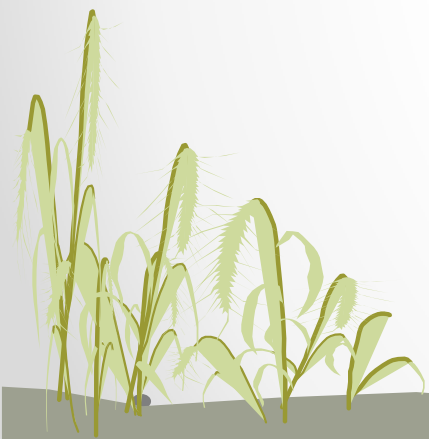
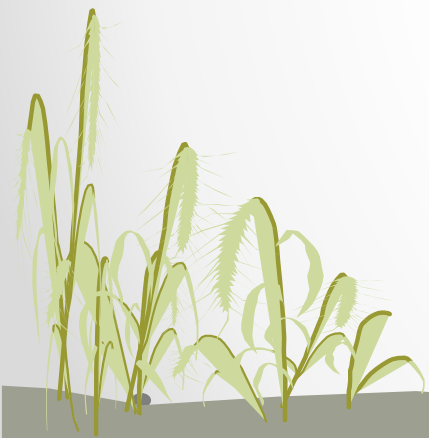


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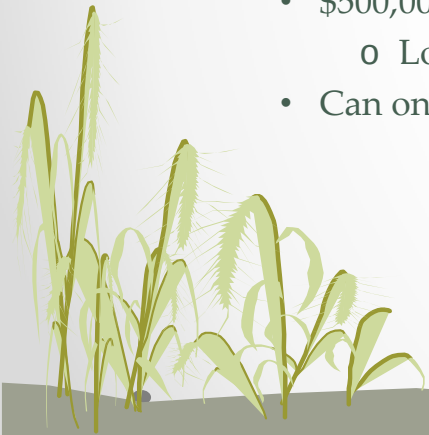
Topics

- Net Operating Losses
- Like-Kind Exchanges
- Forced Livestock Sales
- Deferred Payment Contracts
- Depreciation Update



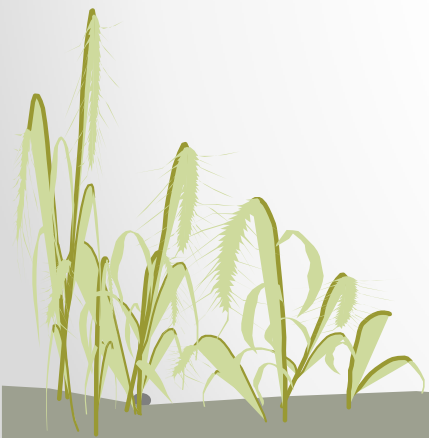
Net Operating Losses

- Net operating losses occur when a business or individual has more allowable tax deductions than adjusted gross income
 - o History
 - 5-year or 2-year carryback and 20 year carryforward
 - o Tax Cuts and Jobs Act of 2017
 - No carryback for non-farmers
 - Farmers retained a 2-year carryback
 - \$500,000 carryback limitation
 - o Losses exceeding the limitation must be carried forward
 - Can only offset 80% of taxable income



Net Operating Losses

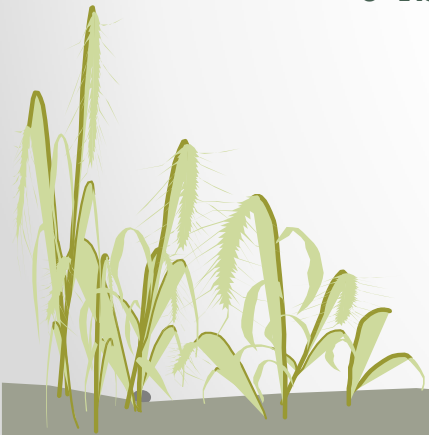
- Coronavirus Aid, Relief and Economic Security Act (CARES Act)
 - o Reinstates the 5 year carryback for tax years beginning before 2021 and after 2017
 - o Delays the 80% taxable income limitation of present law until 2021
 - o An amended tax return can be filed for tax years 2018 and 2019



Like-Kind Exchange

- History

- Before the Tax Cuts and Jobs Act (TCJA)
 - Like-Kind Exchanges (LKEs) were allowed for personal property and real property
 - Personal property includes machinery and vehicles
 - Real property is rental property, land and buildings



Like-Kind Exchange

- TCJA eliminated tax-deferred like-kind exchanges of personal property for exchanges completed after 2017.
 - Post TCJA – personal property trades are treated as sold on the date of trade
 - Gain or loss recognized
 - New asset placed on books at full value before trade



Like-Kind Exchange

- Example 1

Guy Farmer traded in his combine. The new combine cost \$400,000 he received a trade-in value of \$300,000 for his not very old combine and thus needs to write a check for \$100,000. On his tax return – before the sale, his Schedule F shows a net profit of \$100,000.

