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Spoiling a Fresh Start: *In re Dawes* and a Family Farmer's Ability to Reorganize Under Chapter 12 of the U.S. Bankruptcy Code

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SPOILING A FRESH START: *IN RE DAWES* AND A FAMILY FARMER'S ABILITY TO REORGANIZE UNDER CHAPTER 12 OF THE U.S. BANKRUPTCY CODE

Abstract: On June 21, 2011, the Tenth Circuit, in *In re Dawes,* held that post-petition capital gains taxes are incurred by the individual debtor rather than the bankruptcy estate. Consequently, such tax liabilities are not eligible for downgrade and discharge under 11 U.S.C. § 1222(a)(2)(A). This Comment argues that, although the *Dawes* decision contradicts the legislative intent underlying the enactment of Chapter 12, it correctly interprets the plain language of the statute.

Introduction

Traditionally, an insolvent family farmer seeking protection under U.S. bankruptcy law faced unique challenges.[1] The illiquid nature of farming assets inhibited a family farmer's ability to restructure liabilities while remaining operational.[2] To address such difficulties, Congress enacted Chapter 12 of the U.S. Bankruptcy Code.[3] Chapter 12 eases family farmers' financial burden in bankruptcy by downgrading post-petition tax liabilities "incurred by the estate" to unsecured, non-priority claims, eligible for downgrade and discharge.[4]

Interpreting Chapter 12 in *In re Dawes* (*Dawes III*) on June 21, 2011, the U.S. Court of Appeals for the Tenth Circuit held that capital

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[1] *See generally* Katherine M. Porter, *Phantom Farmers: Chapter 12 of the Bankruptcy Code,* 79 Am. Bankr. L.J. 729 (2005) (examining the history and efficacy of Chapter 12 of the Bankruptcy Code).

[2] *Id.* at 737–38.

[3] Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986, Pub. L. No. 99-554, 100 Stat. 3088 (codified as amended in scattered sections of 11 U.S.C.); *see* Porter, *supra* note 1, at 731.

[4] 11 U.S.C. § 1222 (2006). The Code provides in relevant part:

> The plan shall . . . provide for the full payment, in deferred cash payments, of all claims entitled to priority under section 507, unless . . . the claim is a claim owed to a governmental unit that arises as a result of the sale, transfer, exchange, or other disposition of any farm asset used in the debtor's farming operation, in which case the claim shall be treated as an unsecured claim that is not entitled to priority under section 507 . . . .

Id.

gains taxes arising from the post-petition sale of farmland are incurred by the individual debtor rather than the bankruptcy estate.[5] Therefore, those taxes remain priority claims that must be paid in full.[6]

The Tenth Circuit was the third U.S. Court of Appeals to address the question in recent years.[7] In 2010, the U.S. Court of Appeals for the Ninth Circuit held, in *United States v. Hall,* that the individual debtor incurs post-petition capital gains taxes, rendering the tax liabilities non-dischargeable.[8] Conversely, in 2009, the U.S. Court of Appeals for the Eighth Circuit held, in *Knudsen v. IRS,* that the bankruptcy estate incurs those taxes, which are thus eligible for downgrade and discharge.[9]

Part I of this Comment outlines Chapter 12 of the U.S. Bankruptcy Code and describes how the Eighth and Ninth Circuits have interpreted the phrase "incurred by the estate."[10] Then, Part II discusses the Tenth Circuit's rationale for holding that post-petition capital gains taxes are not incurred by the estate.[11] Finally, Part III argues that, although the Tenth Circuit's decision appears contrary to the legislative intent of Chapter 12, it is the correct interpretation in light of the plain text of the statute.[12]

I. Interpreting Chapter 12

A. *Protecting the American Family Farmer*

American bankruptcy law has a long tradition of providing special protections to family farmers.[13] Since 1898, creditors have been unable to force a bankruptcy without the farmer's consent.[14] Yet, in the 1980s,

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[5] 652 F.3d 1236, 1239 (10th Cir. 2011).

