of Section 523(a)(1) since they did not add to the information already included on the substitute returns. In re Weintraub, 2003-1 U.S. Tax Cas. (CCH) ¶ 50,195 (Bankr. M.D. Fla. 2003).

The taxpayer failed to file income tax returns for 1988 through 1997. The IRS made assessments based on substitute returns it constructed. One year later the taxpayer filed income tax returns for the missing years, and the IRS treated the returns as amended returns and reduced the assessment. The court held that the returns filed by the taxpayer were considered returns under Section 523(a)(1) because the returns were accepted as amended returns and affected the amount of tax assessed. In re Izzo, 2003-1 U.S. Tax Cas. (CCH) ¶ 50,190 (Bankr. E.D. Mich. 2002).

FEDERAL AGRICULTURAL PROGRAMS

CROP INSURANCE. The plaintiffs were a group of farmers who purchased or attempted to purchase a crop revenue coverage (CRC) insurance policy for their durum wheat during the 2001 crop year. The FCIC determined that a base price for durum wheat could not be established without an illegal amendment to the policy and terminated the policy. The policy provided for determination of the base price on the September futures contract, if it included at least 15 days of daily settlement prices. If the September futures contracts do not contain at least 15 trading days, then the July futures are used, again requiring at least 15 trading days. The trading days actually occurred in the previous February and November. In this case, the September and July futures together did not have a total of 15 trading days. The FCIC argued that this prevented any policy from being issued. The plaintiffs argued that the FCIC could have used as many of the March futures trading days as needed to make 15 trading days. The court held that the FCIC interpretation of the policy was correct and restricted the trading days to September and July only. Because the CRC policy itself could not be changed, termination was the proper remedy. Kuster v. Veneman, 226 F. Supp.2d 1190 (D. N.D. 2002).

EXOTIC NEWCASTLE DISEASE. The APHIS has issued interim regulations amending the exotic Newcastle disease regulations by quarantining Clark County and a portion of Nye County in Nevada and prohibiting or restricting the movement of birds, poultry, products, and materials that could spread exotic Newcastle disease from the quarantined area. 68 Fed. Reg. 3375 (Jan. 24, 2003).
FEDERAL ESTATE AND GIFT TAX

ADMINISTRATIVE EXPENSES. The decedent’s estate claimed deductions for interest on overpayment of estate tax, attorney’s fees, executor’s fees, and miscellaneous expenses. The IRS argued that the interest was not deductible because the interest would eventually be returned as a refund. The court originally held that all the interest was deductible because it was already paid and any refunded portion would be included in income when refunded. The other expenses were approved by the probate court but the IRS challenged the expenses for lack of substantiation. The court held that the acceptance of the validity of the expenses by the state court was sufficient evidence to support the deductions. On reconsideration, the court held that an interest deduction was allowed only for the portion of the interest paid which was not refundable. Helis v. United States, 2002-2 U.S. Tax Cas. (CCH) ¶ 60,445 (Fed. Cls. 2002), on reconsideration, 2003-1 U.S. Tax Cas. (CCH) ¶ 60,454 (Fed. Cls. 2003).

DISCLAIMER. The decedent’s children, grandchildren and surviving spouse disclaimed fractional interests in various bequests from the decedent. The IRS ruled that the disclaimers were effective. Ltr. Rul. 200303020, Sept. 30, 2002.

TRANSFER WITH RETAINED POWERS. The decedent had transferred assets to a family limited partnership in exchange for a limited partnership interest. The partnership agreement gave the decedent the power to designate a new general partner who did not owe a fiduciary duty to any partner. The court held that the assets were included in the decedent’s estate because the power to control the general partner was a power to control who received the benefits of the assets. The court also held that the transfer was not a bona fide sale because there were no arm’s-length negotiations and the decedent received no consideration for the transfer other than a “recycling” of the assets into a partnership interest. Kimbell v. United States, 2003-1 U.S. Tax Cas. (CCH) ¶ 60,455 (N.D. Tex. 2003).

