

Farmers ATG - Chapter Eight: Livestock Marketing / Auction Barns

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Introduction

According to the National Agricultural Statistics Service, cash receipts from marketing of meat animals totaled \$65.0 billion in 2007. Of this amount, cattle and calves accounted for 76 percent, hogs and pigs 23 percent, and sheep and lambs 1 percent.

The livestock marketing business has evolved from the days when producers sent their livestock to a terminal market without any idea of the price they might receive. Terminal markets and commission agents still thrive in the ever-changing world of livestock marketing, but modern-day merchants, who use computers, video uplinks, fax machines, and cellular phones to market livestock, have joined them. Today, livestock are marketed through a variety of businesses ranging from the order buyer, who operates out of the front seat of his car, to the video auction that sells cattle by beaming pictures of them to a satellite orbiting the earth.

How producers market livestock in the United States varies depending on what species they are merchandising. Hog farmers merchandise their production in a fashion similar to poultry - under contract to large packers. Although hog farmers still offer feeder pigs at auction, the tendency is toward more vertical integration and more contractual arrangements. In addition to this method, there are also several hog-buying stations, situated primarily in Iowa, Illinois, and Indiana, to which the farmer delivers, weighs, and sells hogs to a packer.

Purebred livestock, such as boars, rams, bulls, and other registered animals used for feedstock production, are often sold at auction or by private sale. Private sales occur when a buyer goes to the farm or ranch and purchases the animals directly from the breeder who produced them. The farmer or rancher usually sells livestock by the pound, except in the case of breeding animals, which are usually sold by the head. For example, a breeding bull may bring \$2,000 to \$3,000, whereas a steer destined for a feedlot may sell for \$60 per hundredweight ("cwt").

At auction, animals are usually sold one at a time. However, when a rancher sells his yearly production in the form of calves or lambs, the auction lot may be composed of several dozen, or even hundred, animals. Steers and heifers are usually sold separately, whereas a group of lambs or hogs may include both sexes. Most often producers send their livestock to the nearest auction barn to avoid costly transportation expenses. Individuals usually own these auction barns and may operate them as a sole proprietorship, small partnership, or small corporation. The owner of the auction barn may charge for the feed consumed while the livestock are in the auction yard and for other incidentals to the sale. The owner of the auction also receives a commission, or a per head fee, for selling the livestock. Typical commissions range from 3 to 4 percent. One of the largest cattle auctions in the country, where the auctioneers actually herd livestock through an auction ring, is located in Oklahoma City, Oklahoma. Here, cattle auctioneers sell nearly every day of the week. This is an exception however, as most of the auction barns in the country conduct sales once a week. Auction markets may offer sheep, dairy animals, goats, hogs, horses, and cattle on the same day at the same location.

One of the relatively new tools for marketing livestock is the video auction, which allows cattlemen to offer their livestock for sale to buyers all over the country with modern day telecommunications tools. Videotaped pictures of consignments of livestock are beamed to a

satellite on a predetermined sale day. Buyers can view the livestock on their own television sets, provided they are linked to a satellite dish. While they are viewing the livestock, they can call on the telephone and take part in a regular auction. This way, producers have to move stock only once—to the new owner—thus avoiding the costly and time-consuming task of trucking animals to an auction barn.

Large video auction companies stage either monthly or biweekly sales. Western Video Market, headquartered in Cottonwood, California, is actually a consortium of auction markets that are using the video sales in combination with their own weekly, live animal sales. Superior Livestock Auction, with headquarters in Brush, Colorado and Fort Worth, Texas, on the other hand, has more than 300 agents in the country filming consignments and delivering the livestock to the new buyers. Superior was selling more than one million cattle annually by 1994.

Sitting in the auction arena, or watching via satellite, is a variety of buyers who make their living attending several auction sales each week. They may be order buyers working on a per-head or per-pound fee, or they may be employees of a feedlot or packinghouse. Order buyers may have several orders at the same auction sale. A feedlot manager may have called and wanted steers for the feedlot, or a rancher may have phoned with an order for heifers suitable for breeding. Order buyers often represent several interests at the same sale, although they usually try to avoid having more than one order for the same classification of livestock. The order buyers keep careful track of both the number of livestock they buy and the weight. Order buyers are highly skilled and are paid on a commission basis. Their commission is usually "fifty cents per hundred." This means that on a purchase of a \$500 animal, the order buyer is paid a commission of \$2.50.

The marketing of livestock has come a long way from the days when cattlemen herded livestock up the Goodnight Trail in an attempt to find buyers. In the modern era, the most up-to-date electronic communication tools are being used to market livestock of all species. There has also been a great deal of experimentation taking place with computer listings of livestock and computer auctions. These changes have been revolutionary for an industry steeped in tradition. One thing remains constant however; in the world of livestock marketing, the transaction is bound by an honor code that has disappeared in other industries. Multi-million dollar deals are still consummated without a written contract—the marketing of livestock is still very much a handshake business.

Auction Barn Operations

Any person desiring to sell livestock can bring any type of livestock to auction on any given auction day. The auction does not need to know in advance what will be presented for sale.

The State Brand Commission issues brand papers, also known as "hauling papers," to livestock owners. The purpose of the papers is to establish the validity of the brand and the livestock ownership. (Cattle, horses and mules are branded; other types of animals are marked differently to denote ownership.) The brand papers can be completed in one of two ways. The seller/owner can either complete the "self-inspection" brand papers, or the brand inspector can complete the

papers after inspecting the livestock at the ranch of the seller/owner. The seller then arrives at the auction with brand-commission forms already completed.

Livestock brought to the auction is herded into the check-in chutes (nose to tail in single-line formation). Once in the chutes, the State Brand Commission inspector uses a Brand Commission Check-In Sheet to match the brand on each animal for sale with the brand on the sellers' papers that accompany the animals. The State Brand Commission inspector verifies that the animals are consigned to the auction barn by the true owner or agent of the true owner. An auction employee simultaneously uses an auction check-in sheet to assign a tag number to each animal (or to each group of animals), and attaches a tag with that number to the animal's back. If one seller has many head of livestock to sell, the livestock may be sold in groups, or lots, according to similarity. The animals are listed on the auction check-in sheet by tag number, description of the animal (or lot of livestock), the owner's name, and the date. The papers that are compiled follow the animal (or lot of livestock) through the auction process.

Animals enter the auction ring in the groups to be sold (or one by one), are weighed, and are then auctioned to the highest bidder. As livestock are purchased, their papers go to the auction clerk. The auction clerk verifies that the correct animal or lot matches the information on the papers. Information verified includes weight, description of animal(s) (for example, white-faced steer calves or brockel-faced heifer yearling), headcount, price, buyer's number, buyer's holding pen number, and seller's name.

Papers then go to the office, where auction employees verify that the lot numbers, tag numbers, buyers, and sellers all match. They sort the papers into sellers' copies and buyers' copies. After a sale is completed in the auction ring and the seller goes to the office to pick up a check, the office personnel match the seller's papers to the related buyer's papers. Throughout the auction day, office employees continue this paperwork-matching process as buyers and sellers approach the office until each lot "cancels out." "Canceling out" is the matching of sellers' and related buyers' papers so there are no unaccounted-for animals or papers. This system ensures that each animal has a buyer and a seller, and that each buyer and seller has paperwork that matches the animal (or lot) purchased and sold.