[6] *Id.* ("[P]ost petition income taxes incurred during Chapter 12 proceedings are liabilities of the individual debtor and *not* the bankruptcy estate. . . . [T]he taxes are due from the debtor personally, and the IRS's recourse remains exclusively with the individual debtor . . . unaffected by the bankruptcy discharge.").

[7] *Compare Dawes III,* 652 F.3d at 1239 (holding that post-petition capital gains taxes arising from the sale of farm assets remain liabilities of the individual debtor), *and* United States v. Hall, 617 F.3d 1161, 1163 (9th Cir. 2010) (same), *cert. granted,* 131 S. Ct. 2989 (2011), *with* Knudsen v. IRS, 581 F.3d 696, 706 (8th Cir. 2009) (holding that post-petition capital gains taxes arising from the sale of farm assets are incurred by the bankruptcy estate and are subject to downgrade and discharge).

[8] 617 F.3d at 1163.

[9] 581 F.3d at 710.

[10] *See infra* notes 13–59 and accompanying text.

[11] *See infra* notes 60–79 and accompanying text.

[12] *See infra* notes 80–102 and accompanying text.

[13] Porter, *supra* note 1, at 730.

[14] Bankruptcy Act of 1898, ch. 541, 30 Stat. 544 (repealed 1978); *see* Porter, *supra* note 1, at 730.

the deterioration of the U.S. economy's agricultural sector caused a dramatic increase in the number of family farm bankruptcies.[15] At the height of this agricultural crisis, farm bankruptcy rates surpassed previous highs reached during the Great Depression.[16] Congress responded by enacting Chapter 12 as a component of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986.[17]

Chapter 12 provides specialized bankruptcy relief to family farmers and family fishermen.[18] Specifically, Chapter 12 addresses difficulties in reorganization inherent to distressed family farms.[19] By enacting Chapter 12, the legislature intended to assist farmers by allowing them to restructure liabilities to mitigate the risk of total liquidation and the need to abandon farming.[20]

B. *Non-priority of Taxes "Incurred by the Estate"*

Before the enactment of Chapter 12, a farmer was required to account for the full payment of all tax obligations in the bankruptcy plan.[21] Consequently, a farmer who sold farm assets to raise capital during bankruptcy would remain fully liable for all capital gains taxes that arose as a result of that sale.[22] Under Chapter 12, however, certain tax liabilities may be downgraded to non-priority status, subject to pro rata

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[15] Jonathan K. Van Patten, *Chapter 12 in the Courts,* 38 S.D. L. Rev. 52, 52 (1993).

[16] Porter, *supra* note 1, at 740 ("In 1987, immediately after Chapter 12's passage, there were 5788 Chapter 12 bankruptcies. This was the height of the 1980s farm crisis and translates to a bankruptcy rate of 21.7 per 10,000 farms, a record that broke the previous high set during the Great Depression.").

[17] Pub. L. No. 99-554, 100 Stat. 3105 (1986). Chapter 12 was designed to temporarily alleviate pressures caused by the agricultural crisis, and initially contained a seven-year sunset provision. Porter, *supra* note 1, at 729, 733. Chapter 12 was extended eleven times and became a permanent part of the Bankruptcy Code with the passage of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005. Pub. L. No. 109-8, 119 Stat. 23; Porter, *supra* note 1, at 729, 733.

[18] 11 U.S.C. § 109(f) (2006).

[19] Porter, *supra* note 1, at 732.

[20] *See* Van Patten, *supra* note 15, at 52–53.

> [T]he measure of the crisis in agriculture isn't measured by cold numbers on a page. Instead, I measure it in terms of the human tragedy, the disruption of lives, and the despair of being a middle-aged farmer suddenly told to find another livelihood to support a family. . . . We must stop the bleeding on the farm.

Id. (quoting 132 Cong. Rec. S15,074–05 (1986) (statement of Sen. Charles Grassley)).

