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(Anderson et al.)
Chapter C1: Tax Research

LO1: Overview of Tax Research

1) Tax planning is not an integral part of open-fact situations.
Answer: FALSE
Explanation: It is integral.
Page Ref.: C:1-2
Objective: 1

2) When a taxpayer contacts a tax advisor requesting advice as to the most advantageous way to dispose of a stock, the tax advisor is faced with
A) a restricted-fact situation.
B) a closed-fact situation.
C) an open-fact situation.
D) a recognized-fact situation.
Answer: C
Explanation: Advice before transaction is open fact situation.
Page Ref.: C:1-2
Objective: 1

3) Investigation of a tax problem that involves a closed-fact situation means that
A) the client's transactions have already occurred and the tax questions must now be resolved.
B) the client's tax return has yet to be filed.
C) future events may be planned and controlled.
D) research is primarily concerned with applying the law to the facts as they exist.
Answer: A
Explanation: After the fact request is a closed fact situation.
Page Ref.: C:1-2
Objective: 1

4) Explain the difference between a closed-fact and open-fact situation.
Answer: In a closed-fact situation, the transaction has occurred and the facts are not subject to change. In an open-fact situation, the transaction is in the formative or projected stage, and the taxpayer is able to structure the facts so that the tax consequences of the transaction can be more favorable.
Page Ref.: C:1-2
Objective: 1

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5) In all situations, tax considerations are of primary importance. Do you agree or disagree? Support your answer.
Answer: It is important to consider nontax objectives as well as tax objectives. For instance, if a wealthy client wants to minimize her estate taxes while passing the greatest value possible to her descendants, you would not suggest that she leave the majority of her estate to charity and only a few hundred thousand dollars to her descendants. Although this would reduce her estate tax liability to zero, it would be inconsistent with her objective of allowing her descendants to receive as much after-tax wealth as possible.
Page Ref.: C:1-3
Objective: 1

LO2: Steps in the Tax Research Process

1) Identify which of the following statements is true.
A) Tax planning is an integral part of both closed-fact situations and open-fact situations.
B) The first step in conducting tax research is to clearly understand the issues involved.
C) The Statements on Standards for Tax Services recommend that only written tax advice be provided to the client in all situations.
D) All of the above are false.
Answer: C
Explanation: The Statements on Standards for Tax Services recommend that only written tax advice be provided to the client in all situations.
Page Ref.: C:1-3 through C:1-5
Objective: 2

2) Describe the format of a client memo.
Answer: A client memo should include a statement of the facts, a list of issues, a discussion of relevant authority, analysis, and recommendations of appropriate actions to the client based on the research results.
Page Ref.: See Additional Comment page C:1-4
Objective: 2

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3) Outline and discuss the tax research process.
Answer:
1) The facts must be determined. However, some facts may not have occurred in an open-fact situation. Where facts have not yet occurred, it is useful to review tax research material to determine which facts would produce the most favorable outcome.
2) The issues must be determined. The issues may not always be clear and may be different than the client believes. Thus, only a thorough understanding of the facts permits an adequate formulation of the issues.
3) Determine which authorities are applicable.
4) Evaluate the authorities. Choose the ones to follow when there are conflicting authorities.
5) Communicate the result to the client. The communication with the client should not result in a misunderstanding. While discussions with the client may be suitable, it is recommended by the AICPA's Statements on Standards for Tax Services that the communication be written where issues are important, unusual or complicated. Many firms require that conclusions be communicated in writing.
Page Ref.: C:1-4
Objective: 2

LO3: Importance of the Facts to the Tax Consequences

1) The tax consultant can give an opinion on a tax fact pattern without all the facts.
Answer: FALSE
Explanation: Tax practitioner should not provide an opinion without all relevant facts.
Page Ref.: C:1-6
Objective: 3

2) Tax compliance is the biggest component of a tax practice.
Answer: FALSE
Explanation: Tax consulting is the biggest component of tax practice.
Page Ref.: C:1-6
Objective: 3

LO4: The Sources of Tax Law

1) The Internal Revenue Code of 1986 contains the current version of the tax law.
Answer: TRUE
Explanation: The last update was 1986.
Page Ref.: C:1-8
Objective: 4

2) Regulations issued prior to the latest tax legislation dealing with a specific Code section are still effective to the extent they do not conflict with the provisions in the new legislation.
Answer: TRUE
Explanation: Per IRC this remains accurate.
Page Ref.: C:1-9
Objective: 4

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3) Final regulations have almost the same legislative weight as the IRC.
Answer: TRUE
Explanation: The Courts have followed this concept.
Page Ref.: C:1-10
Objective: 4

4) A revenue ruling is issued by the Internal Revenue Service only in response to a verbal inquiry by a taxpayer.
Answer: FALSE
Explanation: The IRS may voluntarily issue a revenue ruling.
Page Ref.: C:1-12
Objective: 4

5) Taxpayers must pay the disputed tax prior to filing a case with the Tax Court.
Answer: FALSE
Explanation: Tax Court is the only court available in which taxpayer does not have to prepay the tax.
Page Ref.: C:1-14 and C:1-15
Objective: 4

6) Appeals from the U.S. Tax Court are to the Court of Appeals for the Federal Circuit.
Answer: FALSE
Explanation: Appeals from the US Tax Court are to the Court of Appeals for the respective circuit.
Page Ref.: C:1-14 and C:1-15
Objective: 4

7) Appeals from the Court of Appeals go to the Supreme Court under a writ of certiorari. The Supreme Court decides whether or not they will hear the case.
Answer: TRUE
Explanation: USSC reviews requests before acceptance.
Page Ref.: C:1-14 and C:1-15
Objective: 4