Typically, the auction markets use a "one-write" system for their custodial bank account. To pay a seller his/her proceeds, an auction market employee attaches an original check to the upper part of the original sales invoice with a carbon in between, thereby producing a duplicate (carbon) copy. The invoice details the following items: tag numbers, animal description (steer, bull, calf, etc.), weight, price per pound, gross total less commissions and fees, and net proceeds. The seller may receive an attached remittance advice, the seller's copy of the invoice, or both. The auction markets usually maintain and file the carbon copies by week. The markets also usually attach sales invoices to the related purchase records and file them for the corresponding week.

When the buyer is ready to leave with livestock, the buyer goes to the auction office, pays the bill, and receives the buyer's copy of the invoice. The buyer can pay for livestock purchases using electronic funds transfers, cash, check, money order, or a draft (a draw from a previously-established line of credit). To pick up purchased livestock, the buyer shows buyer's papers to auction employees who, since the sale, have moved purchased livestock into the buyers' pens in

the back lot. Each buyer is assigned a pen and the pens are numbered. The auction market employees then help the buyer load the livestock into trucks and trailers.

Legal Aspects

The Packers and Stockyards Act, 1921, § 1 et seq., 7 U.S.C. § 181 et. seq. (2009) (P&S Act) was enacted to assure fair trade practices in livestock marketing and in the meatpacking industry. Its goal is to safeguard farmers and ranchers against receiving less than the true market value of their livestock and to protect consumers against unfair business practices in the marketing of meats. *Bruhn's Freezer Meats of Chicago, Inc. v. U.S. Dept. of Agriculture*, 438 F2d 1332 (1978). Congress formed the Packers and Stockyards Administration (P&S Administration) to police the livestock marketing industry. The P&S Administration also takes on the task of ridding the industry of unscrupulous traders who occasionally surface.

The P&S Act requires commission firms, auction markets, dealers, and order buyers to be bonded as a measure of protection for livestock sellers. 7 U.S.C. § 204 (2009). The size of the bond is based on the volume of business and is generally an average of two business days or a minimum of \$10,000. Regulations under the Packers and Stockyards Act, 9 C.F.R. § 201.30 (2009). A function of the P&S Act is to insure that commission firms, auction markets, order buyers, and dealers remain financially solvent.

Packers, live poultry dealers or handlers, stockyard owners and market agencies, and dealers subject to the provisions of the P&S Act must keep adequate records to allow accurate trace back of all livestock to the prior owner. At a minimum, those records must include, 9 C.F.R. § 201.44:

- the date on which each consignment was received
- the date each consignment was sold
- the name and address of the consignor
- the name and address of the purchaser
- the number of livestock
- the species of livestock
- the health status of the livestock
- any marks and brands
- all gross selling prices, and
- all commission charges.

These records must be accessible to state and federal representatives for the prior twenty-four (24) month period. 7 U.S.C. § 204.3 (Supp. 1991).

In addition, each market agency selling livestock on commission and each agency subject to the P&S Act (the market agencies) must establish and maintain a separate bank account designated as a custodial account. 9 C.F.R. § 201.42. The market agency acts as a fiduciary for livestock consignors. Fiduciaries have a legal responsibility to protect and preserve the funds entrusted to them for the true owners. Agencies must establish custodial accounts in banks insured by the Federal Deposit Insurance Corporation. Id. § 201.42(f). They must designate the accounts as "Custodial Account for Proceeds," or some similar designation, to inform others that the market

is acting as a fiduciary and that the funds in the account are trust funds (not owned by the market agency). Id. § 201.42(b).

Under the P&S Act, the market agency must maintain accounts and records disclosing how it is handling the custodial account, the names of all consignors having an interest in the account, and the amount due and payable to each consignor from funds in the custodial account. Id. § 201.42(e). When (1) the market agency, (2) its owners, officers, or employees, or (3) other buyers to whom the market agency has extended credit buy consigned livestock, the market agency must deposit funds equal to the proceeds receivable for those livestock into the custodial account by the close of the next business day after the sale. Id. § 201.42(c) Thereafter, upon receipt, agencies must deposit proceeds received from buyers in payment for livestock sold on consignment into the custodial account. Id. Also, agencies must reimburse the custodial account, in full, by the close of the 7th day after the sale for any uncollected proceeds receivable. Id. Agencies can draw from the custodial account only to pay the net proceeds due to consignors (or any person the market knows is legally entitled to payment), lawful charges from consignors' invoices, and charges due the market agency as compensation for its services. Id. § 201.42(d). Lawful charges against a consignment include charges like trucking, brand and health inspection fees, meat board, etc., which have been deducted from the sale proceeds and were authorized by law or by the consignor. Market agencies are prohibited from using the custodial account to pay their own general expenses, make advances on livestock consigned or purchased, finance livestock buyers, or finance their own livestock purchases.

Because custodial account funds are trust funds held in trust by the market agency for the benefit of livestock consignors, there are limited opportunities for agencies to invest those funds. Without the protection of trust account status, creditors can attach those funds to the detriment of the livestock consignor and rightful owner of the funds. A market agency may invest custodial account funds in interest-bearing savings accounts or one or more certificates of deposit (CDs), as long as the market agency's ability to meet its obligations to its consignors is not impaired. Id. § 201.42(g). A market agency must properly identify allowable investments as being part of the custodial account and maintained in, or issued by, the same bank as the custodial account. CDs must be made payable to the market agency as trustee of the custodial funds.

Each market agency must know whether the custodial account it maintains is in proper balance. To make that determination, a market agency should analyze the custodial account at least once a month, and it must retain the analysis and all supporting schedules or documents as part of the market agency's records. If the analysis of a custodial account reveals a shortage, the market agency must take immediate action to correct the shortage. Typical corrective actions include transferring funds from the general account or other sources into the custodial account, or drawing on a line of credit to deposit an amount equal to the shortage into the custodial account. If the custodial account analysis reveals an overage, the market agency may leave the excess in the account, move the excess to an allowable custodial account investment, or transfer the excess funds to its general account.

The following practices associated with custodial accounts are violations of the P&S Act:

- custodial account shortages

- misusing custodial account funds
- failure to remit to livestock consignors when due
- failure to timely reimburse the custodial account for uncollected proceeds receivable
- issuing insufficient funds checks or dishonored instruments to consignors

Penalties for such violations can include cease-and-desist orders, suspensions of business operations, and civil penalties, or permanent injunctions, fines, and jail sentences for actions taken through the Justice Department.

The P&S Act also ensures that all firms engaged in livestock merchandising are playing on a level playing field by requiring that all rates or charges made for any stockyard services be just, reasonable, and nondiscriminatory. 7 U.S.C. § 206. Auction barns charge fees for numerous services: yardage (fee to “yard” an animal in a pen), feed, trucking (hauling animals), and commissions (selling fee). The auction barn might also collect fees through livestock sales on behalf of, for example, the State Brand Commission and Beef Council (aka “beef check-off fee”). The auction barn must publish tariffs or charges. Id. §§ 206, 207. Free trucking, price guarantees, or discounted commissions cannot be offered as an incentive for a rancher to send his or her livestock to one auction as opposed to another. Such an offer can result in a fine of \$10,000 for each infraction. Id. § 193(b). The P&S Administration regulates auction barn fees; the auction barn must file notification with the P&A Administration of any changes in rates. Id. §207(c). Employees of the P&S Administration check the scales used to weigh the livestock on a regular basis. An approved weigh master must test scales for accuracy at least once every six months. 9 C.F.R. § 201.72

In addition to national rules and regulations, each state has its own regulations governing livestock auctions. A review of a particular state’s Department of Agriculture website is helpful in knowing what type of reports a livestock auction must maintain.