[21] *See* Brendon Hansen, Note, *All That Glitters Isn't Gold: Deciphering* in re Knudsen*'s Tax Allocation Methods Under 11 U.S.C. § 1222(a)(2)(A) for Chapter 12 Debtors,* 44 U.C. Davis L. Rev. 651, 654 (2010).

[22] Porter, *supra* note 1, at 737–38.

payment or discharge.[23] By relinquishing the priority status of these claims, the government favors the continued operation of family farms over the full capture of tax revenues.[24]

Under Chapter 12, a bankruptcy plan must provide for the full payment of all claims entitled to priority under 11 U.S.C. § 507.[25] Yet, Chapter 12 excludes from this requirement a claim "owed to a governmental unit that arises as a result of the sale, transfer, exchange, or other disposition of any farm asset used in the debtor's farming operation . . . ."[26] Thus, Chapter 12 provides that a capital gains tax liability entitled to priority under section 507, may be downgraded to a nonpriority, unsecured claim.[27] Section 507 identifies "administrative expenses allowed under section 503(b)" as claims entitled to priority.[28] Section 503(b) defines an administrative expense as "any tax . . . incurred by the estate."[29] Consequently, if post-petition taxes are "incurred by the estate" rather than the individual debtor, they are subject to downgrade and discharge under Chapter 12.[30]

C. *The Daweses' Argument for Downgrade*

In 1988, Donald W. Dawes and Phyllis C. Dawes were convicted of willfully failing to file income tax returns for their family farm.[31] On October 23, 2006, the government notified the Daweses that it intended to take possession of eight tracts of their property.[32] Yet, before the government could act, the Daweses filed for Chapter 12 bankruptcy.[33]

The Daweses' Chapter 12 plan proposed to satisfy the Internal Revenue Service's (IRS) outstanding tax claim by surrendering the eight parcels of land.[34] The plan contained a provision stating that "all claims of the IRS or Kansas Department of Revenue that arise post-

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[23] 11 U.S.C. § 1222(a)(2)(A); *see* Porter, *supra* note 1, at 738.

[24] *See* Porter, *supra* note 1, at 738.

[25] 11 U.S.C. § 1222(a)(2).

[26] *Id.*

[27] *Id.*

[28] *Id.* § 507(a)(2); *see id.* § 503(b).

[29] *Id.* § 503(b).

[30] *See id.* §§ 503(b), 507(a)(2), 1222(a)(2); *see also Dawes III,* 652 F.3d at 1238–39 (analyzing "whether income taxes flowing from the sale of a farm asset during a Chapter 12 bankruptcy are taxes 'incurred by the estate' and so subject to downgrade and discharge").

[31] *In re* Dawes (*Dawes II*), 415 B.R. 815, 817 (D. Kan. 2009), *rev'd,* 652 F.3d 1236 (10th Cir. 2011).

[32] *In re* Dawes (*Dawes I*), 382 B.R. 509, 512 (Bankr. D. Kan. 2008), *aff'd,* 415 B.R. 815 (D. Kan. 2009), *rev'd,* 652 F.3d 1236 (10th Cir. 2011).

[33] *Dawes II,* 415 B.R. at 818.

[34] *Id.*

petition as a result of the sale, transfer, exchange, or other disposition of the . . . parcels shall be treated as a general unsecured claim not entitled to priority under [section] 507."[35] With this proposal, the Daweses attempted to disclaim the priority status of any income tax liabilities arising from the liquidation of the bankruptcy estate.[36] The IRS objected to this proposal and rejected the Daweses' bankruptcy plan.[37] The disagreement was not immediately addressed and the Daweses sold the parcels, generating proceeds in excess of $900,000.[38] Because the farmland's value had increased during the Daweses' ownership, the sale generated a significant capital gains tax liability.[39]