8) When the Tax Court follows the opinion of the circuit court of appeals to which the case is appealable, the court is following the
A) Golsen rule.
B) Acquiescence rule.
C) Forum shopping rule.
D) Conformity rule.
Answer: A
Explanation: Since 1970 the Tax Court has followed the Golsen rule.
Page Ref.: C:1-21
Objective: 4

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9) Which of the following citations denotes a regular decision of the Tax Court?
A) 41 TCM 1272
B) 35 T.C. 1083 (2003)
C) 39 AFTR 2d 77-640
D) 41 USSC 1099
Answer: B
Explanation: TC is Tax Court citation.
Page Ref.: C:1-17
Objective: 4

10) The primary citation for a federal circuit court of appeals case would be
A) 40 AFTR 2d 78-1234.
B) 44 F.Supp. 403.
C) 3 F.3d 134.
D) 79-2 USTC & 9693.
Answer: C
Explanation: Citation for federal circuit.
Page Ref.: C:1-20
Objective: 4

11) You have the following citation: Joel Munro, 92 T.C. 71 (1989). Which of the following statements is true?
A) The taxpayer, Joel Munro, won the case because there is no reference to the IRS.
B) The case appears on page 71 in Volume 92 of the official Tax Court of the United States Reports and the case was decided in 1989.
C) This citation refers to a taxpayer conference between the IRS and the taxpayer.
D) The case was tried in 1989 and was appealed in 1992.
Answer: B
Explanation: Citation locator is correct.
Page Ref.: C:1-17
Objective: 4

12) The term "tax law" includes
A) Ways and Means Committee Report.
B) IRS Instructions.
C) Third party tax advice website.
D) legistlation, treasury regulations & judicial decisions.
Answer: D
Explanation: Each of these have value of tax law.
Page Ref.: C:1-7
Objective: 4

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13) Identify which of the following statements is false.
A) When tax advisors speak of the "tax law," they usually have in mind just the Internal Revenue Code.
B) Members from both the House and the Senate are on the Conference Committee.
C) Records of committee hearings are helpful in determining Congressional intent.
D) All of the above are false.
Answer: A
Explanation: IRC is the main source document.
Page Ref.: C:1-7
Objective: 4

14) The committee that is responsible for holding hearings on tax legislation for the House of Representatives is the
A) Finance Committee.
B) Joint Committee on Taxation.
C) Conference Committee.
D) Ways and Means Committee.
Answer: D
Explanation: The Ways and Means is responsible for holding hearings on tax legislation.
Page Ref.: C:1-7
Objective: 4

15) A tax bill introduced in the House of Representatives is then
A) referred to the House Ways and Means Committee for hearings and approval.
B) referred to the entire House for hearings.
C) voted upon by the entire House.
D) forwarded to the Senate Finance Committee for consideration.
Answer: A
Explanation: Tax bills are referred to the Ways and Means Committee.
Page Ref.: C:1-7
Objective: 4

16) The Senate equivalent of the House Ways and Means Committee is the Senate
A) Finance Committee.
B) Ways and Means Committee.
C) Tax Committee.
D) Joint Conference Committee.
Answer: A
Explanation: Senate committee is Finance Committee.
Page Ref.: C:1-7
Objective: 4

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17) Which of the following steps, related to a tax bill, occurs first?
A) signature or veto by the President of the United States
B) consideration by the Senate Finance Committee
C) consideration by the entire Senate
D) consideration by the House Ways and Means Committee
Answer: D
Explanation: Tax bill is considered by House Ways and Means Committee.
Page Ref.: C:1-7
Objective: 4

18) When the House and Senate versions of a tax bill are not in agreement, the disagreements are resolved by the
A) Ways and Means Committee.
B) Mediation Committee.
C) Revenue Committee.
D) Conference Committee.
Answer: D
Explanation: Conference committee resolves disagreements.
Page Ref.: C:1-7
Objective: 4

19) Identify which of the following statements is true.
A) Paragraph references are most commonly used when citing or referring to the tax statutes.
B) Title 26 of the United States Code and the Internal Revenue Code of 1986 are synonymous.
C) Before 1939, tax statutes were codified or compiled into one document.
D) The Internal Revenue Code contains chapters, which are further subdivided into titles.
Answer: B
Explanation: IRC is Title 26 of the USC.
Page Ref.: C:1-8
Objective: 4

20) Title 26 of the U.S. Code includes
A) income tax legislation only.
B) gift tax and estate tax legislation only.
C) alcohol and tobacco tax legislation only.
D) all of the tax legislation mentioned above.
Answer: D
Explanation: Title 26 covers tax legislation.
Page Ref.: C:1-8
Objective: 4

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21) The tax statutes with the popular name "The Internal Revenue Code of 1986" are contained in which Title of the Code?
A) 20
B) 25
C) 26
D) 301
Answer: C
Explanation: Title 26 covers tax legislation.
Page Ref.: C:1-8
Objective: 4

22) Which of the following statements regarding proposed regulations is not correct?
A) Proposed regulations expire after three years.
B) Practitioners and other interested parties may comment on proposed regulations.
C) Proposed and temporary regulations are generally issued simultaneously.
D) Proposed regulations do not provide any insight into the IRS's interpretation of the tax law.
Answer: D
Explanation: Proposed regulations provide insight into the IRS's interpretation of the tax law.
Page Ref.: C:1-9
Objective: 4

23) Final regulations can take effect on any of the following dates except
A) the effective date of the statutory language they interpret, provided they are issued within 18 months of the date of the change to the statute.
B) the date on which final regulations were proposed.
C) the date on which related temporary regulations were first published in the Federal Register.
D) the date on which they were issued in final form.
Answer: A
Explanation: Once finalized, regulations can be effective the earliest of (1) the date they were filed with the *Federal Register,* a daily publication that contains federal government pronouncements; (2) the date temporary regulations preceding them were first published in the *Federal Register*; or (3) the date on which a notice describing the expected contents of the regulation was issued to the public. For changes to the IRC enacted after July 29, 1996, the Treasury Department generally cannot issue regulations with retroactive effect.
Page Ref.: C:1-10
Objective: 4

