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## TAX LAW UPDATE

A number of tax law changes were enacted in late 2015 that impact 2016 and later years. Much of the legislation related to the so-called tax extenders, many of which were made permanent. Others had been extended routinely for several years, though often not until late in the year. These changes included the following:

- The American Opportunity (education) tax credit was made permanent.
- The classroom expense deduction for elementary and high school employees was reinstated and made permanent.
- The option to deduct state and local sales tax instead of income tax was reinstated and made permanent.
- The enhanced deduction for contribution of a qualified conservation easement was made permanent.
- The qualified tuition deduction was extended through 2016.
- Exclusion from income of qualified charitable distributions from an IRA was reinstated and made permanent.
- Exclusion for 100% of the gain on the sale of small business stock was permanently extended.
- The 15-year recovery period was reinstated and made permanent for qualified leasehold improvement property.
- The 50% special (first year) depreciation allowance for qualified new property was extended through 2017. It is reduced to 40% for 2018, 30% for 2019, and zero percent thereafter.
- The \$500,000 section 179 deduction limit (phase-out beginning at \$2 million) was indexed to inflation and made permanent.
- The enhanced deduction for donation of food inventory was made permanent.
- The 5-year lookback period for the S corporation built-in gains tax was made permanent.
- Estates (or trustees or personal representatives) of decedents who are required to file a federal estate tax return must file a report of the basis of the decedent's property. The report is due by the earlier of 30 days from the due date of the estate tax return or 30 days from the filing date of the return. A supplemental report must be filed if there is any change in the basis information.
- The gift and estate tax exclusion amount is \$5,450,000 for 2016 and \$5,490,000 for 2017.
- The gift tax annual exclusion remains \$14,000 for 2016 and 2017, and the annual exclusion for gifts to a spouse who is not a U.S. citizen will be \$149,000 in 2017.
- The maximum contribution to an IRA is \$5,500. Taxpayers who are at least 50 years of age may add a \$1,000 catch-up contribution. The amount remains the same for 2016 and 2017.
- The legislation contained a number of other, less well known provisions.
- Regulatory requirements for various tax provisions, and penalties for non-compliance, also have been enhanced in a number of cases.

The foregoing list is general in nature. Specific rules and requirements may apply, so consult with your tax adviser for more details that may affect your situation. Stay tuned as we all wait to see what a new president and Congress will do in 2017.

## SYNGENTA MASS TORT UPDATE

Our farmer clients have been inundated with appeals to join various lawsuits against Syngenta. Multiple lawsuits of different kinds have been filed in different courts.

The frenzy arises from Syngenta's 2009 release of Agrisure Viptera, a new strain of corn released and marketed to U.S. farmers before Syngenta received import approval from China. Without proper import approval, China rejected shipments of U.S. corn in 2013 and 2014, causing a dramatic disruption to the market for U.S. corn.

All corn growers, even if they never planted Viptera or other Syngenta seed, were impacted by the drop in corn prices as the result of this market disruption.

As previously reported in the BECE Summer Newsletter, BECE, as a service to its clients, has partnered with Watts Guerra LLP, a Texas-based firm with a record of success in large agricultural cases similar to this one. This is a mass tort action where farmers are represented individually to seek actual damages based upon their own corn production records. This particular litigation is **not** a class action lawsuit where one or a few individuals represent an entire class.

At this time, farmers wishing to participate in the mass tort case are gathering the documentation needed to establish their individual claims. At the printing of this newsletter, the deadline for joining this particular mass tort action and the last day to provide documentation is December 11, 2016.

If you have signed up to participate in the mass tort litigation, you may at some point need to "opt out" of participation in the class action case ongoing in a Kansas federal court. (You can't participate in more than one lawsuit.) The court has certified the class action, but Syngenta has appealed this decision. If the appellate court upholds the lower court's certification of the class, all corn farmers will receive a mailing. The mailing will include an "opt out" section.

If you have any questions about this litigation, please contact David Barrett at [dbarrett@farmlawyers.com](mailto:dbarrett@farmlawyers.com) or Larry Gearhart at [lgearhardt@farmlawyers.com](mailto:lgearhardt@farmlawyers.com), or call us at 614-210-1840.



## YES, WE CAN HELP WITH THAT!

BECE attorneys and staff often hear the question: "Do you handle ...?"