The Livestock Marketing Association (LMA) based in Kansas City is a principal trade organization for the livestock-marketing sector. In addition to lobbying Congress and state legislatures, the LMA is also in the insurance business and provides bonding for the various marketing agencies. The LMA's Board of Trade issues "hot sheets" notifying the industry of unscrupulous dealers and those firms which are no longer solvent.

Third Party Sources of Information

1. Bank Accounts: See “Legal Aspects”, above.
2. The Livestock Brand Commission Check-In Sheets are obtained from the Department of Agriculture, Brand Inspector records. This document is used by the Brand Inspector to identify the number and brands of cattle being sold.
3. The Stockyard Check-In Sheet is a document that is provided by the state to the auction barn to identify each animal sold. The Department of Agriculture provides numbered stickers to each auction barn to identify cattle being sold.
4. A Field Test Chart is used by a Federal/State Animal Health Technician to record all work that was performed at the producer’s pasture including the Brucellosis tests.

5. The Stolen Cattle Offense Report is used by a Brand Inspector to record any stolen or missing cattle reported by a producer.
6. The Cooperative Extension Service - Agricultural and Natural Resources Summary is a book published jointly by each state's Cooperative Extension Service and University Agricultural Center. It contains a summary of the vital statistics pertaining to the agricultural industry of each county on a yearly basis. This summary can be used as a tool to determine the yield percentage for each parish or county to serve as a benchmark for livestock sales when auditing individual producers, or it can be used in an indirect method to determine the proper amount of gross sales. See the computation of the cattle yield percentage and projected gross sales below. Information is also available through National Ag Statistics at "Statistics by State".
7. The Production Credit Borrower Balance Sheet is a document used by the formerly-named Production Credit Association (PCA), now known as Farm Credit Association, to secure information from farmers, ranchers, and fishermen to whom loans are to be made. Farmers or ranchers may have loans from commercial banks as well.

Initial Interview

Livestock Market

Prior to examining an auction barn, it is important to interview the owner(s) of the barn. It is also important to interview any other employees who are involved with purchases and sales of livestock, as well as those responsible for making entries to the books and records, those responsible for controlling cash, and those responsible for transacting business at the bank. By doing so, the agent obtains a complete picture of the flow of cash in the business.

In addition to the interview questions determined through the normal pre audit analysis of the return, the agent should ask the following questions specific to livestock markets:

1. Do you go to the individual livestock producer's premises to purchase livestock rather than the producer trucking the livestock to the auction barn for sale? If so, how frequently do you purchase livestock in this manner?
2. When you go to the producer's premises to purchase livestock, do you make payments while visiting the producer's premises, or at a later date, such as auction day?
3. When you make payments to the producer, is the method of payment in cash, by check, or a combination?
4. How do you determine the method of payment?
5. Does the owner of the auction barn ever purchase livestock from his/her personal account (non-business account)?
6. If so, does the owner make the check payable to the seller name, or to cash? (If an agent finds this practice, an examination of the auction barn owner's personal return may be necessary. Reimbursements may be flowing to him/her from the auction barn and this will require further investigation.)
7. If the auction barn writes a business check to purchase livestock, what payee names may appear on the check? (For example, cash, auction barn's name, or producer's name)

8. Does the auction barn ever write more than one check to a producer for the same livestock purchase? (For example, purchase price split between more than one check)
9. Who has authority to sign checks?
10. If the auction barn uses a post office box, who has access to the box, and who normally picks up mail?
11. What individuals at the auction barn have custody over petty cash and cash on hand for livestock purchases?
12. Who authorizes credit sales of livestock? Who makes entries to and otherwise maintains the accounts receivable record?
13. Who has authority to cash checks at the bank?
14. Is the auction barn associated with any video auction companies?
15. What records does the State of (state) require concerning livestock auctions?
16. What other services do you provide your customers? (i.e. do you offer transportation, storage, etc.)
17. Do you charge a buyer's premium for any animals?
18. Do you accept animals with a minimum bid or reserve bid? If so, what do you charge if the reserve is not met?
19. Should an examiner encounter internet video sales activities, the examiner should consider accessing the IRS Intranet E-Commerce website for interview questions pertinent to electronic commerce.

Producers

The initial interview with the producer needs to be detailed as to the records maintained and the facts surrounding the farming or ranching income and expenses. An agent may need this information to establish the producer's actions and intent regarding any possible unreported cattle sales. See Exhibit 1 for a sample list of interview questions for producers. Be sure to ask for the number of head of cattle that the taxpayers had for the year under audit. Also ask for the number of each type of cattle (steers, cows, heifers, bulls, etc.). You can verify this by inspecting their inventory listing, depreciation schedule, or third party records such as the formerly-named Production Credit Association (PCA), now known as Farm Credit Association financial statements. The Production Credit Association (PCA), now known as Farm Credit Association is a lending institution that holds mortgages on cattle. They inspect each producer's cattle and prepare an inventory listing of all of the cattle. The PCA does this every time the taxpayer applies for an operating loan. In addition, Section 1324 of the Food Security Act requires each state to maintain a central filing system for filing livestock financing statements on a statewide basis. These statements are filed with the office of the Secretary of State for each state.

You can use the number of head to get an estimate of their sales. The average price per calf and the average calf crop is available for each state from the USDA National Agricultural Statistics Service Web site. The following example uses a price per calf of \$450.00 to \$500.00 and an average calf yield of 70-90%.

Example:

For a producer with 500 head of breeding cows, the expected yield would be 70% to 90% or 350 to 450 calves for the year. Sales of calves would be expected to range from approximately \$157,500 to \$225,000, using \$450/calf on the low end and \$500/calf on the high end.

Be sure to check the livestock depreciation and/or inventory status. Note that all livestock purchased primarily for sale must also be included in inventory. Livestock purchased for draft, breeding, dairy, or sporting purposes may be included in inventory, or treated as depreciable assets. However, the method must be consistent from year to year regardless of the practice chosen. Raised livestock usually has no depreciable basis because the producer deducts the costs of raising them and does not add the costs to the basis. Review deductions for cattle losses from death or theft. Losses of livestock purchased for sale are deductible if the producer reported income on the cash method. If reported on the accrual method, the producer takes the casualty and theft losses of property raised or purchased for sale by omitting the item from ending inventory for the year of the loss. Losses of livestock raised for sale are not deductible if reported on the cash method because the value of livestock has not been included in income. If reported on the accrual method, a casualty or theft loss is deductible only if costs were included in beginning inventory. The producer takes the deduction by omitting the item from ending inventory for the year of the loss.

Reference Publication 225, Farmers Tax Guide and the Agriculture Technical Advisor for additional guidance relative to farms and ranches.

Examination Techniques

In examining the livestock auction barn, it is possible for the examiner to encounter various schemes that involve the auction barn assisting producers who sell their livestock through the auction barn to underreport their sales revenue. The scenarios are variations on the same theme in that the auction barn checking accounts and employees are involved. These scenarios ultimately result in the ability of the seller of the livestock to underreport sales revenue. These do not result in the auction barn obfuscating its own commission income. Should an examiner encounter situations similar to those described below, he/she should take note of the persons involved and subsequently examine the returns of the producers or solicitors for underreported livestock sales. Also, the examiner should be aware of how the badges of fraud may apply to the producers'/solicitors' returns and pursue fraud. When the livestock auction barn is involved in concealing transactions on behalf of the producer or solicitor, an agent should pursue the various legal avenues (civil, criminal, referral). See the "Penalties" section below.