On November 13, 2006, the Daweses filed a Chapter 12 plan.[40] On August 9, 2007, the Daweses filed a motion for partial summary judgment, requesting that the Bankruptcy Court approve their bankruptcy plan and downgrade the post-petition capital gains tax incurred as a result of the sale to an unsecured claim.[41] They claimed that the bankruptcy estate incurred the post-petition capital gains taxes.[42] Accordingly, they argued, under 11 U.S.C. § 1222(a), that the taxes were subject to downgrade to non-priority status.[43] In contrast, the IRS argued that post-petition income taxes remain liabilities of an individual debtor and are therefore not eligible for downgrade and discharge.[44]

Ultimately, the case was brought before the Tenth Circuit,[45] which held that the post-petition income taxes incurred during Chapter 12 bankruptcy were incurred by the individual debtor and not by the bankruptcy estate.[46] Consequently, the tax liability from the sale of farm assets remained a non-dischargeable priority claim.[47]

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[35] *Id.*

[36] *Id.*

[37] *Id.*

[38] *Id.* at 817.

[39] *Dawes I,* 382 B.R. at 512.

[40] *Id.*

[41] *Id.*

[42] *Id.*

[43] *Id.*; *see* 11 U.S.C. § 1222(a)(2)(2006).

[44] *Dawes I,* 382 B.R. at 512.

[45] The Bankruptcy Court accepted the Daweses' argument and granted their motion. *Id.* at 509. The U.S. District Court for the District of Kansas affirmed the judgment, *Dawes II,* 415 B.R. at 824, and the IRS appealed to the Tenth Circuit, *Dawes III,* 652 F.3d at 1238.

[46] *Dawes III,* 652 F.3d at 1239.

[47] *Id.*

D. *Competing Interpretations Among the Circuits*

Prior to the Tenth Circuit's ruling in *Dawes III,* two Courts of Appeals had considered whether post-petition taxes resulting from the sale of a farm asset during Chapter 12 bankruptcy are incurred by the estate and therefore subject to downgrade and discharge.[48] Both courts interpreted the phrase "incurred by the estate" in light of the related statutory framework governing the Chapter 12 bankruptcy process.[49] Yet, the courts relied on different sections of the U.S. Code to resolve the controversy and offered conflicting definitions of "incurred by the estate."[50]

In 2009, in *Knudsen v. IRS,* the Eighth Circuit held that the bankruptcy estate, rather than the individual debtor, incurs such taxes.[51] It did so by relying on its 1995 decision, *In re L.J. O'Neill Shoe Co.*, in which it held that the phrase "incurred by the estate" means "incurred post-petition."[52] Accordingly, the *Knudsen* court declined to alter the meaning of "incurred by the estate."[53] Furthermore, the court supported this interpretation by noting the property included in Chapter 12's definition of a bankruptcy estate.[54] A bankruptcy estate includes "all legal or equitable interests of the debtor in property as of the commencement of the case."[55] Thus, because the taxes arose due to a sale of property held by the bankruptcy estate, the Eighth Circuit concluded that the estate incurred the resulting liabilities.[56]

In contrast, in 2010 in *United States v. Hall,* the Ninth Circuit held that post-petition taxes from the sale of farm assets are liabilities of the individual debtor.[57] The Ninth Circuit relied on section 1399 of the Internal Revenue Code, which indicates that a Chapter 12 estate is not a taxable entity.[58] Thus, because a Chapter 12 estate cannot be taxed, the Ninth Circuit held that the individual debtor must incur the post-petition tax liability.[59]

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[48] *See Hall,* 617 F.3d at 1163; *Knudsen,* 581 F.3d at 706.

[49] *See Hall,* 617 F.3d at 1163; *Knudsen,* 581 F.3d at 710.

[50] *Hall,* 617 F.3d at 1163; *Knudsen,* 581 F.3d at 710.

[51] 581 F.3d at 710.

[52] *Id.* at 709 (citing *In re* L.J. O'Neill Shoe Co., 64 F.3d 1146, 1146 (8th Cir. 1995)).

[53] *Id.* (citing *In re* Columbia Gas Transmission Corp., 37 F.3d 982, 984 (3d Cir. 1994); *In re* Balt. Marine Indus., 344 B.R 407, 414 (Bankr. D. Md. 2006)).

