



# e-newsletter

from the **Citrus Canker Task Force**

## Reporting of Income from Citrus Canker Eradication Program January 20, 2010

Many commercial citrus growers (taxpayers) received payments to compensate them for the loss of citrus trees and to recover lost production income in connection with the government's removal of commercial citrus trees to control the spread of citrus canker. Any payments received by the taxpayer should have been either: (i) reported by the taxpayer on its income tax return or (ii) an election made to defer recognition under Code §1033 in order to allow time for the property to be replaced with qualifying replacement property (generally two to three years depending on the type of property and whether an extension was requested). The proper reporting of income and/or eligibility for deferral under Code §1033 for lost tree payments is fairly straightforward. However, the reporting of lost production payments as ordinary income versus capital gain and/or eligibility for deferral under Code §1033 is less clear. **The IRS may challenge whether income was properly reported or that the election to defer the recognition of income for such payments under Code §1033 was properly made or timely fulfilled.**

If you have any questions regarding the proper characterization of lost tree or lost production payments that you reported on your federal income tax returns, or if you are contacted by the IRS regarding the reporting of any such payments, please contact a member of Dean Mead's Agribusiness Team or an independent tax counsel who is knowledgeable in assisting clients with the proper characterization and reporting of citrus canker payments.

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Dean Mead's Agribusiness Team has a long history of representing agribusiness throughout the State of Florida. We represent clients in all aspects of their operations, including: formation and administration of business entities, negotiation and preparation of leases and contracts, environmental permitting and enforcement, insurance coverage analysis and litigation, tax planning, estate planning for principals of agribusiness entities, real estate transactions, land use and zoning representation, pesticide litigation, worker protection and safety, eminent domain, wetlands and wetlands banking and secured lending negotiation and documentation. Our Team has extensive experience with real estate development of former agricultural lands.

NOTE: Dean Mead provides the information in this e-Newsletter as a service to professionals and clients. While the information in this e-Newsletter deals with legal issues, it does not constitute legal advice. If you have specific questions related to the information in this e-Newsletter, you are encouraged to consult an attorney who can investigate the particular circumstances of your situation. Due to the rapidly changing nature of the law, Dean Mead is not responsible for informing you of future legal developments. If you would like to be removed from our distribution list, please reply to this email and type REMOVE in the subject line.

