

SOUTH DAKOTA

LEGAL NOTES

NOVEMBER 2014 | INFO@SWIERLAW.COM | WWW.SWIERLAW.COM

South Dakota Estate Planning - What is “Portability”?

In 2012, Congress passed the American Taxpayer Relief Act, and with it, made the concept of “portability” permanent.

“Portability” is a federal estate tax device which provides (1) that any unused estate tax exclusions transfers to the surviving spouse and (2) the surviving spouse is able to use the remaining amount of exclusion for their estate.

Estates that are over the exclusion amount are taxed at a rate of 40%. In 2014, the estate tax exclusion is \$5.34 million for individuals and \$10.68 million for married couples. Portability allows the unused exclusion to pass to the surviving spouse by filing IRS Form 706 within nine months of the passing of the spouse.

Here is an example of how portability is used:

If wife passes away in 2014 with \$2 million of her exclusion unused then husband’s exclusion would total his own exclusion of \$5.34 million as well as \$2 million from his wife.

Remember, your estate is everything you own. It is your cars, land, collectibles, and other personal property. \$5.34 million can be accumulated rather quickly. Also, it is important to remember that this is a federal law, and that the permanence of this concept may not continue if Congress decides to change the law.





Swier Law Firm Files Class Action on Behalf of South Dakota Farmers to Recover Damages from Syngenta

Swier Law Firm recently joined several other leading law firms in the major corn-growing states by filing a class action lawsuit against Syngenta to recover losses that arose from the seed-and-chemical company's move to sell biotech seeds before the corn was approved by Chinese authorities.

The lawsuit, recently filed in the United States Federal District Court - District of South Dakota, alleges that U.S. corn farmers have been damaged by Syngenta's premature release of genetically-engineered MIR 162 corn seed, also known as Agrisure Viptera, into the U.S. market before the seed received import approval from China, a key export market.

Swier Law Firm's class action joins a nationwide class of corn farmers who grew, harvested, and sold non-MIR162 corn on a commercial basis since 2013, as well as on behalf of corn farmers in South Dakota, Illinois, Iowa, Missouri, Kansas, and Nebraska.

Read More About Swier Law Firm Files Class Action on Behalf of South Dakota Farmers to Recover Damages from Syngenta...

<http://www.reuters.com/article/2014/10/06/syngenta-seed-farmers-idUSL2NOS12KF20141006>



Estate Planning for South Dakota Farmers - Building a Strong Foundation

Just like a house, an estate plan requires a sturdy foundation to remain structurally sound for multiple generations. To succeed, your plan requires a floor, walls, and roof built on the foundation.

A recent article written by Paul Neiffer entitled "Leave A Legacy: Build a Structurally Sound Estate Tax Plan" provides a very practical discussion of this important topic for farmers and ranchers.

Federal Court Rules That CRP Rents Paid To Non-Farmer Are Not Subject To Self-Employment Tax

For several decades, the IRS and the courts have issued various rulings and opinions concerning whether Conservation Reserve Program (CRP) payments are subject to self-employment tax. Until 2003, the IRS (and the courts) took the position that a taxpayer had to be “materially participating” in a farming operation for CRP payments to be subject to self-employment tax. In 2003, however, the IRS took the position that simply signing a CRP contract resulted in the signing taxpayer being “engaged in farming.” This resulted in CRP payments being subject to self-employment tax.

In 2013, the U.S. Tax Court concurred with the IRS. The impact of the Tax Court’s decision could have been extensive by making “passive investors” in farmland and “non-farming heirs” subject to self-employment tax on CRP rental income.



However, on October 10, 2014, the Eighth Circuit Court of Appeals reversed the Tax Court’s opinion and ruled that CRP payments to a non-farmer are rents from real estate, not subject to self-employment tax.

The Iowa State University Center for Agricultural Law & Taxation has an excellent article discussing this case and its impact on South Dakota farmers.



Scott Swier Featured in November Edition of BizNow Magazine

Scott Swier was recently featured in the November 2014 edition of BizNow Magazine.

Scott’s article - Dealing With the Media - 6 Tips for a South Dakota Business - provides six helpful lessons for leaders of a South Dakota business involved in a lawsuit that has garnered media attention.

Read More About Scott Swier Featured in November Edition of BizNow Magazine...

http://biznowmagazine.com/index.php/site/archives/dealing_with_the_media

kids corner

School has been busy as always! I have been working on many book projects the past few months. Will is working on reading and Kate is busy learning about adding numbers.

Halloween was a lot of fun! Will dressed up as Batman, Kate dressed up as a dancer, and I dressed up as a cat. We had parties in school and then we all went trick-or-treating.

Kate and I went to Nebraska with Mom. We went to see some of her college friends. We went swimming, watched a movie, and just had a good time. It was lots of fun to stay in the hotel!

I have been rehearsing for the Nutcracker. I am a harp angel. My costume is white with gold trim and I get to hold a harp. Brooke and Chris are also in the Nutcracker in the party scene. We are going to have performances on Friday, Saturday, and Sunday after Thanksgiving. We have rehearsed a lot! I am excited for the performance!

Happy Thanksgiving!

By Sarah Swier



Scott Swier



Brooke Schloss



Jake Fischer



Maxx Hickey



Chris McClure



Amanda Work

SWIER LAW FIRM, PROF. LLC

AVON OFFICE

202 N. Main Street, P.O. Box 256
Avon, SD 57315

p: (605) 286-3218 | f: (605) 286-3219
toll free: (888) 864-9981

CORSICA OFFICE

240 E. Main Street
Corsica, SD 57328

p: (605) 286-3218 | f: (605) 286-3219
toll free: (888) 864-9981

SIoux FALLS OFFICE

5024 W. Bur Oak Place, Suite 214
Sioux Falls, SD 57108

p: (605) 275-5669 | f: (605) 286-3219
toll free: (888) 864-9981

WINNER OFFICE

142 E. 3rd Street
Winner, SD 57580

p: (605) 842-3373 | f: (605) 842-3375
toll free: (888) 864-9981

info@swierlaw.com | www.swierlaw.com