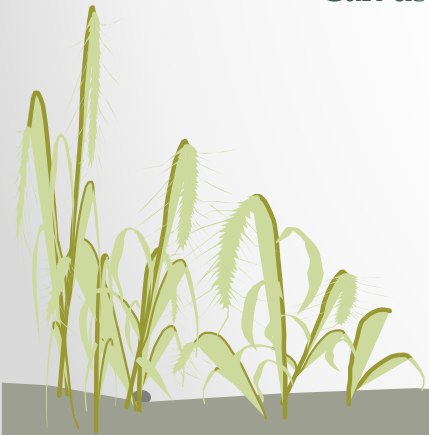
- o Prior to TCJA

- New Combine goes on depreciation schedule at \$100,000
 - o Depreciate over 7 years
 - o Use Section 179/Bonus depreciation to bring net income to \$0.



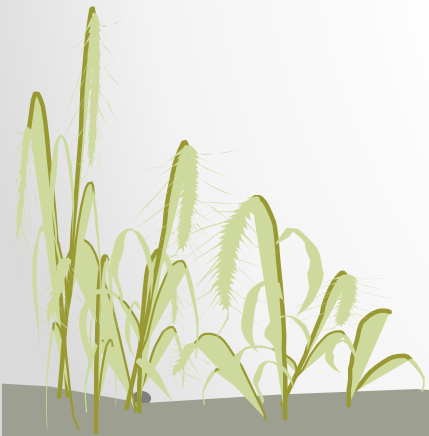
Like-Kind Exchange

- Post TCJA
 - o Gain recognized on Form 1040 of \$300,000
 - o New combine is placed on the depreciation schedule at \$400,000
 - Can be depreciated over 7 years
 - Can use Section 179 to bring Schedule F net income to \$0 or -\$300,000.



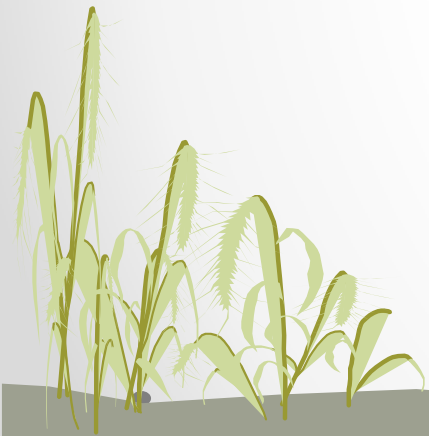
Like-Kind Exchange

- Potential Issues from prior example
 - o No self-employment tax
 - o Some states do not follow federal accelerated depreciation limits
 - o North Dakota Property Tax Exemption disqualification



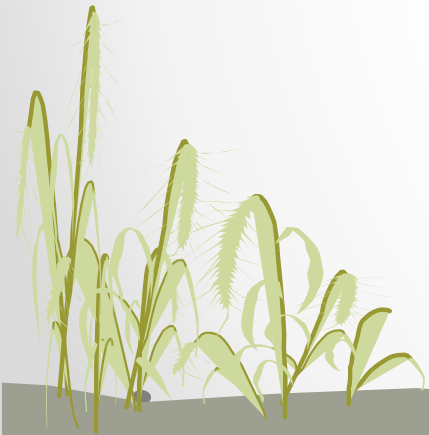
Like-Kind Exchange

- Real Property Like-Kind Exchanges
 - o Agricultural land
 - o Residential real estate
 - o Commercial real estate
- o Use caution when trading agricultural land with depreciable structures



Like-Kind Exchange

- Investment property can qualify
 - o Land held in hopes that the value will appreciate
 - o Land must be held long enough to illustrate the investment purpose of holding the replacement property
 - o Land that is considered inventory does not qualify



