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Preparing for a crop insurance review of APH yields

by Steve Johnson, extension farm management specialist, 515-957-5790, sdjohns@iastate.edu

A large number of Iowa farmers are likely to make a claim for crop insurance losses as a result of the 2012 drought. A number to keep in mind is a \$200,000 claim. At that level or higher, for at least one crop in a county, a review will be triggered as required by the USDA Risk Management Agency. That \$200,000 amount could be due to loss of either production or price, depending on the type of policy purchased.

Those farmers will need to provide actual production history (APH) records, which will include an APH review for 2009, 2010 and 2011 crops, as well as the 2012 crop to be harvested.

Prior to 2012, the trigger amount was a loss of greater than \$100,000. Even with the dollar amount of indemnity payment doubling, a large number of reviews are anticipated. Reviews

will be carried out by insurance company representatives. Farmers are advised to start collecting documents as soon as possible to help expedite the review. These reviews are normally triggered once a claim has been worked and determined to be over the \$200,000 threshold for at least one crop in a county.

This review process typically is done during harvest. The purpose of the review is to validate reported production, which means a variety of documents can be utilized, including settlement sheets, load records, bin measurements, loss papers, livestock feeding records or other approved records that would verify acres and production.

The farmer's main responsibility is to provide three years of verifiable production evidence for the units of the crop being reviewed. Claims for 2012 will not be paid

until this process is completed. This could delay receiving an indemnity payment at a time that many farmers have cash flow constraints resulting from the drought.

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Handbook updates

For those of you subscribing to the handbook, the following new updates are included.

Livestock Enterprise Budgets for Iowa - 2012 – B1-21 (22 pages)

Iowa Farmland Rental Rates 1994-2012 – C2-09 (1 page)

Please add these files to your handbook and remove the out-of-date material.

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Preparing for a crop insurance review of APH yields, continued from page 1

Consider the use of these recommendations to prepare for an APH review and for any spot checks or audits in the future:

- Keep all of your production records for at least three years.
- Separate production records by crop, practice, type, unit and the crop year in which the production actually occurred.
- Sort production records by the FSA Form-578 (to identify each crop and separate them by unit and county), settlement sheets and soft records.
- If your grain is farm-stored, have grain bin measurements taken by a third party representative, including 2012 production.
- If you had the grain weighed before you stored or sold it, provide any scale tickets that contain weight and volume measurements.
- If scale tickets are used from grain carts, the print on these tickets can become unreadable with time; make photocopies.
- Do not split truckload tickets and bins between units unless you have soft records for production that is commingled.
- Print combine monitor records and keep them with your settlement sheets. These records must show location of the field, name of crop, date and pounds or bushels harvested. Also, records should provide the unit number that correlates with the field identification.
- Even if you have only a share of a crop, make sure that you will be able to provide records for the entire crop if necessary.

- Feed production records should be kept at the time the grain is fed, preferably as a record ledger with dates and amount fed.
- Keep and file all signed appraisals.
- If a claim will total \$500,000 or more, RMA will be notified and a representative can be chosen to participate in the review.

Note that soft records are primarily used for breaking out production by a unit such as load records and yield monitor records, while hard records would be actual production numbers such as settlement sheets, scale tickets, appraised production, adjuster measured production, or feed production records.

Farmers that anticipate a claim of \$200,000 or more for at least one crop in a county should begin work with their crop insurance agent to prepare for the APH review.

Find more drought-related resources on the ISU Extension and Outreach Dealing with Disasters website, <http://www.extension.iastate.edu/topic/recovering-disasters>.





S corporations and the “two-year” rule

by Neil E. Harl, Charles F. Curtiss Distinguished Professor in Agriculture and Emeritus Professor of Economics, Iowa State University, Ames, Iowa. Member of the Iowa Bar, 515-294-6354, harl@iastate.edu

When Subchapter S of the Internal Revenue Code was enacted in 1958, the income tax rates were significantly different than in 2012. In 1958, the top corporate federal income tax rate was 52 percent and the top individual rate was 91 percent. The S corporation concept gained popularity among small businesses and currently ranks as the most popular corporate structure in the United States.

Notwithstanding its popularity, the S corporation concept still embraces problem areas, perhaps the most notable of which is the fact that some S corporations pay unreasonably low salaries, reducing payroll taxes as earnings are removed as corporate distributions rather than wages and salaries. Another problem area is the ownership of S corporation stock by entities other than individuals. This article focuses on one of those problems, the “two-year” rule for S corporation stock ownership by some types of trusts after the death of an individual beneficiary.

