

CHAPTER 2--WORKING WITH THE TAX LAW

Student: _____

1. A professional must understand the relative weight of authority within the sources of tax law.

True False

2. The Internal Revenue Code of 1986 was substantially a re-codification of the existing Code.

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19. Technical Advice Memoranda may *not* be cited as precedents by taxpayers.

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23. A taxpayer can obtain a jury trial in the U.S. Court of Federal Claims.

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- A. Internal Revenue Service.
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- A. Reg. § 301.6114-1.
- B. Section 2(a)(1)(A).
- C. Rev. Rul. 2011-19.
- D. Notice 90-20.
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70. Tax research involves which of the following procedures:

- A. Identifying and refining the problem.
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- C. Assessing the validity of the tax law sources.
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71. Which tax-related website probably gives the best policy-orientation results?

- A. taxalmanac.org.
- B. irs.gov.
- C. taxsites.com.
- D. taxanalyst.com.
- E. ustaxcourt.gov.

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79. What is the role of the Joint Conference Committee in the legislative process?

80. What are Treasury Department Regulations?

81. Compare Revenue Rulings with Revenue Procedures.

82. What is a Technical Advice Memorandum?

83. Discuss the advantages and disadvantages of the Small Cases Division of the U.S. Tax Court.

84. Explain the tax appeals process from trial courts.

85. How do treaties fit within tax sources?

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79. What is the role of the Joint Conference Committee in the legislative process?

When the Senate version of a bill differs from that passed by the House, the Joint Conference Committee, which includes members of both the House Ways and Means Committee and the Senate Finance Committee, is called upon to resolve the differences. The deliberations of the Joint Conference Committee usually produce a compromise between the two versions, which is then voted on by both the House and the Senate. If both bodies accept the bill, it is referred to the President for approval or veto.

80. What are Treasury Department Regulations?

Regulations are issued by the U.S. Treasury Department under authority granted by Congress. Interpretive by nature, they provide taxpayers with considerable guidance on the meaning and application of the Code. Regulations may be issued in *proposed*, *temporary*, or *final* form. Regulations carry considerable authority as the official interpretation of tax statutes. They are an important factor to consider in complying with the tax law. Courts generally ignore Proposed Regulations.

81. Compare Revenue Rulings with Revenue Procedures.

Revenue Rulings are official pronouncements of the National Office of the IRS. They typically provide one or more examples of how the IRS would apply a law to specific fact situations. Like Regulations, Revenue Rulings are designed to provide interpretation of the tax law. However, they do not carry the same legal force and effect as Regulations and usually deal with more restricted problems. Regulations are approved by the Secretary of the Treasury, whereas Revenue Rulings generally are not.

Revenue Procedures are issued in the same manner as Revenue Rulings, but deal with the internal management practices and procedures of the IRS. Familiarity with these procedures can increase taxpayer compliance and help the IRS administer the tax laws more efficiently. A taxpayer's failure to follow a Revenue Procedure can result in unnecessary delay or, in a discretionary situation, can cause the IRS to decline to act on behalf of the taxpayer.

82. What is a Technical Advice Memorandum?

The National Office of the IRS releases Technical Advice Memoranda (TAMs) weekly. TAMs resemble letter rulings in that they give the IRS's determination of an issue. However, they differ in several respects. Letter rulings deal with proposed transactions and are issued to taxpayers at their request. In contrast, TAMs deal with completed transactions. Furthermore, TAMs arise from questions raised by IRS personnel during audits and are issued by the National Office of the IRS to its field personnel. TAMs are often requested for questions relating to exempt organizations and employee plans. TAMs are not officially published and may not be cited or used as precedent.

83. Discuss the advantages and disadvantages of the Small Cases Division of the U.S. Tax Court.

There is no appeal from the Small Cases Division. The jurisdiction of the Small Cases Division is limited to cases involving amounts of \$50,000 or less. The proceedings of the Small Cases Division are informal (e.g., no necessity for the taxpayer to be represented by a lawyer or other tax adviser). Special trial judges rather than Tax Court judges preside over these proceedings. The decisions of the Small Cases Division are not precedents for any other court decision and are not reviewable by any higher court. Proceedings can be more timely and less expensive in the Small Cases Division. Some of these cases can now be found on the U.S. Tax Court Internet Website.

84. Explain the tax appeals process from trial courts.

Appeals from a District Court or a Tax Court decision are to the U. S. Court of Appeals for the circuit in which the taxpayer resides. Appeals from the Court of Federal Claims go to the U. S. Court of Appeals for the Federal Circuit. Few Tax Court cases are appealed, and when appeals are made, most are filed by the taxpayer rather than the IRS. There is no appeal from the Small Cases Division.

85. How do treaties fit within tax sources?

The U.S signs certain tax treaties (sometimes called tax conventions) with foreign countries to render mutual assistance in tax enforcement and to avoid double taxation. Tax legislation enacted in 1988 provided that neither a tax law nor a tax treaty takes general precedence. Thus, when there is a direct conflict with the Code and a treaty, the most recent item will take precedence. A taxpayer must disclose on the tax return any position where a treaty overrides a tax law. There is a \$1,000 penalty per failure to disclose for individuals and a \$10,000 per failure penalty for corporations.