Scenario 1

The livestock market wrote checks from the custodial account to fictitious individuals' names with a second endorsement by the owner/manager/employee of the auction barn. An owner/manager/employee then cashed the checks at a financial institution.

Scenario 1 - Example

The livestock auction barn issues two livestock purchase invoices and checks, each listing tag numbers in sequential order (the second invoice's tag number continues where the first invoice's tag number left off), to a false name. Two checks (numbers of which are in sequential number order) are written out to the false name. For example, livestock with the Brand Commission check-in sheet tag numbers 669 through 694 are sold at auction. Check number 21 is issued to a false name, John Doe, in the amount of \$2,322.32 for tag numbers 663 to 668. The next check, number 22, is also written to a false name, Jane Doe, in the amount of \$2,797.17, for tag numbers 669 to 675. The dates on the two invoices will be the same and the check numbers will be sequential. Compare the tag numbers listed on the purchase invoices to those on the Brand Commission check-in sheet to identify the true owner, Jane Deer. The comparison verifies that the name on the checks is false by showing that the tag numbers 663 through 694 per the Brand Commission check-in sheet belong to someone else, the true owner/seller. The amounts per the checks issued to the false name for tag numbers 663 through 675 are usually not reported in the real seller's income. The amounts paid for tag numbers 676 through 694 appear on checks issued in the real owner's name and are usually reported by the true owner as sales revenue.

Scenario 1 - Audit Techniques

- Review cancelled checks written from the custodial account that have two or more endorsements. Determine names of all employees who work for the auction barn. The employees may endorse the false name in addition to their own second endorsement. These checks may be cashed by the employee at the auction barn's local bank. The cash may have then been given to the seller.
- Review the duplicate copy of the cancelled checks. These reflect the number of livestock sold at the auction barn as well as each animal's tag number. Each animal has a tag number assigned during auction check-in for regulatory purposes.
- Compare the duplicate copy of the cancelled checks to the stockyard check-in sheets, which list tag numbers and breed of each animal. The duplicate copy will also provide the initials of the livestock seller's name and his/her address; or, it will provide the name/initials and the license plate of the driver with who trucked the livestock to the auction barn. The auction barn owners and employees may help the examiner to identify the true owners of the livestock.
- Review several auction barn check-in sheets before and after the one corresponding to the false name because the true owner's total sale may be divided between a check written to a false name and a check written to his/her true name. In this situation, the seller will receive the check written to his/her true name and cash for the remaining portion of the sale. This technique helps to identify the true owner because the stockyard check-in sheets reflect the true owner's name and tag numbers.
- Compare the duplicate copy of the cancelled check to the State Brand Commission Check-in Sheets (at the Department of Agriculture), which also list the tag numbers and breed of livestock. The Brand Commission Check-in Sheets reflect the false name and also the true owner's name.
- Review cancelled checks with each auction barn employee that endorsed false names along with their own second endorsement. The auction barn normally maintains detailed records listing the false names and the corresponding true owners. By reviewing the

cancelled checks and other records maintained by the auction barn, the employees and owner of the auction barn should be able to identify the true owner of the livestock.

Scenario 2

The auction barn writes checks payable to a Stockyard Trading Account from the Custodial Account.

Scenario 2 - Example

The top portions of two duplicate livestock purchase invoices from one stockyard have different subjects. For example, the first check, number 37, is written from the Stockyard Custodial Account to Dale Hay, the real owner, in the amount of \$1,252.68 for his sale of livestock. The tag numbers listed are 536 through 539. The amount of check number 37 is usually reported in income by the seller. The very next check, number 38, is written from the same account (the Stockyard Custodial Account) to The Stockyard - TA (Trading Account) for \$2,687.61 with tag numbers from 540 through 547. The duplicate copy of the check shows the real owner's initials, "D H" noted under the tag numbers. The check written to the Stockyard - TA, number 37, is deposited into the Stockyard General Account. A check from the Stockyard General Account is then written to cash or to the auction barn for an identical amount. This check is cashed by the owner of the auction barn, and the cash is given to Dale Hay for the remainder of his livestock sale. The cash portion of the livestock sale is usually not reported in sales by the producer.

Looking at the Brand Commission check-in sheets with the tag numbers 536 through 547 shows that Dale Hay checked in the livestock with those tag numbers. By comparing the Brand Commission check-in sheet information to the purchase invoices and checks numbered 37 and 38 the examiner finds that two checks belong to Dale Hay, the true owner, for the sale of the livestock he owned whose tag numbers were 536 through 547.

Scenario 2 - Audit Techniques

- Review cancelled checks written to the Stockyard Trading Account from the Custodial Account for livestock purchases. These checks may be deposited into the General Account. If so, a check may be written from the General Account to cash or the auction barn for an identical amount and then endorsed by the owner of the auction barn. This check is cashed at the auction barn's bank and the cash is given to the producer.
- Review the duplicate copy of the cancelled check written to the Stockyard Trading Account from the Custodial Account. The duplicate copy reflects the sticker numbers furnished by the Department of Agriculture and assigned by the auction barn to each animal that is sold. The duplicate copy may also reflect the initials (AB, BB, etc.) of the person who sold the livestock to the auction barn. The owner of the auction barn or the bookkeeper writes the seller's initials on the duplicate copy of the check for their own records to assist in identifying the true owner of the livestock at a later date.
- Review cancelled checks written before and after the check that is written to the Stockyard Trading Account. These checks are written to the true owner who sold the livestock. A check may be written to the Stockyard Trading Account for a portion of the

sale. The auction barn cashes the check and the seller receives the cash. The seller's initials may be written on the duplicate copy of the cancelled check. The examiner can compare the duplicate copy of the cancelled check to the cancelled check written directly before or after to determine the true owner of the livestock.

- Review the auction barn check-in sheets on all transactions checked in under the stockyard's trading account name. The stockyard check-in sheets reflect tag numbers and breed of the livestock. They also provide the initials of the livestock seller's name and his/her address; or they provide the name/initials and the license plate of the driver who trucked the livestock to the auction barn.
- Compare the stockyard check-in sheet listings with those occurring immediately before and after the ones checked-in under the Stockyard Trading Account name. The true owner's name and address matches the information that is written on the stockyard check-in sheets under the Stockyard Trading Account name.
- Compare the duplicate copy of the cancelled check that is written to the Stockyard Trading Account to the Brand Commission Check-in Sheet (at the Department of Agriculture), which also lists the tag numbers and breed of livestock. The examiner can identify the true owner by comparing the tag numbers on the duplicate copy of the cancelled check to the identical tag numbers on the Brand Commission check-in sheet.

Scenario 3

The auction barn made checks payable to the true owner (an individual's or business' name). The true owner cashed the checks and did not deposit the funds into his/her bank account.

Scenario 3 - Audit Techniques

Review checks written to individuals or businesses that were cashed. Inspect the front and back of each check for the various banking notations that indicate that a check was cashed. Inquire with banks in the area to determine what methods are used to note that a check is cashed. Examples of notations are: "CCK," "CC," "CASHED," "CASH FOREIGN CHECK," "ON US," "NOT ON US," etc. Because these checks are not deposited into the producer's bank account, they may not be reported in income.

Scenario 4

The auction barn wrote checks to the true owner (an individual or business name) who endorsed them over to the auction barn.