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24) When Congress passes a statute with language such as, "The Secretary shall prescribe such regulations as he may deem necessary," the regulations ultimately issued for that statute are
A) congressional regulations.
B) statutory regulations.
C) interpretative regulations.
D) legislative regulations.
Answer: D
Explanation: Whenever the IRC contains language such as "The Secretary shall prescribe such regulations as he may deem necessary" or "under regulations prescribed by the Secretary," the regulations interpreting the IRC provision are legislative.
Page Ref.: C:1-10
Objective: 4

25) Regulations are
A) equal in authority to legislation.
B) equal in authority to legislation if statutory.
C) presumed to be valid and to have almost the same weight as the IRC.
D) equal in authority to legislation if interpretative.
Answer: C
Explanation: Final Treasury Regulations are presumed to be valid and have almost the same authoritative weight as the IRC.
Page Ref.: C:1-10
Objective: 4

26) Identify which of the following statements is true.
A) If regulations are issued prior to the latest tax legislation dealing with a specific Code section, the regulations are no longer effective to the extent they conflict with the provisions in the new legislation.
B) Legislative regulations are more likely to be invalidated by the courts than are interpretative regulations.
C) Regulations have more authoritative weight than tax statutes.
D) All of the above are false.
Answer: A
Explanation: Because of frequent IRC changes, the Treasury Department does not always update the regulations in a timely manner. Consequently, when consulting a regulation, a tax advisor should check its introductory or end note to determine when the regulation was adopted. If the regulation was adopted before the most recent revision of the applicable IRC section, the regulation should be treated as authoritative to the extent consistent with the revision. Thus, for example, if a regulation issued before the passage of an IRC amendment specifies a dollar amount, and the amendment changed the dollar amount, the regulation should be regarded as authoritative in all respects except for the dollar amount.
Page Ref.: C:1-9
Objective: 4

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27) Identify which of the following statements is false.
A) The number "5" in the citation Reg. Sec. 1.166-5 refers to the paragraph number.
B) The Cumulative Bulletin is issued semiannually while the Internal Revenue Bulletin is issued weekly.
C) The citation Rev. Rul. 2006-5, I.R.B. 2006-1, 33, indicates that the revenue ruling can be found on page 33 of the 1st I.R.B. for 2006.
D) All of the above are false.
Answer: A
Explanation: #5 references the fifth regulation of IRC 166.
Page Ref.: C:1-11
Objective: 4

28) The number appearing immediately following the decimal place in a regulation citation refers to the
A) general subject matter of the regulation.
B) Code section being interpreted.
C) sequential number of the regulation.
D) subsection of the Code section being interpreted.
Answer: B
Explanation: The number appearing after decimal refers to code section.
Page Ref.: C:1-11
Objective: 4

29) The citation "Reg. Sec. 1.199-2" refers to
A) the first regulation issued in 1999.
B) the second regulation issued in 1999.
C) a regulation that interprets Code Section 199.
D) a regulation that can be found on page 199.
Answer: C
Explanation: Number appearing after decimal refers to code section.
Page Ref.: C:1-11
Objective: 4

30) Which regulation deals with Code Section 165?
A) Reg. Sec. 1.165-5
B) Reg. Sec. 165.183-5
C) Reg. Sec. 1.5-165
D) Reg. Sec. 165-5
Answer: A
Explanation: Number appearing after decimal refers to code section.
Page Ref.: C:1-11
Objective: 4

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31) Which regulation deals with the gift tax?
A) Reg. Sec. 1.165-5
B) Reg. Sec. 20.2014-5
C) Reg. Sec. 25.2518-5
D) Reg. Sec. 301.7002-5
Answer: C
Explanation: Code section 2518 is a gift tax matter.
Page Ref.: C:1-11
Objective: 4

32) Which of the following best describes the weight of a revenue ruling?
A) Revenue rulings carry more weight than regulations.
B) Revenue rulings carry more weight than federal court decisions.
C) Regulations carry more weight than revenue rulings.
D) Revenue rulings should never be used as authority since they only apply to the taxpayer requesting the ruling.
Answer: C
Explanation: Regulations carry more weight than revenue rulings.
Page Ref.: C:1-12
Objective: 4

33) The citation "Rev. Rul. 2006-8, 2006-1 C.B. 541" refers to
A) the eighth ruling of 2006 found on page 541 in Vol. 1 of the 2006 Cumulative Bulletin.
B) the eighth ruling of 2006 found on page 541 in the 2006 volume of the Cumulative Bulletin.
C) the 541st ruling of 2006 found on page eight in Vol. 1 of the 2006 Cumulative Bulletin.
D) the 1st ruling of 2006 found on page 541 in the 2006 volume of the Cumulative Bulletin.
Answer: A
Explanation: This is the 8th ruling of 2006, it appears on page 541 of Volume 1 of the 2006 Cumulative Bulletin
Page Ref.: C:1-12
Objective: 4

34) Which of the following documents is issued by the IRS to a specific taxpayer?
A) regulation
B) revenue procedure
C) letter ruling
D) information release
Answer: C
Explanation: Letter rulings are addressed to specific taxpayer.
Page Ref.: C:1-12
Objective: 4