[54] *Id.* (citing 11 U.S.C. § 1207(a) (2006)).

[55] 11 U.S.C. § 541.

[56] *Knudsen,* 581 F.3d at 709–10.

[57] 617 F.3d at 1163.

[58] *Id.* (citing 26 U.S.C. § 1399).

[59] *Id.*

II. The Tenth Circuit's Rationale

In *Dawes III,* following the rationale of the Eighth Circuit's 2009 decision in *Knudsen v. IRS,* the Tenth Circuit concluded that the debtor, and not the estate, "incurs" the post-petition tax liabilities in a Chapter 12 bankruptcy.[60] Evaluating whether the Daweses' capital gains liabilities should be classified as non-priority claims, the Tenth Circuit concluded that (1) the taxes are owed to the government and (2) the tax liability arose from the sale of farm assets.[61] Accordingly, the only remaining issue was whether the tax claims were administrative expenses "incurred by the estate" and were therefore entitled to priority under section 507.[62]

The Tenth Circuit began its interpretation of the phrase "incurred by the estate" by examining the plain language of section 503(b).[63] The court, referring to the legal definition of "incur," concluded that "one who has 'incurred' an expense is liable for it."[64] Yet, because the Bankruptcy Code does not designate who is liable for a capital gains tax, the court looked to underlying income tax law.[65] Under the Internal Revenue Code, tax liabilities depend on the chapter under which the bankruptcy was filed.[66] For example, in Chapter 11 bankruptcies, a trustee is directed to file a separate tax return on behalf of the bankruptcy estate.[67] In Chapter 12 bankruptcies, however, the debtor remains personally responsible for the filing and payment of post-petition federal income taxes.[68] Thus, the *Dawes III* court reasoned that, because the individual debtor remains liable for filing a tax return, the debtor incurs the tax claim.[69]

In doing so, the *Dawes III* court implicitly rejected the Eighth Circuit's conclusion that the phrase "incurred by the estate" is equivalent to

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[60] *In re* Dawes (*Dawes III*), 652 F.3d 1236, 1240 (10th Cir. 2011); *see* Knudsen v. IRS, 581 F.3d 696, 706 (8th Cir. 2009).

[61] *Dawes III,* 652 F.3d at 1238.

[62] *Id.*; *see* 11 U.S.C. § 507.

[63] *Dawes III,* 652 F.3d at 1239; *see* 11 U.S.C. § 503(b).

[64] *Dawes III,* 652 F.3d at 1239 (quoting Black's Law Dictionary 782 (8th ed. 2004)) ("Black's Law Dictionary tells us that to 'incur' means to 'suffer or bring on oneself,' as in a 'liability or expense.'").

[65] *Id.* ("To determine who has 'incurred' a tax, then, we must ask *who* is liable for paying it. And to answer that question we must look to the relevant tax authority.").

[66] I.R.C. §§ 1398(c), 1399 (2006).

[67] *Id.* § 1398(c).

[68] *Id.* § 1399.

[69] 652 F.3d at 1240 (holding that "because a Chapter 12 . . . estate isn't liable for post-petition federal income taxes, the estate does not *incur* such taxes").

"incurred during bankruptcy."[70] By interpreting the phrase "incurred by" to mean "liable for," the court limited itself to analyzing only *who* incurred the liability,[71] though acknowledged that a bankruptcy estate cannot possibly incur liabilities until after a petition is filed.[72] By analyzing *who* incurs such liabilities, the court declined to conclude that all tax liabilities arising post-petition are incurred by the bankruptcy estate.[73]