Scenario 4 - Audit Techniques

Review checks written to individuals or businesses and endorsed by the individual and the auction barn, then deposited into the auction barn's account. The following scenarios may have occurred:

- The auction barn cashed the check from its own cash on hand and gave the cash to the producer. This situation generally means that the producer purchased livestock at the same auction where he/she sold livestock. The producer then endorsed over the sales check to the auction barn in payment for the purchased livestock. The difference between the producer's purchases and sales are normally given in cash.
- The producer endorses a check over to the auction barn for payment on account for prior purchases.
- The auction barn cashed the entire check for the producer.

These transactions may not be reported in the producer's sales because the amounts received by the producer are received in cash and are not deposited into a bank account.

Scenario 5

The auction barn wrote checks to individuals who then endorsed the checks over to another agency or third party.

Scenario 5 - Audit Technique

Review cancelled checks that are written to individuals and endorsed by the individual to another agency or third party. Examples of third parties are Production Credit Association and Farm Service Agency. The checks are endorsed over to these agencies for payment on account for mortgaged livestock.

Scenario 5 - Example

Check #	Payee	Amount
3052	John Doe FSA	\$1,000
6122	John Doe PCA	\$30,000

The above checks are written to the true owner, John Doe, along with co-payee's Farm Service Agency and Production Credit Association (PCA). John Doe endorses the checks over to Farm Service Agency and PCA for note payments on mortgaged livestock. Because these checks are not deposited into the producer's checking account, it may not be reported in sales.

Scenario 6

The auction barn writes checks to cash, the auction barn, or the auction barn's owner's name from the auction barn's general account.

Scenario 6 - Audit Techniques

Review checks written to cash, the auction barn, or the owner of the barn from the General Account. These checks are normally cashed by the owner or an employee of the auction barn. The cash is given to the livestock producers for purchases of livestock at their farms or ranches. These amounts are usually not reported in the producers' sales. The livestock then belongs to the auction barn; therefore, the livestock is checked-in to the auction as that barn's livestock. On the day of sale, a check is written to the auction barn from the custodial account and is deposited into the general account to offset the check that was written to either cash, or the auction barn, or the owner's name. Copies of the duplicate cancelled checks can be secured for each of these transactions and should include the breed of livestock and tag numbers. These documents can be further researched through the Department of Agriculture (Sanitary Board and Brucellosis section) by comparing them to test charts maintained by the Department of Agriculture. The tag numbers on the duplicate copies of the checks can be entered into a database to determine the true owner of the livestock that was sold to the auction barn. The Department of Agriculture, on a periodic basis, tests livestock in various producers' pastures to ascertain that the herd is not infected with a disease.

Scenario 7

The auction barn writes checks payable to the names of the producer's various family members.

Scenario 7 - Audit Techniques

Review cancelled checks written to multiple individuals with the same last name. These checks are generally together because the check numbers are usually sequential. Look for two endorsements, one for the family member in whose name the check was written and the other for the producer or parent who actually went to the bank. In these instances, payment for the sale of livestock may be divided among minor children or the spouse who do not actually own the livestock nor report the sale as income.

Scenario 7 - Example

Date	Check #	Payee	Address
12/1/08	16967	Mary Smith	Box 201, Anywhere, LA
12/1/08	16968	Debbie Smith	Box 201, Anywhere, LA
12/1/08	16969	James Smith	Box 201, Anywhere, LA

All names are the names of real persons; however, the real owner is James Smith, Mary and Debbie's father. Mary and Debbie are James' minor children. James Smith endorses Mary and Debbie's names along with his own second endorsement. The handwriting for all names is

identical and belongs to James Smith. The checks written to the family members' names may not be reported in James Smith's livestock sales.

Scenario 8

The auction barn writes checks payable to a solicitor or to members of a solicitor's family. The solicitor then cashes the checks.

- The solicitor cashed personal checks and then used this cash to pay for livestock that he purchased from producers for resale to the auction barn. (Solicitor is selling his own livestock).
- The solicitor sold livestock in his name or his family member's name on behalf of a producer, cashed the auction barn's check and then paid the producer cash, less a commission, for his livestock. (Solicitor is selling the producer's livestock.)

In most cases, examinations of solicitors will be warranted due to the numerous cash transactions in which they may be involved.

Scenario 8 - Audit Techniques

- Review cancelled checks that the solicitors write from their personal bank accounts that were cashed.
- Review detailed purchase records kept by the solicitors to identify livestock producers who received cash.

Scenario 9

The auction barn writes checks from its custodial account payable to fictitious individual names. The checks written to false names are then endorsed by the owner/manager/employee of the auction barn and cashed at a non-banking financial institution.

Scenario 9 - Audit Technique

Review cancelled checks written from the custodial account for two endorsements where the second endorsement is a non-banking financial institution. Checks may be written to false names with employees of the auction barn endorsing the false names. Normally these checks are in sequential order with a check written to the real owner either immediately before or after the check written to the false name. The false name checks may then be cashed by the employee at a retail store (example: a grocery). The owner of the store may cash the checks for a fee. Because the owner of the store knows the employees of the auction barn, no formal identification (driver's license) is required when the checks are cashed. The cash received by the auction barn employee is then given to the producer as payment for livestock sold to the auction barn.

Scenario 9 - Example

Check #	Payee	Amount
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Check #	Payee	Amount
23063	John Doe	\$1,000
23064	Joey Doe	\$2,500
23065	James Smith	\$1,500

- The first two checks are written to false names. The third check is written to the real owner. In reality, all the checks pertain to the real owner, James Smith. James Smith usually does not report the first two checks in income because he received cash, but reports the third check as sales because he received a check and likely deposited the check in his bank account.
- Meet with each auction barn employee that endorsed the checks and review the subject cancelled checks. The auction barn normally maintains detailed records listing the false names and the corresponding true owners. By reviewing the cancelled checks and other records maintained by the auction barn, the employees and owner of the auction barn can help to identify the true owner of the livestock.
- Review cancelled checks with identical names but different addresses. Also review the back of cancelled checks for identical endorsements where the checks were written to different names.

Scenario 10

Checks are written to a fictitious business name. The fictitious name is comprised of the real owner's initials.

Scenario 10 - Audit Techniques

- Review cancelled checks with two endorsements that are made payable to abbreviated business names, for example, J D Farms. The name of the farm consists of the owner's first and last name initials, for example, John Doe, who is the real owner of the livestock. Owner/employees of the auction barn endorse the false name in addition to their own second endorsement. These checks are then cashed at the auction barn's local bank and the cash is given to the producer. The producer may not report this cash in income.
- Review the auction barn check-in sheets, which show the owner's name and address. Review cancelled checks with each auction barn employee who endorsed the false names and his/her true name. By comparing the cancelled checks to other records maintained by the auction barn, the employees and owner of the auction barn can help to identify the true owner of the livestock.

Scenario 11

The auction barn writes checks to different fictitious names. The check numbers of the checks made payable to fictitious names are in sequential or numerical order, which structures the transactions to avoid not only FinCEN Form 104 and Form 8300 filing requirements, but also the producer's income taxes; the producer is less likely to report cash in his/her taxable income. Title

31 requires the bank to complete and file FinCEN Form 104, Currency Transaction Report on all cash transactions over \$10,000.

Scenario 11 - Audit Techniques

- Review cancelled checks with two endorsements that are in sequential or numerical order. These checks may represent livestock sales by one producer; however, multiple checks could have been written so that the dollar amount of each check would not exceed \$10,000. These checks could be written to false names and cashed at the local bank by the auction barn to give cash to the producer.
- The auction barn normally maintains detailed records listing the false names and the corresponding true owners. By reviewing the cancelled checks and other records maintained by the auction barn, the employees and owner of the barn can help to identify the true owner of the livestock.

