Willson & Pechacek, P.L.C. Newsletter

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Recent Changes to Tax Credit Rules for Leasing to Beginning Farmers

By Jamie L. Cox

Landlords who are interested in state tax credits for leasing to beginning farmers under the Beginning Farmer Tax Credit program should be aware that the deadline for applying for the tax credits has been moved up 30 days to September 1 from October 1, 2016. Therefore, landowners who have leases effective March 1 must apply for the tax credits by September 1 to receive those credits.

The leases must be for at least two years, and can be up to five years. Qualifying leases include agricultural land, depreciable machinery or equipment and breeding livestock and buildings.

In addition, the application fee for both cash rent and crop share leases will increase by $50 beginning July 1, 2016. The application fee will jump from $200 to $250, but the additional $50 per year for each year of a cash rent lease, and $100 per year for each year of a crop share lease, remains the same.

For example, after July 1 the application fee for cash rent leases will increase to $250 and the fee of $50 for each additional year of the lease will remain the same:

Cash Rent	Before July 1	After July 1
2 years	$300	$350
3 years	$350	$400
4 years	$400	$450
5 years	$450	$500

For crop share leases, after July 1 the application fee will increase to $250 and the fee of $100 for each year of the lease will remain the same:

Crop Share	Before July 1	After July 1
2 years	$400	$450
3 years	$500	$550
4 years	$600	$650
5 years	$700	$750

For more information about these tax credits you should contact your tax attorney.

"High on the Hog"—New Court Decision Affects Priority of Ag Liens for Lenders

By Paul Wilson

On May 27, the Iowa Supreme Court announced a decision that impacts agricultural feed dealers and banks. The case is entitled *Oyens Feed & Supply, Inc. v. Primebank* 879 N.W.2d 853 (Iowa 2016).

In this case, a farrow-to-finish hog operation declared bankruptcy, but the proceeds from selling its hogs were insufficient to satisfy the liens of a bank that had provided financing and a feed supplier. This set up a long-fought court battle between the bank and feed supplier.

The feed supplier had filed a financing statement with the Iowa Secretary of State to secure its liens for feed sold on credit. By filing a financing statement, Iowa Code Chapter 570A gives the feed supplier "super-priority," which means that it gets paid ahead of any other creditor.

The feed supplier believed that it should be paid the full purchase price of the hogs from the proceeds before the bank received any money under the Iowa Code. The feed supplier sued the bank in federal bankruptcy court, which sent two questions of state law to the Iowa Supreme Court: (1) whether the feed supplier should be paid its full lien amount first, and (2) whether the amount of money from selling the hogs should be offset by the costs to produce the hogs.

The feed supplier argued that according to the Iowa statute, a feed supplier has super-priority from 31 days

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Department of Labor Issues Long-Awaited New Overtime Rules: Now What?

By Jamie L. Cox

On May 18, 2016, the U.S. Department of Labor ("DOL") issued its final changes to the federal overtime regulations. The final regulations increase the minimum salary level required for exemption for salaried workers to $913 per week or $47,476 annually (previously $455 and $23,660, respectively), and establish a mechanism to automatically update the minimum salary level every three years, beginning January 1, 2020.

Employers must comply with the new regulations by December 1, 2016. For example, employers with a $40,000-salaried employee working 50 hours a week could either (1) increase the salary by $7,476 to reach the threshold, (2) limit the employee to 40 hours per week and assign the work to other employees, which may result in hiring more employees, (3) pay time-and-a-half overtime pay, which would amount to $15,000 per year, (4) modifying the employee's pay by adjusting the salary or hourly rate, or (5) paying a salary that compensates for more than 40 hours in a week. The option that works for a particular employer will depend on that employer's needs and the pay and time worked of its employees.