FEDERAL INCOME TAXATION

ACCOUNTING METHOD. The IRS has announced plans to issue amendments to the regulations governing use of the nonaccrual experience (NAE) method of accounting. The IRS has provided advance notice of the probable amendments which include: (1) procedures to change the method of accounting for taxpayers who no longer qualify to use a NAE method; (2) two safe harbor NAE methods that will be presumed to clearly reflect the taxpayer's NAE; (3) for taxpayers who qualify to use a NAE method but wish to compute their NAE using a formula other than the two safe harbors provided, the requirements that must be met in order to use an alternative formula to compute their NAE; and (4) for taxpayers who wish to change to a different NAE method, the procedures necessary to obtain automatic consent of the IRS to change to one of the safe harbor NAE methods or to an alternative NAE method that clearly reflects their experience. Notice 2003-12, I.R.B. 2003-__.

COURT AWARDS AND SETTLEMENTS. The taxpayer had filed suit against an employer for wrongful termination. The taxpayer signed a contingency fee agreement with the taxpayer’s lawyers, who received one-third of the initial judgment and an hourly rate for the appeal. The taxpayer excluded the amount paid to the lawyers under the contingency fee agreement. The court acknowledged a split in authority on this issue and a lack of authority from the Second Circuit Court of Appeals. The court held that the contingency fee payment was not included in the taxpayer’s income because the fee was never a personal obligation of the taxpayer nor was that portion of the judgment ever in the control of the taxpayer. The court focused on the taxpayer’s rights to the money at the time the contingency fee agreement was executed and noted that the taxpayer had no right to the money at that time. Raymond v. United States, 2003-1 U.S. Tax Cas. (CCH) ¶ 50,196 (D. Vi. 2002).

DISABILITY PAYMENTS. The taxpayer was retired and received disability annuity payments from a former
employer. The taxpayer did not include the payments in income. The court held that the payments were included in income because the taxpayer failed to show that the amounts were attributable to contributions made by the taxpayer. Laws v. Comm'r, T.C. Memo. 2003-21.

EARNED INCOME CREDIT. The IRS has reminded taxpayers that changes in the earned income tax credit law will expand the number of low-income working taxpayers, especially military personnel, who qualify for tax relief for 2002. To be eligible for a full or partial credit, a taxpayer must have an adjusted gross income of less than: (1) $33,178 ($34,178 married filing jointly) and two or more qualifying children; (2) $29,202 ($30,202 MFJ) and one qualifying child; or (3) $11,060 ($12,060 MFJ) with no children. The maximum earned income credit is $4,140 for families with two or more qualifying children, $2,506 for families with one qualifying child and $376 for an individual without children.

PARTITION OF PROPERTY. The taxpayers were two parents, one of their children and a trust for another child. The four taxpayers owned a property as joint tenants, tenants in common or undivided fee interest in a portion of the property or a life estate in the property. The taxpayers split the property into parcels equal in value to their previous interest in one portion of the property. The IRS ruled that the partition of the property was not a sale or exchange and did not result in recognition of gain. IR-2003-12.

SAFE HARBOR INTEREST RATES

February 2003

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SALE OF RESIDENCE. Under the final regulations issued for the exclusion from income of gain on the principal residence, see I.R.C. Sec. 121, homeowners are not required to allocate any part of the gain to the business portion of their home on sale, so long as the office was within the dwelling unit. This can be of great significance on sale of the residence. Remember, to qualify for the home office deduction, the area must be used regularly and on an exclusive basis for business purposes as the principal place of business for any trade or business of the taxpayer. However, a taxpayer must still pay tax on the gain equal to the depreciation allowed or allowable after May 6, 1997. See I.R.C. Sec. 121(d)(6). 67 Fed. Reg. 78,358, December 24, 2002, adding Treas. Reg. 1.121-1(e)(1).

TAX SHELTERS. The taxpayer invested in a farm tax shelter partnership which was determined to be a sham by the IRS. The taxpayer was assessed for taxes and assessed enhanced interest under I.R.C. § 6621(c) because the partnership was determined to be a sham. The court held that imposition of enhanced interest required a showing that the partnership lacked economic substance and the taxpayer lacked any profit motive in making the investment. Because the court held that the taxpayer had a profit intent when the investment was made, the court held that the assessment of enhanced interest was improper. Weiner v. United States, 2003-1 U.S. Tax Cas. (CCH) ¶ 50,191 (S.D. Tex. 2002).
TRUSTS. The taxpayers, husband and wife, transferred their sole proprietorship business, residence and bank accounts to several business trusts. Although the trusts filed tax returns, the taxpayers did not report any self-employment income or income received from the trusts. The court held that the trusts were shams and upheld the IRS assessment of taxes and accuracy-related penalties. Nichols v. Comm’r, T.C. Memo. 2003-24.