Scenario 11 - Example

Check #	Payee	Amount
1650	Larry White	\$ 3,500
1651	Mary White	\$ 2,800
1652	Harry White	\$ 5,250
Total		\$11,550

Larry, Mary, and Harry are all false names where the true owner is one individual. The auction barn employees or owners cash the checks at a local bank separately and avoid the FinCEN Form 104 filing requirements.

The producers receiving cash may be required to file Form 8300, Title 26, IRC § 6050I, for receiving over \$10,000 in cash in a trade or business.

Information Document Request

When tailoring the Form 4564, Information Document Request to the examination of a livestock auction barn, an agent can find documents to consider requesting in the Third Party Sources of Information and the Glossary sections of this audit technique guide.

Penalties

Fraud

To apply IRC § 6663 or IRC § 6651(f), the agent must fully develop facts of each case to determine fraudulent intent. The Service has the burden of proving fraud by clear and convincing evidence. IRC § 6651(f) applies to a fraudulent failure to file any return, and the penalty is assessed on the amount required to be shown as tax on the return. IRC § 6663 applies to a fraudulent avoidance of tax if a return is filed, and the penalty is assessed on the portion of the underpayment that is attributable to fraud.

Aiding and Abetting

There are civil and criminal penalties for anyone who aids and abets an understatement of tax liability under Internal Revenue Code §§ 6701 and 7206(2). The individual must be directly involved in the preparation or presentation of a false document. It is possible for criminal referrals and/or civil penalties to apply to both the taxpayer and the person assisting the taxpayer. However, in order to sustain an IRC § 7206(2) violation, the Government must establish that the issuer of the false invoices knew that the invoices would be used for the preparation of false returns. In other words, the generation of the false documents must be carried out with a tax motive. See *United States v. Salerno*, 902 F.2d 1429 (9th Cir. 1990) [90-1 USTC ¶50,261], the court held that there was insufficient evidence that a casino manager and pit boss willfully aided and assisted the corporate parent in the preparation of false returns by participating in an embezzlement scheme against the casino. The court stated that the law requires specific intent to defraud the Service. Thus the Government must prove not only that the defendant's conduct affected tax revenue but also that tax fraud was an objective. If a person has pled guilty to criminal aiding and abetting per IRC § 7206(2) or conspiracy under Title 18 U.S.C. section 371, then the person is collaterally estopped from disputing the facts underlying the crime to which he or she pled guilty. Therefore, if the civil aiding and abetting penalty under IRC § 6701 is asserted, the taxpayer cannot dispute the facts. (*V.H. Golletz*, DC III, 91-1 U.S.T.C. [¶]50,233.) A penalty imposed under IRC § 6701 has an unlimited statute of limitation. (*Millikin v. United States*, 952 F.2d 920 (6th Cir. 1991) [92-1 USTC ¶50,020]; *Lamb v. United States*, 977 F.2d 1296 (8th Cir. 1992) [92-2 USTC ¶50,538].

Other Tax Evasion Considerations

There are other tax evasion violations to be considered such as violation of IRC § 7201; subscribing to false returns in violation of IRC § 7206(1); failing to file or filing false Forms 8300 in violation of IRC § 6050I; and conspiracy to commit an offense or defraud the United States in violation of 18 U.S.C. § 371.

IRC § 7201--Evading or Defeating Tax

IRC § 7201 requires that the Government establish an additional tax due and owing, an attempt to evade or defeat a tax, and willfulness. The failure of the producers to report cash sales could generate a substantial omission of income that would satisfy the first element of the offense. See *Leeby v. United States*, 192 F.2d 331 (8th Cir. 1951). The attempt element could be satisfied through the signing and tendering of a false return, the creation and maintenance of false invoices, and the concealment of income received in the form of cash. Willfulness can be established through the substantial understatement of income in successive years and the making

of false invoices or documents. See *Holland v. United States*, 348 U.S. 121 (1954) [54-2 USTC ¶9714]; *Spies v. United States*, 317 U.S. 492 (1943) [43-1 USTC ¶9243].

IRC § 7206(1)--Fraud and False Statements

The Service must prove a number of elements to charge a taxpayer with a false return, IRC § 7206(1). These are: the making or subscribing of a return that is false as to a material matter; a written declaration that the return was made under the penalties of perjury; the taxpayer's belief that the return is not true and correct; and willfulness. See *Hoover v. United States*, 358 F.2d 87 (5th Cir. 1966) [66-1 USTC ¶9343]; cert. denied, 385 U.S. 822 (1966). When the Government is unable to establish an additional tax due but is able to prove the other elements of tax evasion, IRC § 7206(1) is a viable option.

Information Returns

Every person engaged in a trade or business must file information returns for each calendar year reporting certain payments made in the course of that trade or business. Agents should review payments for pasture leases, farm or ranch helpers, cattle haulers, and solicitors for possible information return requirements as well as employment tax issues. Penalties regarding information returns are discussed below.

IRC § 6721--Failure to File

IRC § 6721(d) provides a limit to the maximum penalty imposed on small businesses. This rule applies to a person who has average gross receipts for the three most recent years that do not exceed \$5 million. If the gross receipts test is met, the \$250,000 maximum penalty described in IRC § 6721(a) is reduced to \$100,000; the \$75,000 maximum penalty described in IRC § 6721(b)(1) is reduced to \$25,000; and the \$150,000 maximum penalty described in IRC § 6721(b)(2) is reduced to \$50,000. In the case of intentional disregard, the Code provides that the penalty is imposed for \$100 per return. See Treas. Reg. §§ 301.6721-1(a)(1) and 301.6721-1(b)(4).

IRC § 6722--Failure to Furnish

IRC § 6722 imposes a penalty of \$50 with the maximum penalty of \$100,000 for

- Any failure to furnish a payee statement on or before the required due date.
- Any failure to include all of the information required to be shown on a payee statement or the inclusion of incorrect information.

In the case of intentional disregard, the penalty shall be the greater of:

- \$100 per failure, or
- 10 percent of the aggregate amount of the items required to be reported correctly.

If intentional disregard is found to be applicable, the \$100,000 limitation will not apply.

Criminal Charges Outside of IRS Code

Attempts by the stockyard to disguise a producer's true identity might support 18 U.S.C. § 371 conspiracy charges against the stockyards and livestock producers. Providing false invoices and checks made out to fictitious payees might support a charge that the parties have entered into a conspiracy to evade tax or generally defraud the United States. There may be instances in which an auction barn structures financial transactions with a financial institution in the course of cattle sales transaction so as to avoid Title 31 filing requirements (FinCEN Form 104) at the bank. Structuring transactions to evade reporting requirements is a violation of 31 U.S.C. § 5324 and is subject to civil and criminal penalties under 31 U.S.C. §§ 5321 and 5322.

Backup Withholding--IRC § 3406

Another compliance tool is the application of the back-up withholding provisions of IRC § 3406. This section may be applicable if:

1. The payee fails to furnish his/her TIN to the payor in the manner required;
2. The Secretary notifies the payor that the TIN furnished by the payee is incorrect;
3. There has been a notified payee underreporting with respect to interest and dividends; or
4. There has been a payee certification failure with respect to the interest and dividends paid on new accounts and instruments.

