

Family farmers get a break (Chapter 12 bankruptcy)

Family farmers who need Chapter 12 bankruptcy thought they were getting a break in 2005 with the new bankruptcy laws. But the U.S. Supreme Court interpreted a poorly-written part of that law to take away that break.

The Problem

Family farmers often need to sell assets to be able to reorganize their debts under Chapter 12.

If that selling created a capital gains tax, that tax was (1) not dischargeable in bankruptcy and (2) and must be paid in full in order to get their payment plan approved by the court. That prevented many family farmers from getting the relief they needed via a Chapter 12 bankruptcy.



The Fix

On October 25, 2017, the U.S. Congress passed the Family Farmer Bankruptcy Clarification Act that says those capital gains taxes (1) may be discharged in a Chapter 12 bankruptcy and (2) do not have to be paid in full under the payment plan approved by the court. They are simply paid the same pro rata share as other unsecured creditors, with the unpaid balance being discharged at the end of the payment plan.

The Result

Many more family farmers will be able to take advantage of a Chapter 12 bankruptcy, which was created for them in the first place.

If you have a family farming business and are considering bankruptcy, get yourself to an experienced bankruptcy attorney in your area who can explain this to you and help you take advantage of this new law.

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