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35) Identify which of the following statements is false.
A) A revenue ruling is issued by the Internal Revenue Service only in response to a written inquiry by a taxpayer.
B) Rev. Proc. 2006-19 is a revenue procedure that was published in 2006.
C) The citation Ltr. Rul. 200611075 usually indicates the ruling was made public in the 11th week of 2006.
D) A technical advice memorandum is made available as a letter ruling.
Answer: A
Explanation: Letter rulings are only issued in response to written taxpayer request.
Page Ref.: C:1-11 through C:1-13
Objective: 4

36) Identify which of the following statements is false.
A) Letter rulings are not published by the U.S. Government Printing Office.
B) Technical advice memoranda are issued by the Internal Revenue Service's National Office to provide an answer to a technical question that arises in an audit.
C) The citation Ann. 2006-12, I.R.B. 2006-51, 22 refers to an annotation of an Internal Revenue Service release.
D) Announcements are more technical than information releases.
Answer: C
Explanation: Citation references Announcement not Annotation.
Page Ref.: C:1-13
Objective: 4

37) A Technical Advice Memorandum is usually
A) an internal IRS document describing alternative legislative proposals.
B) part of a Tax Court decision.
C) requested by the taxpayer before entering into a taxable transaction.
D) issued by the national office in response to an audit request.
Answer: D
Explanation: TAMs are usually issued to address request from IRS auditors.
Page Ref.: C:1-13
Objective: 4

38) Which of the following courts is not a trial court for tax cases?
A) U.S. Bankruptcy Court
B) U.S. District Court
C) U.S. Tax Court
D) U.S. Court of Federal Claims
Answer: A
Explanation: Bankruptcy Court does not have jurisdiction for tax matters.
Page Ref.: C:1-14 and C:1-15
Objective: 4

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39) The taxpayer need not pay the disputed tax in advance when the suit is initiated in
A) U.S. Court of Federal Claims.
B) U.S. Tax Court.
C) U.S. District Court.
D) both A and B
Answer: B
Explanation: Tax Court taxpayer does not have to pay disputed amount up front.
Page Ref.: C:1-14 and C:1-15
Objective: 4

40) If the U.S. Supreme Court decides to hear an appeal of a tax case, it will grant a
A) writ of appeal.
B) writ of certiorari.
C) writ of detainer.
D) writ of habeas corpus.
Answer: B
Explanation: Granting review by USSC is done via writ of certiorari.
Page Ref.: C:1-14 and C:1-15
Objective: 4

41) Tax Court memorandum decisions
A) cannot be appealed.
B) are not published.
C) have less precedential value than regular decisions.
D) usually deal with factual variations of issues litigated previously.
Answer: D
Explanation: Tax Court memos usually deal with factual variations of issues litigated previously.
Page Ref.: C:1-15 and C:1-17
Objective: 4

42) George's case was handled under the "small tax case procedure." He does not agree with the findings of the Tax Court. He would like to appeal the decision. Which one of the following is true?
A) There is no appeal.
B) He can appeal the case, but only if the amount of tax involved is greater than $5,000.
C) He would appeal first to the U.S. Court of Appeals for the Federal Circuit.
D) He would appeal first to the U.S. Court of Federal Claims.
Answer: A
Explanation: Small Tax Case do not allow appeal process.
Page Ref.: C:1-17
Objective: 4

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43) Identify which of the following statements is false.
A) The acquiescence policy was adopted by the U.S. Tax Court to permit litigating parties to agree on the exact amount of the tax due.
B) Letter rulings are binding only with respect to the taxpayer requesting the ruling.
C) The small cases procedure of the U.S. Tax Court allows a less formal hearing but provides for no appeal.
D) The IRS may retroactively revoke an acquiescence.
Answer: A
Explanation: Acquiescence policy the party states it does not agree but will not appeal the decision.
Page Ref.: C:1-17
Objective: 4

44) The phrase "Entered under Rule 155" indicates that
A) the computation of the exact amount of the tax deficiency has been left to the litigating parties.
B) the court has not reached a decision concerning the appropriate tax treatment of an issue.
C) the parties have agreed not to appeal the decision.
D) only one Tax Court judge reviewed the case.
Answer: A
Explanation: Rule 155 allows computation of exact amount been left to the litigating parties.
Page Ref.: C:1-17
Objective: 4

45) Small case procedures of the U.S. Tax Court requires that the amount in dispute not exceed
A) $5,000.
B) $10,000.
C) $50,000.
D) $100,000.
Answer: C
Explanation: Small tax court cap is $50,000.
Page Ref.: C:1-17
Objective: 4

46) The acquiescence policy of the IRS extends to the
A) U.S. Supreme Court decisions.
B) U.S. Tax Court regular decisions.
C) U.S. District Court decisions.
D) both B and C
Answer: D
Explanation: IRS cannot appeal USSC decisions.
Page Ref.: C:1-17
Objective: 4

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47) A tax case cannot be appealed when initiated in the
A) U.S. Court of Federal Claims.
B) U.S. Tax Court.
C) U.S. Tax Court using the small case procedures.
D) none of the above
Answer: C
Explanation: Small tax case does not allow appeal.
Page Ref.: C:1-17
Objective: 4

48) Identify which of the following statements is false.
A) Regular and memorandum decisions of the Tax Court are published by the government in the Tax Court of the United States Reports.
B) The citation Cristofani, 97 T.C. 74 (1991) indicates that the decision is a regular decision of the Tax Court.
C) The citation Estate of Newhouse, 94 T.C. 193 (1990), nonacq. 1991-1 C.B. 1 indicates that the IRS did not formally disagree with this 1990 Tax Court decision until 1991.
D) The Board of Tax Appeals preceded the Tax Court.
Answer: A
Explanation: Tax Court decisions are not published in this reporter.
Page Ref.: C:1-17
Objective: 4