If this occurs, the payor shall deduct and withhold from such payment a tax equal to 31 percent of the payment for amounts paid after December 31, 1992, and 20 percent of the payment for amounts paid on or prior to December 31, 1992. If the payor fails to withhold, he/she becomes liable for the tax under IRC § 3406. The taxpayer may request the amounts be abated by proving the payee reported the compensation. The abatement is performed by the service center upon receipt of Forms 4669--Employee Wage Statement and 4670--Request of Relief from Payment of Income Tax Withholding. These forms are to be completed by the individuals paid and the payor.

A reportable payment subject to withholding follows the criteria for information reporting as set forth by IRC § 6041(a); however, the payor can avoid backup withholding on reportable payments if:

1. The payee was exempt from withholding
 - a. Corporations
 - b. Financial institutions
 - c. Tax-exempt entities
 - d. Governmental entities
 - e. International organizations, or
2. The payment is subject to some other withholding provision

Conclusion

An audit of a livestock auction includes the accumulation of evidence for evaluating the accuracy of the taxpayer's tax return(s). Evidence takes many forms, including the taxpayer's testimony, the taxpayer's books and records, the examiner's own observations and documents from third parties. It is important to obtain sufficient competent evidence to determine the accuracy of the taxpayer's return. Each examiner must determine the appropriate amount of evidence to accumulate and establish the proper depth of the examination. The above information should help the examiner determine what books and records are available, individuals to interview, third parties to contact, and what to look for when touring the taxpayer's facilities and observing business activities.

Exhibit 1 – Initial Interview Questions – Producers

1. What type of farm or ranch is it? (Cattle, pigs, horses, etc.)
2. Where is it located? How long?
3. Any other uses of the land? (ex. Hay or crops)
4. How long in business?
5. Who do you sell your livestock to?
6. How often do you sell? What age and sex are they when you typically sell?
7. Who typically pays you in cash for livestock you have sold?
8. Do you deposit all of your cattle sales? What account?
9. Who makes the deposits? Into what bank(s)?
10. Who do you buy livestock from? How often?
11. How many head of livestock? What Age? Sex? Season? Rough weights?
12. What is your average yield?
What is your average price per animal?
13. Have there been any unusual or extraordinary events during the last 3 years such as disease, fire, flood, etc?
14. Has there been any major expansion or additions to land, herd, and facilities in recent years? Any planned for the future?
15. Do you own or rent office space?
16. Any asset acquisitions or dispositions to related parties?
17. Who works on the farm or ranch? Method of payment? Any W-2's, 1099's?
18. What records do you supply your accountant?
19. What services does your accountant provide to you?
20. What type of records do you maintain regarding your income and expenses?
21. Do you pay any expenses in cash? What type?
22. How were sales per the return determined?
23. How do you account for your livestock? (Depreciation, Inventory, etc.) Do you keep production records, a herd book, and calving dates?

Exhibit 2 - Glossary

APHIS - Animal and Plant Health Inspection Service, United States Department of Agriculture.

Auction Barn - This term is often used interchangeably with the term “stockyard”. However, stockyard can refer to the market at which “consignment” of livestock occurs.

Back Tag - A numbered tag is placed on an animal at an auction barn to identify the animal for the buyer and the seller. These tags are issued to the auction barn by the United States Department of Agriculture.

Barrow – A male pig that has been neutered.

Bovine - Refers to cattle and ox-like animals.

Brand - An iron used for burning marks on livestock. Each producer’s brand is unique; therefore, each herd can be distinguished from another.

Brand Commission Check-in Sheet - A document used by the Brand Inspector for identification and ownership of livestock. This document reflects the following information:

1. Owner’s name and address
2. Hauler or trucker
3. Name of the auction barn where the livestock is sold
4. Date of sale
5. Brief description of each animal
6. Brand description of each animal
7. Tag number assigned to each animal

Brand Inspector - An individual who checks livestock presented for sale at an auction barn for identification and ownership purposes. This individual also investigates theft of livestock and other farm or ranch related crime.

Brucellosis - The contagious, infectious, and communicable disease caused by bacteria of the genus Brucella. It is also known as Bangs disease, undulant fever, and contagious abortion.

Bull - The male of a bovine animal.

Calf - The young of a cow.

Cattle Account - A bank account used by an auction barn exclusively for the purchase of cattle from cattle producers or from other auction barns.

CoBank – A member of the Farm Credit System and a cooperative bank serving vital industries in rural areas of the 50 states. It provides loans, leases, export financing and other financial services to agribusinesses and rural power, water, and communications providers.

Cooperative Extension Service – A state agency that is part of the Land Grant University of each State and has offices located in almost every parish/county of each state. The Cooperative Extension Service provides assistance and vital statistics to anyone regarding the animal, forestry, fisheries, plant, and wildlife industries.

Cow - The female of a bovine animal.

Custodial Account - A bank account used by an auction barn to fund cattle purchases as required by Federal Regulations. Any commissions earned for the sale of cattle are transferred from this account to the general account for disbursement.

Cwt - hundred weights, which is 100 pounds.

Eartag - An APHIS-approved identification eartag conforming to the nine-character alphanumeric National Uniform Eartagging System which provides unique identification for each animal within a herd. There are two types of eartags:

1. A plastic eartag is usually a within-herd identification number, often used for cross reference with a metal tag.
2. Governmental tag (metal)

Farm Credit Associations – Farm lending cooperatives.

Farm Credit System – a nationwide network of banks and retail lending associations chartered to support the borrowing needs of U.S. agriculture and the rural economy.

Farm Service Agency – A part of the USDA. One branch of the FSA lends money directly to farmers and guarantees farm loans.

Farmer's Home Administration (FHA) – Now called the Farm Service Agency. A governmental agency that provides assistance information to farmers and ranchers including loans.

Feeder Calf - A bovine animal that is between 7 and 9 months of age that is sold at an auction barn and sent directly to a feedlot to be fattened.

Feeder Pig - a weaned gilt or barrow weighing 40 - 80 lbs at 6 - 8 weeks of age that is sold to be finished for slaughter

Field Test Chart - A document showing that a Brucellosis test was performed at a producer's pasture. The document reflects the following information:

1. Producer's name and address
2. Date of the test
3. Metal eartag numbers
4. Plastic eartag numbers

5. Brand symbol of the cattle
6. Location of the pasture
7. Sex of the cattle
8. Whether the cattle was infected

General Account - The general operating bank account of the auction barn. Payroll, as well as all normal operating expenses is written from this account.

Gilt – A female pig that has not born young pigs.

Heifer - A young cow that has not had a calf.

Herd - All animals under common ownership or supervision that are grouped on one or more parts of any single lot, farm, or ranch; or all animals under common ownership or supervision on two or more premises which are geographically separated but on which animals from the different premises have been interchanged or had contact with each other.

Herd Blood Test - In general, a blood test conducted on a herd of cattle at a producer's pasture to test for Brucellosis.

Offense Report - A document used by the Brand Inspector to record any stolen or missing cattle reported by a producer listing the description and value of each animal.

Production Credit Association (PCA) – Association that no longer exists. See Farm Credit Associations.

Solicitor - A commissioned representative of the auction barn who generates clients to sell their livestock at the auction barn he represents. The solicitor may operate two businesses simultaneously.

1. Hauling livestock to and from the auction barns for a fee paid by the sell and buyer.
2. Buying livestock directly from the producer and selling at the auction.

Steer - A male bovine animal castrated before sexual maturity and usually raised for beef.

Stockyard - A place of business that deals with the sale of livestock that are auctioned to the highest bidder. See also "Auction Barn".