Trusts permitted as shareholders

As originally enacted, Subchapter S limited eligible shareholders to those in a domestic corporation . . . which does not – (2) have as a shareholder a person (other than an estate) which is not an individual.” Over the years, that simple rule has been amended to allow certain trusts to be permitted shareholders –

- A grantor trust (technically a trust under subpart E of Part I of subchapter J of Chapter 1 of the Internal Revenue Code) which is treated “. . . as owned by an individual who is a citizen or resident of the United States” immediately before the death of the deemed owner . . . and which continues in existence after such death, but only for the 2-year period beginning on the day of the deemed owner’s death”

- A testamentary trust as transferee of stock under a will, “. . . but only for the 2-year period beginning on the day on which such stock is transferred to it”
- A voting trust
- An electing small business trust
- For Subchapter S banks and depository institutions, a trust which constitutes an individual retirement account including a Roth IRA until October 22, 2004
- A qualified Subchapter S trust with only one beneficiary
- Wholly owned subsidiaries

It is important to note that the first two categories – grantor trusts and testamentary trusts – are limited by the “two-year” rule – grantor trusts (for two years after death) and testamentary trusts (two years after the stock is transferred to the trust).

The “two-year” rule

The statute is clear as to the post-death period during which S corporation stock can be held by grantor trusts and testamentary trusts, although the provisions are not identical in terms of the period after death the stock can be held by the respective trusts. Both provisions use the term “but only for the 2-year period.” However, some have argued that the term during which trust ownership is allowed can extend beyond the two-year limit by invoking I.R.C. § 641. Regulations issued under that Code section state—

“The period of administration or settlement [of an estate] is the period actually required by the administrator or executor to perform the ordinary duties of administration. . . whether the period is longer or shorter than the period specified under the

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applicable local law for the settlement of estates. . . If the administration of an estate is unreasonably prolonged, the estate is considered terminated for Federal income tax purposes after the expiration of a reasonable period for the performance by the executor of all of the duties of administration."

One question is whether the I.R.C. § 641 regulations trump the very specific language of I.R.C. § 1361(c)(2)(A) and have relevance to how long S corporation stock can be held after death in a grantor trust or testamentary trust. The regulations under I.R.C. § 641 were proposed and adopted in 1956, before the enactment of Subchapter S of the Internal Revenue Code, and neither section makes reference to the other provision. However, the I.R.C. § 1361 regulations do refer to I.R.C. § 641.

The regulations under I.R.C. § 1361(c)(2)(B) are ambiguous. Those regulations state that a grantor trust that continues in existence after the death of the deemed owner is an eligible shareholder ". . . but only for the 2-year period beginning on

the day of the deemed owner's death." The regulation goes on to state ". . . a trust is considered to continue in existence if the trust continues to hold the stock pursuant to the terms of the will or trust agreement, or if the trust continues to hold the stock during a period reasonably necessary to wind up the affairs of the trust." [Id.] Yet the preceding sentence from the regulations merely states that the trust ". . . is considered to continue in existence" ... "if the trust continues to own stock, not that the shareholder is a permissible shareholder of an S corporation." The fact that the regulations under I.R.C. § 1361 seemingly contradict the statute raises a question as to the validity of the regulations.

The consequences of violating the requirements of I.R.C. § 1361(c)(2)(A) can be severe – the S election is terminated inasmuch as the corporation ceases to be a "small business corporation." Therefore, the prudent course would appear to be to follow the statutory language – do not allow trust ownership (grantor trusts and testamentary trusts) to continue beyond the two-year period.



Evaluation and selection of job candidates

by Melissa O'Rourke, farm & agribusiness management specialist, 712-737-4230, morourke@iastate.edu

Significant time and energy goes into the employee recruitment and interview process. The farm employer has invested effort in various stages such as: (1) analyzing labor needs; (2) writing position descriptions and recruiting candidates, and (3) scheduling and conducting well-planned interviews. When the interview process is complete, the employer will check references, evaluate the candidates, and hopefully extend a job offer.

The process of evaluating the candidates following the interview and reference-checking stage should

be given the same attention as other steps in the employment process. Ideally, the recruitment and interview steps have yielded several candidates from which to choose. It is important to reflect on the candidates and take the time to make a good selection. Farmers know the investment necessary to hire and train employees.

First, go back to the position description and review the necessary qualifications for the job. Assess how well each candidate meets the basic qualifications and rank them on this basis.

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Second, consider and rank the candidates in regard to other traits that you want to see in your team members. These include attributes such as dependability, positive attitude, aptitude and ability to get along with co-workers. Your interview process and reference checks will help you to gather information on these characteristics.