Furthermore, the *Dawes III* court noted that permitting the downgrade of all post-petition tax liabilities would contradict Chapter 13 of the bankruptcy code.[74] Chapter 13 expressly grants the government the option of including in the bankruptcy estate any post-petition taxes incurred by the individual debtor.[75] Therefore, according to the *Dawes* court, holding that the bankruptcy estate incurs *all* post-petition tax liabilities would contradict the choice provided to the government in Chapter 13.[76] In addition, the phrase "incurred by the estate" is found in section 503(b), which applies to both Chapter 12 and Chapter 13 bankruptcies.[77] Thus, holding that the bankruptcy estate always incurs capital gains liabilities would render the provision of such a choice meaningless, because all such liabilities would automatically be eligible for discharge.[78] To preserve the choice granted to the government under Chapter 13, the court concluded that the individual debtor remained fully liable for post-petition capital gains taxes.[79]

III. The Inescapable Plain Meaning of Chapter 12

By holding that post-petition capital gains taxes are incurred by the debtor rather than the bankruptcy estate, the *Dawes III* court reinforced a significant obstacle to the successful reorganization of a family farm.[80] Nevertheless, the court properly interpreted the phrase "incurred by the estate" in light of the plain language of the U.S. Code.[81] Thus, because the plain language of the Code is inconsistent with the

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[70] *See id.* at 1240–41.
[71] *Id.*
[72] *Id.*
[73] *Id.*
[74] *Id.* at 1241; *see* 11 U.S.C. § 1305 (2006).
[75] 11 U.S.C. § 1305(a)(1); *see Dawes III,* 652 F.3d at 1241.
[76] *Dawes III,* 652 F.3d at 1241–42; *see* 11 U.S.C. § 1305(a)(1).
[77] 11 U.S.C. § 503(b).
[78] *Dawes III,* 652 F.3d at 1241; *see* 11 U.S.C. § 1305(a)(1).
[79] *Dawes III,* 652 F.3d at 1241–42.
[80] 652 F.3d 1236, 1239 (10th Cir. 2011); *supra* note 19 and accompanying text.
[81] *See* 11 U.S.C. § 503(b); *Dawes III,* 652 F.3d at 1239.

statute's underlying purpose, Congress should modify the language to promote Chapter 12's purpose.[82]

The interpretation of the phrase "incurred by the estate" has a tremendous effect on the scope of a family farmer's post-petition tax liabilities.[83] A family farm may have no significant assets beyond relatively illiquid farmland and farm equipment.[84] Therefore, whether the sale of such farm assets creates additional, non-dischargeable tax liabilities has a profound influence on the efficacy of a Chapter 12 bankruptcy.[85] If capital gains tax liabilities from the sale of such assets remain priority claims, a farmer may retain significant tax liabilities after the completion of the bankruptcy process.[86] This inhibits the ability of Chapter 12 to provide a post-petition fresh start as intended by the legislature.[87]

The divergent holdings of the Circuit Courts in *Dawes III, Hall,* and *Knudsen* stem from the courts' reliance on different sections of the U.S. Code.[88] Whereas the Eighth Circuit relied on the definition of property in a bankruptcy estate, the Ninth and Tenth Circuits examined the Internal Revenue Code's characterization of the tax liabilities of Chapter 12 estates.[89]

The Tenth Circuit's conclusion in *Dawes III,* that the individual debtor incurs post-petition capital gains liabilities, is most consistent with the greater structure of the U.S. Code.[90] Where, as in *Dawes III,* a court must interpret an ambiguous statute, it should first rely on the plain meaning of a term.[91] Therefore, the Tenth Circuit properly relied on the definition of "incur"—"to become liable for"—when analyzing section 503(b)'s phrase "incurred by the estate."[92]

Furthermore, after determining the definition of "to incur," the court correctly looked to the Internal Revenue Code to establish who is

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[82] *See Dawes III,* 652 F.3d at 1239.

[83] *See* Porter, *supra* note 1, at 737–38.

[84] *See id.*

[85] *See id.* at 738.

[86] *See id.*

[87] *See* Knudsen v. IRS, 581 F.3d 696, 722 (8th Cir. 2009); *supra* note 19 and accompanying text.

[88] *See Dawes III,* 652 F.3d at 1239; United States v. Hall, 617 F.3d 1161, 1163 (9th Cir. 2010), *cert. granted,* 131 S. Ct. 2989 (2011); *Knudsen,* 581 F.3d at 706.

