

AGRICULTURAL LAW, TAXATION & POLICY: KEY ISSUES AND DEVELOPMENTS

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Executive Summary

- I. Illinois Grain Code Changes and the Illinois Grain Insurance Fund (IGIF)
 - Public Act 93-0225 provides more protection to farmers in the event of an Illinois grain dealer or warehouse failure, but the added protection comes at a cost.
 - The increased protection is in the form of more financial resources available to pay claims (the \$6,000,000 IGIF and a \$2,000,000 Reserve Fund), an increase in the Producer Claims eligible for payment, and greater Dept. of Agriculture oversight of Farmer Marketing Programs, etc.
 - The increase cost comes in the form of a new assessment on first sellers of grain at a rate of \$4 per \$10,000 of grain “settled for” after 2003; Illinois-licensed grain dealers will withhold the assessment at the time of settlement and remit the amounts collected to the Department of Agriculture on a quarterly basis.
- II. Liability Issues When Growing Genetically Engineered Crops
 - The law is not well-developed, but farmer versus farmer suits for economic losses arising from transgenic pollen drift are unlikely to be successful, provided the farmer fulfills all conditions on the label and licensing agreement, grows the crop in compliance with relevant state or local laws, and does not plant the crop with the intent of harming the neighbor; but some legal theories might support liability.
 - The liability risk might be reduced if a farmer gives notice of planting intentions, e.g., if asked, and exercises reasonable care to minimize pollen drift problems.
- III. The Non-StarLink Farmer Litigation
 - Farmers who filed timely claims and whose claims are approved will share in the \$110,000,000 court approved settlement of this class action litigation.
- IV. Jobs and Growth Tax Relief Reconciliation Act of 2003: Increased Depreciation
 - Temporary changes in “bonus depreciation” (increased to 50%) and the 1st year Code Section 179 election (max. increased to \$100,000) provide opportunities for faster tax “write-offs” of, e.g., machinery purchase costs, but there are limitations.
- V. 2003 Tax Act: Lower Rates Applying to Capital Gains and Dividends
 - The 2003 Act temporarily reduces the tax on long term capital gains to a maximum of 15%; the rate for taxpayers in the lower tax brackets will be 5%.
 - Tax rates applying to dividends are temporarily lowered in similar fashion.
 - The new tax law also affects income tax planning and estate tax planning.
- VI. Federal Agricultural Policy Issues
 - Depending on the preferences of the participants, selected topics from the following list will be discussed: (1) support payment limitations, (2) country of origin labeling, (3) conservation programs, (4) upgrading the Upper Mississippi and Illinois Rivers, or (5) the Energy Bill.