49) You need to locate a recent tax case that was tried in a Federal district court. The decision is an "unreported" decision. This means the decision was
A) not published in the Federal Supplement.
B) not published in American Federal Tax Reports.
C) not published in United States Tax Cases.
D) settled out of court.
Answer: A
Explanation: Unreported means it was not published in the Federal Supplement.
Page Ref.: C:1-18
Objective: 4

50) A jury trial is permitted in the
A) U.S. District Court.
B) U.S. Tax Court.
C) U.S. Court of Federal Claims.
D) U.S. Tax Court when the small case procedures are used.
Answer: A
Explanation: A district court is the only forum in which the taxpayer may have a jury decide questions of fact.
Page Ref.: C:1-18
Objective: 4

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51) Which of the following citations is the primary citation for a U.S. District Court case?
A) 43 AFTR 2d 79-1023
B) 79-1 USTC &9323
C) 55 F.2d 930
D) 40 F.Supp. 453
Answer: D
Explanation: Federal Supplement is primary citation for US district court.
Page Ref.: C:1-19
Objective: 4

52) Identify which of the following statements is true.
A) The citation, 41 TCM 1272, refers to a Tax Court regular decision published by Commerce Clearing House.
B) The Federal Supplement contains only tax cases.
C) The American Federal Tax Reports contain only tax cases.
D) All of the above are false.
Answer: C
Explanation: American Federal Tax Reports contain only tax cases.
Page Ref.: C:1-19
Objective: 4

53) Identify which of the following statements is true.
A) The U.S. Court of Federal Claims hears cases only in Washington, D.C.
B) Each state has at least one U.S. District Court.
C) Federal district court decisions and federal courts of appeals decisions are not printed by the U.S. Government Printing Office.
D) All of the above are false.
Answer: B
Explanation: While some states have more than one district court due to the size of the State, every state has at least one district court.
Page Ref.: C:1-18
Objective: 4

54) Identify which of the following statements is false.
A) Citations to the AFTR and the USTC are referred to as secondary citations.
B) A circuit court of appeals must follow the opinion of another circuit court of appeals if the latter appeals court has previously ruled on the tax issue.
C) A U.S. Supreme Court opinion in a tax matter has the same status as Congressional tax legislation.
D) Circuit Court decisions are reported in the Federal Reporter.
Answer: B
Explanation: Each circuit court is independent of other circuit courts.
Page Ref.: C:1-20
Objective: 4

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55) Identify which of the following statements is false.
A) The U.S. Tax Court must follow the previous decisions of the U.S. District Court for the district in which the taxpayer lives.
B) The U.S. Tax Court follows the previous decisions of the U.S. Court of Appeals to which the tax matter is appealable.
C) The opportunity for "forum shopping" occurs when different precedents on the same point exist.
D) The U.S. Tax Court may intentionally issue conflicting decisions.
Answer: A
Explanation: US Tax Court is not bound by US District Court decisions.
Page Ref.: C:1-21
Objective: 4

56) The Tax Court departs from its general policy of ruling uniformly for all taxpayers where
A) a U.S. District Court has ruled differently on the issue in the taxpayer's jurisdiction.
B) the U.S. Court of Federal Claims has ruled differently on the issue in the taxpayer's jurisdiction.
C) the Court of Appeals in the circuit to which the Tax Court decision would be appealed has ruled differently on the issue.
D) the IRS has indicated that it will acquiesce.
Answer: C
Explanation: Tax Court will generally follow the precedent of Court of Appeals for its district.
Page Ref.: C:1-21
Objective: 4

57) Identify which of the following statements is false.
A) When a court opinion discusses facts and issues on which the court does not rule, the comments are called *dicta*.
B) *Dicta* in a court opinion has no influence on other tax proceedings.
C) Published articles and tax services are examples of secondary sources of authority.
D) *Dicta* are not authoritative.
Answer: B
Explanation: Dicta is a court opinion with influence on other court proceedings.
Page Ref.: C:1-23
Objective: 4

58) When a court discusses issues not raised by the facts, the comments
A) are excluded from the formal court opinion.
B) may be referenced by the parties in other cases having the same facts.
C) are not *dicta*.
D) will cause the court's decision to be declared invalid.
Answer: B
Explanation: Court has discretion to reference other cases having same facts.
Page Ref.: C:1-23
Objective: 4

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59) Which of the following is a true statement regarding primary authority of tax law?
A) Articles in The Journal of Taxation are viewed as primary authority.
B) Primary authority includes the Code, as well as administrative and judicial interpretations.
C) The Bloomberg BNA Daily Tax Reporter is a source of primary tax authority.
D) Tax services are sources of primary tax authority.
Answer: B
Explanation: Primary authority originates with IRC, administrative and judicial interpretations
Page Ref.: C:1-24
Objective: 4

60) Which of the following is secondary authority?
A) Internal Revenue Code
B) Treasury Regulations
C) RIA and CCH tax services
D) Revenue Ruling
Answer: C
Explanation: Third party sources are secondary authority.
Page Ref.: C:1-24
Objective: 4

61) Explain how committee reports can be used in tax research. What do they indicate?
Answer: Committee reports can help resolve ambiguities in statutory language by revealing Congressional intent. They are indicative of this intent.
Page Ref.: C:1-7
Objective: 4

62) In 1998, Congress passed legislation concerning shifting the burden of proof to the IRS. The taxpayer must introduce "credible evidence" to shift the burden of proof to the IRS. What constitutes "credible evidence"?
Answer: The term is not defined in the IRC. Because the provision is relatively new, few courts have had an opportunity to interpret what "credible evidence" means. In the absence of relevant statutory or judicial authority, you might look to the committee reports to ascertain what Congress intended by the term. Senate Report No. 105-174 states that "credible evidence" means evidence of a quality, which, "after critical analysis, the court would find sufficient upon which to base a decision on the issue if no contrary evidence were submitted."
Page Ref.: C:1-7 and C:1-8; Example C:1-4
Objective: 4