In an ideal world, the job applicant who is most highly qualified in terms of experience and education will also possess the skills to work well with others along with dependability, a positive attitude and willingness to learn. However, we sometimes find extremely qualified individuals who lack the attitudinal skills.

Surveys show that a number of top reasons for employee termination are unrelated to job task performance, but rather connected to employee inability to appropriately interact with co-workers and supervisors. Problems include the refusal to follow directions, talking too much and causing conflict with co-workers, resulting in reduced productivity. Interview techniques can give the employer insight into these issues and assist in evaluating the candidates. Reference checks can also be of some assistance.

As you narrow your choices, remember that a job applicant with the right attitude and people skills may be a better choice even if the individual is lacking a specific job skill. It may be worth the employer's time and investment to provide some training for particular tasks to a willing learner. It is much more difficult – if not impossible – for the employer to teach attitudinal skills that were missing long before the applicant came to your farm. It may be preferable to select the candidate who will fit into the make-up of your farm team if you can provide training for work duties.

Once your employment offer has been accepted, bring the new employee in as soon as possible to complete the paperwork, forms and procedures necessary for compliance with state and federal law. See **Ag Decision Maker File C6-58, Checklist for Iowa Agricultural Employers**, for a list of those forms and links to instructions. Get your new employee off to a good start with a planned orientation program, as well as initial and ongoing training opportunities.

As always, feel free to contact me with any of your farm employee management questions.

Research briefs from the Department of Economics

AAEA recognizes diversity of department talent

The Department of Economics at Iowa State University was honored through numerous recognitions at the recent Agricultural & Applied Economics Association (AAEA) 2012 Awards & Fellows Recognition Ceremony in Seattle, Washington, August 12-14.

John Schroeter, department interim chair and professor of economics, said, "I was able to attend the awards program in Seattle and had the pleasure of seeing several of our department's faculty and staff recognized for accomplishments in a broad range of categories. It was a very nice tribute to both the

quality and the diversity of the work that we do in agricultural and applied economics."

Awardees include the following:

- Professor Helen Jensen - AAEA Fellow
- Professor Brent Kreider (shared award with two co-authors) - Outstanding Applied Economic Perspectives & Policy Article Award
- Professor GianCarlo Moschini - Quality of Communication Award
- Professor Wallace Huffman - Quality of Communication Award (Honorable Mention)
- Professors Joseph Herriges, Catherine Kling, Dan Otto; John Downing (ISU) and Kevin Egan (University of Toledo) - Bruce Gardner

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Memorial Prize for Applied Policy Analysis

- Farm management team members Tim Eggers, J. Bob Wells and Kelvin Leibold (shared with others from the University of Missouri and the University of Illinois) - Distinguished Extension/Outreach Program Award
- Agricultural Business Club - Outstanding Undergraduate Club and Academic Quiz Bowl Champions

The AAEA, formerly the American Agricultural Economics Association, is the main professional association serving the interests of members working in agricultural and broadly related fields of applied economics.

New report by Eathington/Swenson explores impacts of drought on Iowa's economy

With all of Iowa's counties considered to be in severe drought and a third suffering exceptional drought conditions, what are the anticipated impacts on Iowa's economy? Dave Swenson, associate scientist with the Department of Economics, and Liesel Eathington, director of Iowa Community Indicators Program (ICIP), have prepared a brief through Iowa State University Extension and Outreach designed to address the potential outcomes. To learn more, go to: <http://www.econ.iastate.edu/sites/default/files/publications/papers/p15292-2012-08-08.pdf>.

Updates, continued from page 1

Internet Updates

The following information files have been added or updated on www.extension.iastate.edu/agdm.

Drought Damage Can Affect Crop Insurance Yields – A1-59 (2 pages)

Energy and Economic Returns by Crop Rotation – A1-90 (8 pages)

Current Profitability

The following tools have been updated on www.extension.iastate.edu/agdm/info/outlook.html.

Corn Profitability – A1-85

Soybean Profitability – A1-86

Iowa Cash Corn and Soybean Prices – A2-11

Season Average Price Calculator – A2-15

Ethanol Profitability – D1-10

Biodiesel Profitability – D1-15

Returns for Farrow-to-Finish – B1-30

Returns for Weaned Pigs – B1-33

Returns for Steer Calves – B1-35

Returns for Yearling Steers – B1-35

... and justice for all

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Whitten Building, 14th and Independence Avenue, SW, Washington, DC 20250-9410 or call 202-720-5964.

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