Like-Kind Exchange

- Personal Home

- o Sell home and agricultural land separately
- o Home portion can qualify for Section 121 personal home exclusion
 - Allows for up to \$500,000 MFJ (\$250,000 for a single return) of tax-free gain
- o The agricultural portion may use the like-kind exchange deferral

- Vacation Home

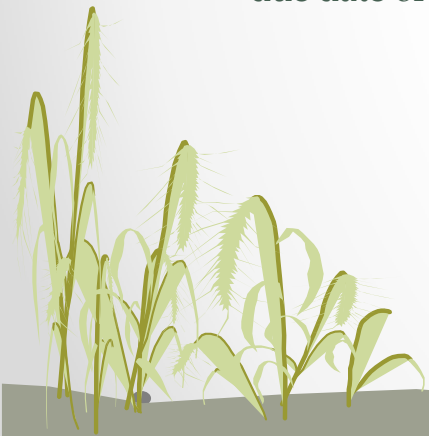
- o Does not qualify by itself.
- o Must be converted to eligible property
- o Personal use must be limited or eliminated
- o Safe harbor available



Like-Kind Exchange

- Requirements

- o There is an exchange of property rather than a sale
- o The property exchanged and the property received must be like-kind real estate
- o The property exchanged and the property received must both be held for the productive use in a trade or business or for investment; and
- o The exchange of properties must be simultaneous, or the replacement property must be identified within 45 days of the exchange and the identified property must be received within 180 days of the identification or the due date of the return (including extensions), if shorter. *IRC §§1031(a)(3)(A)-(B)((ii).*



Like-Kind Exchange

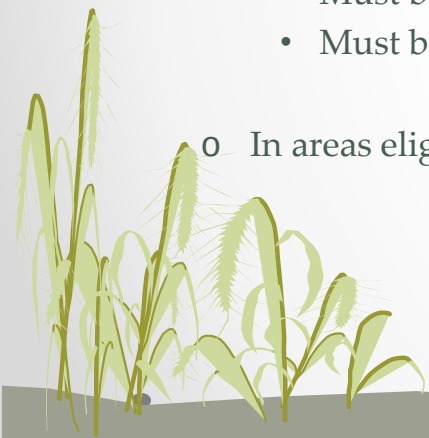
- Qualified Intermediary

- Needed to step into exchanger's position and to prevent the exchanger's access to funds transferred during the exchange process
- Money or other like-kind property received
 - Recipient recognizes gain to the extent of the sum of the money and the fair market value of the non-like-kind property received.



Forced Livestock Sales

- Sales of livestock held for draft, dairy or breeding purposes
 - o Sales exceed the number that would normally be sold during the time period
 - o Sales occur because of drought, flood or other weather-related condition
 - Can be treated as a nontaxable involuntary conversion
 - o Replacements
 - Must be purchased within 2 years
 - Must be replaced with similar or related in service or use
 - Must be held for the same purpose that the animals given up were held
 - o In areas eligible for federal assistance, the 2 year period is extended to 4 years



Forced Livestock Sales

Example 2

It is your usual business practice to sell five of your dairy animals during the year. This year, you sold 20 dairy animals because of drought. The sale of 15 animals is treated as an involuntary conversion.



Forced Livestock Sales

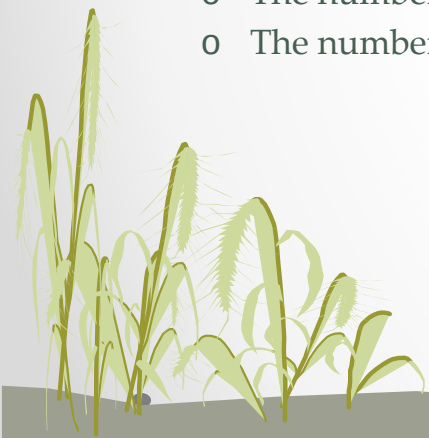
Example 3

Each year, you normally sell 25 cows from your beef herd. However, this year you had to sell 50 cows. This is because a severe drought significantly reduced the amount of hay and pasture yield needed to feed your herd for the rest of the year. Because, as a result of the severe drought, it isn't feasible for you to use the proceeds from selling the extra cows to buy new cows, you can treat other property (excluding real property) used for farming purposes as property similar or related in service or use to the cows you sold.



Forced Livestock Sales

- If reporting the gain is postponed due to weather-related sales or exchanges of livestock, show all the following information on a statement attached to the return for the tax year in which gain is first realized.
 - o Evidence of the weather-related conditions that forced the sale or exchange of the livestock.
 - o The gain realized on the sale or exchange.
 - o The number and kind of livestock sold or exchanged.
 - o The number of livestock of each kind you would have sold or exchanged under your usual business practice.