[89] *See Dawes III,* 652 F.3d at 1239; *Hall,* 617 F.3d at 1163; *Knudsen,* 581 F.3d at 706.

[90] 652 F.3d at 1239; *see* I.R.C. § 1398 (2006).

[91] *See* Caminetti v. United States, 242 U.S. 470, 485 (1917) ("[T]he meaning of a statute must . . . be sought in the language in which the act is framed, and if that is plain . . . the sole function of the courts is to enforce it according to its terms.").

[92] *See Dawes III,* 652 F.3d at 1239.

liable for post-petition capital gains taxes.[93] By noting that filing for Chapter 12 bankruptcy does not create a "separate taxable entity," the Tenth Circuit rejected the assertion that the farmland sold was property of the bankruptcy estate and dismissed its non-priority status.[94] Because the estate is not taxable and thus not liable for capital gains taxes, the individual debtor must incur the tax liabilities.[95] Therefore, the Eighth Circuit's reasoning in *Knudsen* appears to be fatally inconsistent with the plain language of the Internal Revenue Code.[96]

The Tenth Circuit's decision in *Dawes III* undercuts the legislative intent with which Chapter 12 was enacted, making it more difficult for a distressed family farmer to obtain a financial fresh start.[97] By holding that an individual debtor "incurs" post-petition capital gains liabilities, the Tenth Circuit increased the financial burden on family farmers undergoing a Chapter 12 restructuring.[98] The preservation of this non-dischargeable tax liability impedes Congress's stated goal of allowing small farmers to restructure liabilities while remaining operational.[99] Therefore, textual interpretation of Chapter 12 results in an outcome diametrically opposed to the statute's underlying intent.[100] Nevertheless, the court properly relied on the Code's statutory language to clarify the ambiguous term.[101] Although the plain language of Chapter 12 does not appear to promote Congress's legislative purpose, the Tenth Circuit correctly enforced such language as the rule of law.[102]

Conclusion

Chapter 12 of the U.S. Bankruptcy Code was enacted to address the unique challenges faced by a financially distressed family farm. It was intended to allow farmers to reorganize liabilities without sacrificing their livelihoods as farm owners. Yet, there is a current controversy

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[93] *See id.*

[94] *See id.* at 1240.

[95] *Id.*

[96] *See* 581 F.3d at 709; I.R.C. § 1398 (2006).

[97] *See* 652 F.3d at 1242–43; Van Patten, *supra* note 15, at 52–53; *supra* note 19 and accompanying text.

[98] *See Dawes III,* 652 F.3d at 1242–43.

[99] *See id.*; Van Patten, *supra* note 15, at 52–53; *supra* note 19 and accompanying text.

[100] *See Dawes III,* 652 F.3d at 1242–43; Van Patten, *supra* note 15, at 52–53; *supra* note 19 and accompanying text.

[101] *See Dawes III,* 652 F.3d at 1242–43; Van Patten, *supra* note 15, at 52–53; *supra* note 19 and accompanying text.

[102] *See Dawes III,* 652 F.3d at 1242–43; Van Patten, *supra* note 15, at 52–53; *supra* note 19 and accompanying text.

as to whether capital gains tax liabilities from the post-petition sale of farm assets are subject to downgrade and possible discharge under 11 U.S.C. § 1222(a)(2)(A). On the one hand, the Eighth Circuit held in *Knudsen* that such liabilities are incurred by the estate and can be downgraded to non-priority claims. On the other hand, the Ninth Circuit held in *Hall* that those liabilities are incurred by the debtor and must be paid in full.

In *Dawes III,* the Tenth Circuit relied on the plain meaning of "incurred" as well as the structure of tax and bankruptcy law in holding that such claims are incurred by the debtor and may not be downgraded to non-priority status. Although the Tenth Circuit's decision is inconsistent with the legislative intent underlying Chapter 12, the court correctly parsed the statutory language and arrived at the only logical interpretation of the disputed phrase.

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