63) Does Title 26 contain statutory provisions dealing only with income taxation? Explain.
Answer: No; Title 26 deals with all taxation matters, not just income taxation. It covers estate tax, gift tax, employment tax, alcohol and tobacco tax, and excise tax matters.
Page Ref.: C:1-8
Objective: 4

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64) What is the purpose of Treasury Regulations?
Answer: The Treasury Department issues regulations that expound upon the IRC. Treasury Regulations often contain examples with computations that provide valuable assistance in understanding the statutory language.
Page Ref.: C:1-9
Objective: 4

65) Why should tax researchers take note of the date on which a Treasury Regulation was adopted?
Answer: Researchers should note the date on which a Treasury Regulation was adopted because the IRC may have been revised subsequent to the date of adoption. That is, the regulation may not interpret the current version of the IRC. Discrepancies between the IRC and the regulation occur when the Treasury Department has not updated the regulation to reflect the current statute.
Page Ref.: C:1-9 and C:1-10
Objective: 4

66) Discuss the purposes and scope of temporary regulations.
Answer: Temporary regulations are issued by the Treasury Department after statutory changes have occurred to give guidance with respect to procedural and computational matters. Temporary regulations are also issued as proposed regulations with the same authoritative value as final regulations.
Page Ref.: C:1-9
Objective: 4

67) What are the purposes of citations in tax research?
Answer: Citations serve two purposes. First, they substantiate propositions, and second, they enable the reader to locate underlying authority.
Page Ref.: C:1-11
Objective: 4

68) Are letter rulings of precedential value to third parties?
Answer: Not really. A letter ruling is binding only on the taxpayer to whom the ruling was issued. However, the rulings can be useful in proving insights as to the IRS opinion about the tax consequences of various transactions.
Page Ref.: C:1-12 and C:1-13
Objective: 4

69) What is the difference between a taxpayer-requested letter ruling and a technical advice memorandum issued as a letter ruling?
Answer: A taxpayer-requested letter ruling deals with prospective transactions, whereas a TAM deals with past or consummated transactions.
Page Ref.: C:1-12 and C:1-13
Objective: 4

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70) What is an information release?
Answer: The IRS issues information releases when it wants to release information to the general public. They are written in lay terms and are sent to thousands of newspapers throughout the country.
Page Ref.: C:1-13
Objective: 4

71) What are some of the factors to consider when deciding in which court to file a tax-related claim?
Answer: Factors to consider include each court's published precedents pertaining to the issue; the desirability of a jury trial; the tax expertise of each court; the effect on the taxpayer's cash flow.
Page Ref.: C:1-14 and C:1-15
Objective: 4

72) What are some of the consequences of the small cases procedure of the Tax Court?
Answer: The small cases procedure allows a taxpayer the advantage of having a day in court without the expense of an attorney. But if the taxpayer loses, the decision cannot be appealed.
Page Ref.: C:1-17
Objective: 4

73) Where must a tax researcher look to access all Tax Court cases?
Answer: The regular opinions are found in the Tax Court of the United States Reporter, published by the U.S. Government Printing Office, and the memo decisions are published by both RIA and CCH in their own court reporters.
Page Ref.: C:1-17
Objective: 4

74) Is it possible for the Tax Court to intentionally issue conflicting decisions?
Answer: Yes. If the Tax Court is issuing two decisions that are appealable to different circuit courts and these circuit courts have previously reached different conclusions on the issue, the Tax Court follows the respective precedent in each circuit and issues conflicting decisions. This is a result of the Golsen rule.
Page Ref.: C:1-21
Objective: 4

75) The Tax Court decides an expenditure is deductible in the year the issue was first litigated. The government appealed and won a reversal in the Ninth Circuit Court of Appeals. It is the only appellate decision regarding the issue. If and when the Tax Court encounters this issue again, how will it hold?
Answer: The Tax Court will hold that the expenditure is deductible except in the Ninth Circuit. The taxpayers in the Ninth Circuit will be denied the deduction.
Page Ref.: C:1-21; Example C:1-8
Objective: 4

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76) Indicate which courts decided the case cited below. Also indicate on which pages and in which publications the authority is reported.

U.S. v. Maclin P. Davis, 397 U.S. 301, 25 AFTR 2d 70-827, 70-1 USTC & 9289 (1970).
Answer: This case appears in Vol. 397, page 301, of the United States Supreme Court Reports. It is also recorded in Vol. 25, pages 70-827, of the American Federal Tax Reports, Second Series, and in Vol. 1, paragraph 9289 of the 1970 CCH reporter the U.S. Tax Cases.
Page Ref.: C:1-21
Objective: 4

77) If the U.S. District Court for Rhode Island, the Tax Court, and the Eleventh Circuit have all ruled on a particular issue, then what precedents have been set for which courts in the future?
Answer: Any U.S. District court within the Eleventh Circuit must follow that circuit's decision. The U.S. District Court for Rhode Island must rule consistently with its previous ruling. Tax Court decisions are not binding on district courts, thus all district courts other than the one for Rhode Island and those in the Eleventh Circuit are free to decide the issue independently.
Page Ref.: C:1-21; Example C:1-9
Objective: 4

78) What is "forum-shopping"?
Answer: Forum-shopping involves choosing where among the various courts to file a lawsuit. Since courts often disagree as to the appropriate tax treatment of the same item, a taxpayer can file in the jurisdiction that has precedents that favor his circumstances.
Page Ref.: C:1-23
Objective: 4

79) Under what circumstances might a tax advisor find the provisions of a tax treaty useful?
Answer: A tax advisor might consult the provisions of a tax treaty if a U.S. taxpayer engages in transactions in a foreign country. The United States has tax treaties with about 55 countries.
Page Ref.: C:1-24
Objective: 4