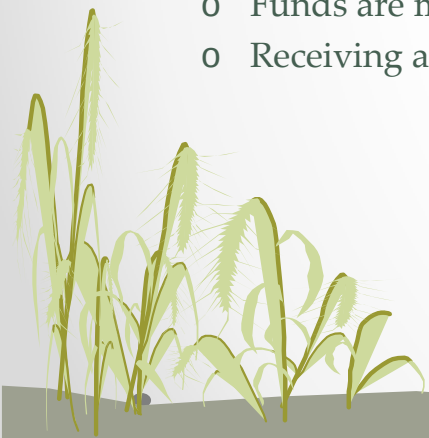
Forced Livestock Sales

- Show all the following information and the preceding information on the return for the year in which you replace the livestock.
 - o The dates you bought the replacement property.
 - o The cost of the replacement property.
 - o Description of the replacement property (for example, the number and kind of the replacement livestock).
- If replacement property is not purchased in the proper time-frame, an amended return for the year in which the gain was originally realized must be filed to report the gain.



Deferred Payment Contracts

- A cash basis taxpayer accounts for income in the tax year where income is either actually or constructively received. Constructively received includes:
 - Funds deposited into the taxpayer's account
 - Funds set aside for the taxpayer including grain elevators or livestock barns creating checks and holding them
 - Funds are made available for the taxpayer to draw upon
 - Receiving a check in the mail, but not depositing it until a later date



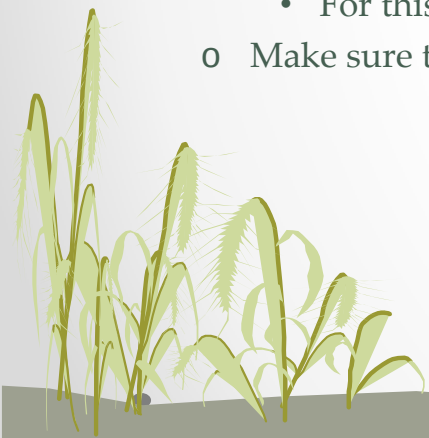
Deferred Payment Contracts

- Contract needs to be created and signed by the seller
- The buyer should not credit the seller's account
- The contract should state that in no event can payment be received prior to the designated date, even if a price is established earlier
- The contract may provide for interest



Deferred Payment Contracts

- Selling and delivering grain in one year and deferring the payment year creates an installment sale
- Farmer can elect out of installment sale, and recognize gain in year of sale
 - o Made by including the entire sale of the deferred contract in the year of sale on the applicable tax form
 - o Gain recognized must include the entire deferred contract
 - For this reason, it is important to create several smaller contracts
 - o Make sure to account for this transaction in your records appropriately



Depreciation Update

- Placed in Service
 - o Asset is in a state of readiness for use in the taxpayer's trade or business
 - Asset does not have to be in use
 - Cannot be on order or sitting at the dealership
 - o Buildings
 - Placed in service on the date the building is substantially complete or in the state of readiness and availability



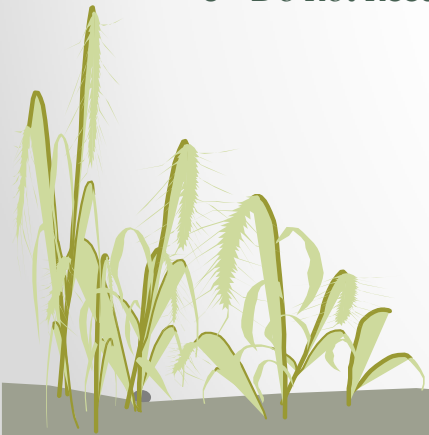
Depreciation Update

- Section 179
 - o Allows for the deduction of the full purchase price of qualifying equipment purchased or financed during the year.
- 2020 limits
 - o \$1,040,000 deduction
 - o Purchases cannot exceed \$2,590,000
- Equipment must used for business purposes of more than 50%
 - o If business use falls below 50%, the Section 179 used must be recaptured



Depreciation Update

- Bonus Depreciation
 - o New or Used assets
 - o 100% Deduction
 - o No recapture on assets below 50% business use
 - o Do not need business income to offset bonus depreciation



Questions?



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