Our new mobile-friendly website lists many of our practice areas along with the attorneys who work in those areas. Among the issues we handle are those related to:

- Estate planning
- Asset protection
- Probate and trust administration
- Real estate
- Business planning
- Tax planning and preparation
- Contracts
- Farm, agribusiness and agricultural law
- Commodities
- Commodity technology license disputes
- Food and feed safety
- Livestock
- Employment
- Arbitration and mediation
- Cooperatives
- Agricultural trade associations
- Agri-tourism
- Transportation
- Consumer Sales Practices Act
- Government regulation
- Civil litigation
- Probate and trust litigation

You can find more detailed information on our website at [ohiocounsel.com](http://ohiocounsel.com). Just click on a practice area to learn more about the many areas in which BECE serves its clients.

*The information provided in this newsletter is for educational purposes only and should not be used as a substitute for professional advice, as there are often many exceptions to the general rules. Before applying any of this information to a specific legal problem, readers are urged to seek advice from an attorney.*



## RESOLVING TO BRIGHTEN THE (LEGAL) CORNER WHERE YOU ARE

In anticipation of another new year, we surveyed the BECE attorneys to see if they have any “legal” new year’s resolutions they might wish for clients. Together, our attorneys have more than 200 years of practice experience and have had the privilege of learning repeatedly how an ounce of prevention is worth a pound of cure.

Could some of the lessons learned become resolutions for you? Here are some of our hopes for our readers in the new year:

- For those young adults who are at least 18 years old – Please fill out and sign a Health Care Power of Attorney and a Durable Power of Attorney so the parents or other persons you rely on can help you in an emergency.
- For seniors without living family – Please fill out and sign a Health Care Power of Attorney and a Durable Power of Attorney so the persons you rely on can help you in an emergency.
- For everyone with children under the age of 18 – Please prepare estate plans that name the persons you want to be guardians of your children if something should happen to you.
- For everyone – Put together and use an advisory team to assist you with your dreams and plans, such as a financial adviser, insurance agent, business/estate planning attorney, physician, pastor or life coach. Work with an attorney well-versed in estate planning to put together a plan tailored to your needs and wishes.
- For families farming together without any written documentation, please communicate with each other and if necessary seek guidance for making written plans with a succession strategy.
- For families farming together without any written documentation who don’t want to farm together anymore, please seek guidance for putting together a plan to end the business relationship.
- For farmers and landlords who do not have written leases, put your promises to one another in writing.
- For individuals or companies who buy and sell grain, make sure you are familiar with the industry trade rules. For a copy, see [www.ngfa.org/trade-rules-arbitration/rules](http://www.ngfa.org/trade-rules-arbitration/rules).
- For landowners considering a sale or buyers considering a purchase, if the land has been in the family for decades without a new survey, call a surveyor. The county engineer will not accept a description that includes corners described by ground glass under a stone or the old oak in a now historic legal description. Nor will the engineer accept a description with more than three exceptions.
- For landowners with drainage ditches, please remember the golden rule: Treat your neighbors as you would like to be treated. Then advocate for a better legal process to maintain county ditches.
- For landowners whose new neighbors’ surveys show a different boundary line than the one agreed on for decades, please negotiate the location of the boundary line and record the agreement. Future landowners will bless you.



## BECE WELCOMES NEW ATTORNEY KAITLYN KACHMARIK

Kaitlyn Kachmarik, a Strongsville native, has joined BECE as its newest associate. She passed the Ohio Bar Examination and became an attorney in November.

Kaitlyn joined us last January for an externship program during her final semester at Vermont Law School, and she continued to work for BECE following her graduation in May. While in Vermont, Kaitlyn clerked for an area attorney, as well as the Vermont Agency of Natural Resources. She also was a student clinician for the law school’s Food and Agriculture Clinic.



Kaitlyn passed another test this summer, the Ohio Agricultural Commodity Tester Examination administered by the Ohio Department of Agriculture.

When Kaitlyn is not practicing law, she enjoys horseback riding and spending time outdoors with her three herding dogs.

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— BARRETT EASTERDAY —  
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*As 2016 draws to a close, we remember with gratitude our clients and friends. Thank you for your business and your referrals. We appreciate the opportunity to serve you.*

*May you have a wonderful and blessed holiday season!*