80) Compare and contrast proposed, temporary, and final regulations.
Answer: Proposed regulations are not authoritative, but they do provide guidance concerning how the Treasury Department interprets the IRC. Temporary regulations, which have the same effect as final regulations, often are issued after major revisions to the IRC so that taxpayers and tax advisers will have guidance concerning procedural and/or computational matters. Final regulations, which are issued after the public has had time to comment on the proposed regulations, have nearly the same authoritative weight as the IRC.
Page Ref.: C:1-9
Objective: 4

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81) Compare and contrast "interpretative" and "statutory" regulations.
Answer: Both types of regulations are issued by the Treasury Department. Interpretative regulations make the statutory language easier to understand and apply. Statutory regulations are issued when Congress delegates its rule-making authority to the Treasury Department. This delegation of authority is made explicitly in the legislation.

The courts are less likely to invalidate a statutory regulation than an interpretative regulation. The reluctance of the court to invalidate a statutory regulation is based on the recognition that Congress has abdicated its rule-making authority to the Treasury Department.
Page Ref.: C:1-10
Objective: 4

82) Explain the legislative reenactment doctrine.
Answer: Under the legislative reenactment doctrine, a Treasury Regulation is deemed to have been endorsed by Congress if the regulation was finalized before a related IRC provision was enacted, and during the interim, Congress did not amend the provision to which the regulation relates.
Page Ref.: C:1-10
Objective: 4

83) In which courts may litigation dealing with tax matters begin? Discuss the factors that might be considered in deciding where to begin litigation.
Answer: The Tax Court, the U.S. Court of Federal Claims, or the U.S. district court for the taxpayer's jurisdiction is where tax-related litigation may begin. The taxpayer would be interested in the precedent, if any, existing within each jurisdiction. The taxpayer might prefer to avoid parting with cash to pay the proposed deficiency. If so, the taxpayer would want to litigate in the Tax Court. If the taxpayer would like to have a jury trial address questions of fact, he or she should opt for the U.S. district court.
Page Ref.: C:1-14 and C:1-15
Objective: 4

84) Describe the appeals process in tax litigation.
Answer: Appeals from Tax Court and U.S. district court decisions are made to the circuit court of appeals for the taxpayer's jurisdiction. U.S. Court of Federal Claims decisions are appealable to the circuit court of appeals for the Federal Circuit. Appeals from any of the circuit courts of appeals may be brought to the U.S. Supreme Court.
Page Ref.: C:1-14 and C:1-15
Objective: 4

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85) Discuss the differences and similarities between regular and memorandum decisions issued by the U.S. Tax Court.
Answer: Differences:
1) Regular decisions involve an issue decided for the first time. A memorandum decision frequently involves a variation in the facts for an issue where the law has been previously decided.
2) The IRS's acquiescence policy extends to regular decisions but not to memorandum decisions.
3) Regular decisions are published by the U.S. Government Printing Office in the Tax Court of the United States Reports, while memorandum decisions are published by private companies.

Similarity:
1) Regular and memorandum decisions have the same precedential value.
Page Ref.: C:1-15 and C:1-17
Objective: 4

86) Assume that the Tax Court decided an expenditure in question was deductible. The government appealed to the Fifth Circuit, which reversed the decision and held it was not deductible. No other circuits have ruled on the issue.

A new case has just been filed in the Tax Court. How will the Tax Court rule if this new case is appealable to the Tenth Circuit? Would your answer be different if the case was appealable to the Fifth Circuit?
Answer: The Golsen rule provides that the Tax Court rules consistently with decisions of the circuit court of appeals to which the taxpayer's case is appealable. If the new case is appealable to the Tenth Circuit, the Tax Court will hold the expenditure is deductible, thereby following its own precedent. In a case appealable to the Fifth Circuit, the Tax Court will rule that it is not deductible, thereby following the appellate court's earlier decision.
Page Ref.: C:1-21
Objective: 4

LO5: Tax Services

1) Identify which of the following statements is true.
A) RIA United States Tax Reporter and CCH Standard Federal Tax Reporter are topical tax services.
B) An annotated tax service is organized by broad subject areas.
C) Annotations are summaries of IRS pronouncements and court opinions.
D) All of the above are false.
Answer: A
Explanation: These are third party secondary authority.
Page Ref.: C:1-25
Objective: 5

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2) Which tax service is usually deemed to be the most authoritative?
A) United States Tax Reporter
B) Standard Federal Tax Reporter
C) Federal Tax Coordinator 2d
D) All are equally authoritative.
Answer: D
Explanation: All are published federal registers.
Page Ref.: C:1-25
Objective: 5

3) Distinguish between an annotated tax service and a topical tax service.
Answer: An annotated tax service is organized by IRC section. The IRC-arranged subdivisions of this service are likely to encompass several topics. A topical tax service is organized by broad topic. The topically arranged subdivisions of this service are likely to encompass several IRC sections.
Page Ref.: C:1-25
Objective: 5

LO6: The Internet as a Research Tool

1) Internet versions of topical tax services include
A) Code and Regulations.
B) Revenue rulings, letter rulings, and revenue procedures.
C) Court cases involving tax issues.
D) All of the above.
Answer: D
Explanation: Primary and secondary authorities are available online.
Page Ref.: C:1-26
Objective: 6

2) In list form, outline the steps to follow when using a tax service.
Answer: 1) Use a key word search.
2) Read the applicable material.
3) Check the supplementary (current developments) material.
4) Read the cases and rulings referenced in the database.
5) Use a citator to determine the current status of the relevant cases and rulings and if there are any additional cases and rulings.
6) Analyze the information; make analogies and reach a conclusion.
7) Communicate the conclusions to the client.
8) Refine the issues and perhaps return to step 1.
Page Ref.: C:1-27
Objective: 6