STATE REGULATION OF AGRICULTURE

GRAPE CHECKOFF. The California legislature established the California Table Grape Commission by statute for the promotion of California fresh table grapes. The Commission had the authority to and did levy assessments to fund generic advertising, marketing, market research and merchandising of table grapes. The plaintiffs were sellers of brand name table grapes and were assessed the marketing fees on their grapes. The plaintiff brought suit, arguing that the assessments violated their First Amendment rights. The court held that the grape fee and promotional program in California was similar to the mushroom program in United States v. United Foods, Inc., 533 U.S. 405 (2001) in that the grape and mushroom fee and promotion programs were not part of a broader collective enterprise that displaced many aspects of the business activity of the industry. Delano Farms Co. v. California Table Grape Commission, No. 00-16778 (E.D. Calif. 2003).

STATE TAXATION

AGRICULTURAL USE. The plaintiff operated two greenhouses on two neighboring parcels of land. The operation consisted of indoor and outdoor growing areas and a retail outlet, although most of the plants were sold at wholesale. The indoor growing facilities used soil from other sources. The property was originally taxed as commercial property but the plaintiff obtained a ruling from the Board of Assessment Appeals that the land was taxable as agricultural land. Under Colo. Const. art. X, § 3(1)(a) and Colo. Rev. Stat. § 39-1-103(5)(a), agricultural land is defined as property used for two years as a farm or ranch. Colo. Rev. Stat. § 39-1-102(1.1) defines agriculture as including horticulture. The BAA had ruled that, because the greenhouses produced horticultural products, the properties were farms. The court noted; however, that Colo. Rev. Stat. § 39-1-102(3.5) requires that the agricultural products originate from the land’s productivity. Therefore, the court held that the property was not a farm and was not entitled to be taxed as agricultural property. Welby Gardens Co. v. Colorado Board of Assessment Appeals, 56 P.3d 1121 (Colo. Ct. App. 2002).

The plaintiffs owned rural land which was classified as agricultural for real property tax purposes. The property was used by the plaintiffs as a crop and livestock farm. In 1999 the county assessor changed the classification from agricultural to residential based on the increased market value for rural properties for residences. The plaintiffs challenged the reclassification, and while their appeal was pending before the Iowa Supreme Court, they received their 2000 assessment, again based upon a residential classification and including an increase in valuation. The plaintiffs appealed the 2000 classification and obtained a favorable ruling from a state District Court. The plaintiffs then dismissed their 1999 classification appeal. The assessor argued that the doctrine of res judicata, specifically issue preclusion, prevented the plaintiffs from challenging the 2000 classification. The court held that the classification each tax year was a separate cause of action; therefore, the 1999 classification and appeal did not adjudicate the classification for 2000. However, the court held that the primary issue was whether the use of the land changed from 1999 to 2000 because a classification is presumed to be correct absent any change in use. Since the plaintiffs admitted that the use of the property had not changed, the 1999 residential classification was presumed to continue to 2000; therefore, the District Court’s ruling that the land was agricultural was improper. Thus, in Iowa, once a property tax classification has reached final adjudication, it has the effect of res judicata for subsequent tax years absent evidence of change of use. Query: The court stated that the property had been used for crops and livestock production since 1983 and did not point to any evidence from the assessor to support the residential classification except the tendency of people to want to live in the country; so how can the plaintiffs change their use to farming if they are already farming? This paradox was created by this case because the court allowed the classification as proof of use; whereas, the assessor’s reclassification was not based on any change of use but primarily on a change in the market for rural property. The agricultural use valuation laws are designed to help farmers keep their land in agriculture, even though there is more value in selling it for residential use. Here the plaintiffs are now encouraged to remove their land from farming and sell to residential developers. Colvin v. Story County Board of Review, 653 N.W.2d 345 (Iowa 2002).

PERSONAL PROPERTY. The plaintiffs were several companies which owned personal property used in agricultural, trade or businesses. Under Ariz. Rev. Stat. § 42-11127 (1999), “assessment accounts” were each allowed a $50,000 exemption from tax for personal property used in agricultural, trade or businesses at each business location. The court held that the statute violated the Arizona Constitution, Ariz. Const. art. 9, § 2(6), which has been held to limit the $50,000 exemption to all personal property owned by a single taxpayer at all locations. Maricopa County v. Kinko’s, Inc., 56 P.3d 70 (Ariz. Ct. App. 2002).

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