Stockyard Check-in Sheet - A document provided by the state to the auction barn that is used to identify each animal sold. This document reflects the following information:

1. Name of the auction barn
2. Owner of the livestock
3. Address of the owner
4. Class of livestock (cow, bull, heifer)
5. Number of animals sold by the producer

6. Tag numbers assigned to each animal
7. Trucker's name
8. Date of sale.

Trading Account - A term used by some auction barns interchangeably with the term "cattle account". See "Cattle Account" above. Auction barns without a cattle bank account may use a general ledger purchases account entitled "Trading Account," where certain livestock purchases are journalized. This occurs when the auction barn purchases livestock directly from the producer's pasture. The producer is paid by a check written from the general bank account. The auction barn now owns the livestock; therefore, the animals will subsequently be checked-in to the auction under that stockyard's trading account. When the livestock is sold at auction, a check is written from the custodial account to the stockyard's Trading Account and is deposited into the stockyard's general bank account. The Trading Account is a wash and any excess is journalized as commission income.

Yearling - A bovine animal that is or is rated as a year old.

Exhibit 3 – Example of Cattle Purchase Contract

Cattle Purchase Contract
<p>THIS CONTRACT made this <u>(day)</u> day of <u>(month)</u>, 20<u>(year)</u>, by and between <u>(name)</u> of <u>(organization)</u>, hereinafter referred to as SELLER, and <u>(name)</u>, of <u>(organization)</u>, hereinafter referred to as BUYER, covers the sale of the following described cattle, for the consideration of a down payment in the sum of \$<u>(amount)</u>, the receipt of which is hereby acknowledged by SELLER; balance of purchase price to be paid upon delivery of the cattle and completion of this contract.</p> <p>NUMBER AND DESCRIPTION OF CATTLE TO BE SOLD:</p> <p><u>(enter the number and description of cattle to be sold)</u></p> <p>These cattle are now located <u>(location)</u> and will remain at this location unless otherwise stipulated in the REMARKS. Delivery of the cattle to be made on the following date(s): <u>(date)</u>.</p> <p>SALE PRICE:</p> <p>SLIDE:</p> <p>SHRINK:</p> <p>WEIGHING LOCATION AND CONDITIONS:</p> <p>All cattle are to be sound and in merchantable condition, and free of any contagious disease. Cattle that are blind, crippled, locoed, lump-jawed, or otherwise deformed and unmerchantable</p>

may be rejected by BUYER.

Upon delivery of the cattle and completion of this contract, BUYER will make final payment to SELLER in the form of (form of payment).

All cattle are to be delivered with a clear title, or if encumbered, with payment made jointly to SELLER and the lien holder, (name of lien holder).

REMARKS and/or SPECIAL CONDITIONS:

(Signature)
SELLER

(Signature)
BUYER

Exhibit 4 - Suggested web pages for further research

[APHIS \(Animal Plant Health Inspection Service\)](#)

APHIS provides leadership in ensuring the health and care of animals and plants, improving agricultural productivity and competitiveness, and contributing to the national economy and the public health.

[Agriculture Research Service](#)

The research arm of the USDA

[CoBank](#)

A member of the Farm Credit System and a cooperative bank serving vital industries in rural areas of the 50 states. It provides loans, leases, export financing and other financial services to agribusinesses and rural power, water, and communications providers.

[USDA-Foreign Agricultural Services - Dairy, Livestock, and Poultry Division](#)

This site contains U.S. import/export data for dairy, livestock, and poultry products. Also included are trade reports detailing current events and their impact on trade.

[Grain Inspection, Packers and Stockyards Administration](#)

The Grain Inspection, Packers and Stockyards Administration (GIPSA) facilitates the marketing of livestock, poultry, meat, cereals, oilseeds, and related agricultural products, and promotes fair and competitive trading practices for the overall benefit of consumers and American agriculture.

[Farm Service Agency](#)

The Farm Service Agency (FSA) administers and manages farm and ranch commodity, credit, conservation, disaster and loan programs as laid out by Congress through a network of federal, state and county offices

[U. S. House of Representatives / Committee on Agriculture](#)

[U.S. Trade Representative](#)

The Office of the U.S. Trade Representative (USTR) is responsible for developing and coordinating U.S. international trade, commodity, and direct investment policy, and overseeing negotiations with other countries

[Federal Crop Insurance Corporation](#)

This web site provides user-friendly access to crop insurance and other risk management related information for our customers.

[United States Department of Agriculture](#)

The U.S. Department of Agriculture (USDA) develops and implements policies on farming, agriculture and food.

[Agricultural Cooperative Extension Service Listing](#)

The Department of Animal Science at Oklahoma State University maintains this website that lists each states Agricultural Cooperative Extension Service address.

Colorado State University with the University of Idaho Extension, maintain a [Cow-Calf Management Guide & Cattle Producers Library](#) at this link.

A link to more than 100 colleges and universities comprise the nation's [Land-Grant University System](#). A land-grant college or university is an institution that has been designated by its state legislature or Congress to receive unique federal support. The map and links at the site provide access to land-grant institution information.

[Alabama Department of Agriculture](#)

[Alaska Department of Agriculture](#)

[Arizona Department of Agriculture](#)

[Arkansas Department of Agriculture](#)

[California Dept of Agriculture](#)

[Colorado Department of Agriculture](#)

[Connecticut Department of Agriculture](#)

[Delaware Department of Agriculture](#)

[Florida Department of Agriculture](#)

[Georgia Department of Agriculture](#)

[Hawaii Department of Agriculture](#)

[Idaho State Department of Agriculture](#)

[Illinois Department of Agriculture](#)

[Indiana Department of Agriculture](#)

[Iowa Department of Agriculture](#)

[Kansas Department of Agriculture](#)

[Kentucky Dept of Agriculture](#)

[Louisiana Department of Agriculture & Forestry](#)

[Maine Department of Agriculture](#)

[Maryland Department of Agriculture](#)

[Massachusetts Department of Agriculture](#)

[Michigan Department of Agriculture](#)

[Minnesota Department of Agriculture](#)

[Mississippi Department of Agriculture](#)

[Missouri Department of Agriculture](#)

[Montana Dept of Agriculture](#)

[Nebraska Department of Agriculture](#)

[Nevada Department of Agriculture](#)

[New Hampshire Department of Agriculture](#)

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[New Mexico Department of Agriculture](#)

[New York Department of Agriculture](#)

[North Carolina Department of Agriculture](#)

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[National Conference of State Legislatures Farming page](#)

The National Conference of State Legislatures is a bipartisan organization that serves the legislators and staffs of the nation's 50 states, its commonwealths and territories. It provides a database of state laws and regulations including those relating to farming and livestock.

[Livestock Marketing Association](#)

Livestock Marketing Association is the leading trade association dedicated to serving over 800 livestock marketing business members from across North America. Livestock auction markets, video auctions, livestock dealers, order buyers, feedlots, packers and other allied industry businesses make up the LMA.

[Cattlerange](#)

Cattlerange is a private commercial website that provides information, examples of, and links to many documents, state information, and calculators (profit & loss, price per cwt, price per head, etc.)

Cattlerange has tools to calculate weight difference, adjusted price per cwt., and \$'s per head for various prices, slide rates, and base and pay weights and to calculate auction costs, either "per cwt" basis or "per head" basis.

The site also has links to each state for clear title to cattle by each state's central filing systems (in accordance with Section 1324 of the Food Security Act). State animal import regulations - links to each state in the U.S. and a Profit/Loss calculator.