Raise salary to threshold. How it works: The employer simply increases the employee's current $40,000 salary to the new $47,476 threshold. Since a revised threshold will be published every three years, the salary may have to be adjusted subsequently to satisfy the threshold. Cost increase: For an employee with a $40,000 salary, the yearly labor cost increase would be $7,476 for 2016 with the potential to increase thereafter due to the threshold adjustments. Pros: The employee will undoubtedly be happy with the salary increase, and the position can be maintained as a salaried exempt position without paying overtime. Cons: The labor cost increase is significant for employees with a salary that is not close to the threshold, and the automatic threshold escalation may result in a required increase at least every three years. Makes sense for: Employees with salaries already near the $47,476 threshold.

Limit to 40 hours. How it works: The employee works a set schedule and is prohibited from working over 40 hours a week or may work overtime only upon receiving proper authorization which is provided only under limited circumstances. Cost increase: None, if the employee works no overtime. For employees who are allowed to work some limited overtime, cost increases will be small for the overtime they do work. Pros: The labor costs will not increase unless additional employees must be hired to cover for the reduced hours, and the employee's family will see them more. Cons: Limiting an employee who used to work more than 40 hours to less than 40 hours may require adjusting job responsibilities and/or assigning work to other staff, and may result in a need to hire more staff. Additionally, since enforcing a 40-hour limit can be difficult, but failure to do so may cause liability for unpaid overtime, we recommend implementing a detailed timekeeping policy. Makes sense for: Generally, only for salaried employees who have little need to work over 40 hours.

Pay salary plus time-and-a-half overtime pay. How it works: The employee formerly paid only by salary will now receive 1½ times his salary divided by 40 for every hour of overtime he works. Alternatively, converting the employee to an hourly rate of his former salary accomplishes nearly the same result, with the only difference being that the hourly employee would only be paid for actual hours worked and not the full salary if he did not work 40 hours. Cost increase: Potentially substantial -- the sample employee who works 50 hours per week would receive $15,000 more per year. Pros: The employee will be happy, and the calculation is easy. Cons: Labor costs will increase substantially depending on the number of employees affected and the number of overtime hours worked. Makes sense for: Generous employers with cash to spare.

Pay overtime at modified pay rate. How it works: The new regulations do not prevent employers from modifying an employee's pay to avoid significant pay increases. Therefore, employers may either lower the salary of the employee who will now receive overtime or convert him to an hourly rate that results in a similar amount of total pay to what he received before becoming eligible for overtime. For the sample employee, to maintain annual total pay of $40,000 for a salaried employee who works 50 hours per week, the employee's salary would need to be reduced from $769.23 to $559.60 per week. Likewise, if his rate of pay were converted to $13.99 per hour and he continued to average 50 hours per week while eligible for overtime pay, he would have an annual pay of $40,000. Cost increase: Potentially nothing, depending on the calculation and if the hours worked by the employee track previous hours.

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Changes to 2017 Tax Return Due Dates

By Lee Rankin

The Internal Revenue Service changed some of the filing dates for the 2017 filing season. Partnership returns are now due on March 15, a month earlier than before. C corporations (with the exception of a corporation with the fiscal year end of June 30) are now due the 15th day of the 4th month (previously the 3rd month) after year-end. The only change for trusts and estates is an extra 15 days on extension. Individuals and S corporations did not change at all. Also, it is important to note that no changes were made for estimated tax payment deadlines. Here is a summary with **changes in bold**:

Return Type	Year End	Old Due Dates (Old Extended Due Date)	New Due Dates (Extended Due Dates)	Comment
Individual Form 1040	Dec. 31	April 15 Oct. 15	April 15 Oct. 15	No Change
Trust or Estate Form 1041	Dec. 31	April 15 Sept. 15	April 15 **Sept. 30**	15 day addition to extension
Partnership Form 1065	Dec. 31	April 15 Sept. 15	**March 15** Sept. 15	Due date moved up one month
S Corporation Form 1120S	Dec. 31	March 15 Sept. 15	March 15 Sept. 15	No Change
C Corporation Form 1120	Dec. 31	March 15 Sept. 15	**April 15** Sept. 15	Due date moved forward one month
C Corporation Form 1120	June 30	Sept. 15 March 15	Sept. 15 **April 15**	Due date remains the same, but extra month on extension
C Corporation Form 1120	Other than June or Dec.	15th day of the 3rd month after year-end 15th day of the 9th month after year-end	15th day of the **4th month** after year-end 15th day of the **10th month** after year-end	Due dates moved forward one month

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prior to the date on which it filed its financing statement forward. The bank contended that super-priority under the Iowa Code only applies to feed sold during the 31-day period prior to the feed supplier's financing statement.

The bank further attempted to limit the feed supplier's recovery by arguing that the acquisition price of the hogs should be offset by the cost to produce the hogs such as facility maintenance costs, utilities, vet bills, wages, and gilt expenses. The feed supplier contended that the acquisition price of hogs born in such a facility should be zero, because the hogs were not purchased.

The Court concluded, based on the words of the statute, that super-priority for a feed supplier's agricultural only applies for the 31-day period prior to filing a financing statement. The Court also held that the acquisition price for a hog born in a farrow-to-finish facility should be zero and not offset by the costs to produce the hogs.

Based on this decision, holders of agricultural liens in Iowa must file financing statements with the Iowa Secretary of State within 31-days of selling agricultural products on credit to maintain super-priority. In this case, the feed supplier was not paid for about half of the feed it had sold on credit because it had failed to file financing statements every 31 days.

The message to agricultural lien holders is clear—be sure to file financing statements within 31 days of any sale on credit to protect your lien.

If you have questions regarding issues with agricultural liens, feel free to contact one of our attorneys.

Willson & Pechacek, P.L.C.
Newsletter

Willson & Pechacek, P.L.C.
421 West Broadway, Suite 200
P.O. Box 2029
Council Bluffs, Iowa 51502
(712) 322-6000
Website: www.willsonpechacek.com
Email: info@willsonpechacek.com

Branch Offices:
Carroll, Iowa (712) 792-0001
Harlan, Iowa (712) 755-1111
Oakland, Iowa(712) 482-6999
Treynor, Iowa (712) 487-3444
Clarinda, Iowa (712) 542-2141

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Pros: Adjusting the pay allows employers to minimize additional labor costs while maintaining the same hours worked for the employee. Cons: Morale – the employee may not like having to work a particular number of hours to receive the same amount of pay he did before the change. Also, a reduction in workload would cause a pay decline. Makes sense for: Employers for whom it is absolutely critical to prevent any increased labor costs or to better control the increase in labor costs.

Fixed salary for greater than 40 hours. How it works: Contrary to popular belief, the law does not require overtime pay at 1½ times an employee's salary divided by 40 for hours worked over 40. Instead, the appropriate calculation depends on the number of hours for which the salary is intended to compensate. If the salary is intended to compensate for 40 hours of work, then the employee must receive 1½ his hourly rate for hours worked over 40. If the employer intends the salary to compensate for a different amount of hours, it can designate in writing that an employee's salary is intended to compensate for a particular number of hours worked each week and the employee would only be entitled to ½ times overtime pay for hours worked over 40 up to that number. The employee would be entitled to 1½ times the regular rate for hours worked over that number. For the sample employee, if he kept the same salary and the employer designated that his salary was to compensate for 50 hours, he would receive overtime pay at a ½ rate for time worked between 40 and 50 hours. If he worked over 50 hours, he would receive pay for each hour at 1½ times his regular rate. Cost increase: If the employee worked 50 hours each week with his salary compensating him for 50 hours, he would receive an additional $76.90 each week which would amount to just short of $4,000 per year. This amount would be larger if he ever worked more than 50 hours because he would then receive time-and-a-half pay. Pros: Allows employers to maintain an employee's current salary without the substantial increased costs which would occur through time-and-a-half pay. Cons: Increases labor costs, albeit at a lower amount than time-and-a-half pay. Makes sense for: Employers who want to maintain an employee's salary with limited increased labor costs and whose employees work a fairly steady schedule.

Employers should carefully analyze their employees' pay and the most effective and appropriate method for complying with the new law. One available option includes an attorney-client privileged FLSA audit and pay analysis to discuss the exempt status and pay options for employees covered by the proposed regulation. You should contact your attorney with any questions about compliance with the new overtime law.