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LO7: Citators

1) A citator enables tax researchers to locate authorities (e.g., cases and IRS pronouncements) that have cited a particular case.
Answer: TRUE
Explanation: Citators allow quick reference to the material.
Page Ref.: C:1-30
Objective: 7

2) Assume that you want to read a description of a particular area of the law, along with one or more illustrations of how that law is applied. You will not find that type of material in
A) a citator.
B) the Treasury Regulations.
C) the Cumulative Bulletin.
D) the Committee Reports.
Answer: A
Explanation: Citators do not provide explanations.
Page Ref.: C:1-30
Objective: 7

3) Why does a researcher use a citator?
A) to check on authorities issued subsequent to a court decision
B) to determine whether a private letter ruling exists on the subject
C) for examples of the application of a tax provision
D) none of the above
Answer: A
Explanation: Citators allow research determine if case is referenced other places.
Page Ref.: C:1-30
Objective: 7

4) A citator is used to find
A) the judicial history of a case.
B) the cases that have cited a case subsequent to the issuance of the opinion.
C) whether a case has been overturned.
D) all of the above.
Answer: D
Explanation: Citators show history, if cited other places and if still good law.
Page Ref.: C:1-30
Objective: 7

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5) What is the minimum information that should be contained in a citation?
Answer: A citation should contain, at a minimum, the name of the case, the reporter that publishes the case, a volume number, a page or paragraph number, the year the case was decided, and the court that decided the case.
Page Ref.: C:1-30
Objective: 7

6) What is the purpose of a citator?
Answer: Citators give a history of the case, and they list other authorities such as other cases or revenue rulings that cite the case in question.
Page Ref.: C:1-30
Objective: 7

LO8: Professional Guidelines for Tax Services

1) According to the Statements on Standards for Tax Services, CPAs must verify all tax return information submitted by reviewing client documentation.
Answer: FALSE
Explanation: The CPA may in good faith rely on information provided by the taxpayer, without verifying the reliability of that information if reasonable inquiries are made where the information furnished appears to be incorrect.
Page Ref.: C:1-31
Objective: 8

2) Which of the following statements about the Statements on Standards for Tax Services is true?
A) A CPA is never allowed to use a taxpayer's estimates when preparing a tax return.
B) The CPA must tell the IRS upon becoming aware that an error has been made on a past tax return.
C) The CPA may in good faith rely on information provided by the taxpayer, without verifying the reliability of that information if reasonable inquiries are made where the information furnished appears to be incorrect.
D) The CPA should not recommend that a taxpayer take a certain position if there is any doubt as to whether the position would be approved by the IRS upon audit.
Answer: C
Explanation: The CPA may in good faith rely on information provided by the taxpayer, without verifying the reliability of that information if reasonable inquiries are made where the information furnished appears to be incorrect.
Page Ref.: C:1-31 through C:1-33
Objective: 8

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3) Statements on Standards for Tax Services are issued by
A) the SEC.
B) the IRS.
C) the AICPA.
D) the FASB.
Answer: C
Explanation: The AICPA issues Statements on Standards for Tax Services.
Page Ref.: C:1-31
Objective: 8

4) A client wants to take a tax return position with less than a 10% probability of being upheld in court. The CPA should
A) take the client's desired position, but not sign the tax return.
B) inform the client that the position does not have a realistic possibility of success.
C) ask the client to sign a waiver of his right to sue the CPA in the event the IRS disallows the position.
D) take the client's desired position and sign the return as usual.
Answer: B
Explanation: A CPA should inform a client the position does not have realistic change of success for tax return position with less than a 10% probability of being upheld in court.
Page Ref.: C:1-31
Objective: 8

5) According to the Statements on Standards for Tax Services, if a CPA believes that a client's prior-year tax return contains false information, the CPA should report this to the
A) IRS.
B) SEC.
C) AICPA.
D) None of the above. The CPA does not report the false information to any external agencies, unless required by law.
Answer: D
Explanation: The CPA does not report the false information to any external agencies, unless required by law.
Page Ref.: C:1-32 through C:1-33
Objective: 8

6) Ralph's business records were lost as a result of Hurricane Katrina. CPA Jane prepares Ralph's return using estimates. What do the Statements on Standards for Tax Services state about the use of estimates?
A) Estimates may not be used.
B) Estimates may be used without disclosing their use to the IRS.
C) Estimates may be used, but Jane should disclose their use to the IRS.
D) The Statements on Standards for Tax Services do not address the use of estimates.
Answer: C
Explanation: Estimates may be used but must be disclosed to the IRS.
Page Ref.: C:1-32
Objective: 8

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7) During the course of an audit, a CPA discovers an error in a prior return. According to the Statements on Standards for Tax Services, the CPA should
A) ask the client for permission to disclose the error to the IRS.
B) withdraw from the engagement.
C) inform the IRS of the error, regardless of whether the client grants permission.
D) correct the error in the current year's tax return.
Answer: A
Explanation: CPA must get permission.
Page Ref.: C:1-32 through C:1-33
Objective: 8

8) According to the Statements on Standards for Tax Services, what belief should a CPA have before taking a pro-taxpayer position on a tax return?
Answer: The CPA should have a good faith belief that the pro-taxpayer position is warranted in existing law or can be supported by a good-faith argument for an extension, modification, or reversal of existing law. The position should have a realistic possibility of being sustained administratively or judicially on its merits if challenged.
Page Ref.: C:1-31
Objective: 8

9) According to the AICPA's Statements on Standards for Tax Services, what duties does the tax practitioner owe the client?
Answer: The tax practitioner owes the client the following duties: (1) to inform the client of (a) the potential adverse consequences of a tax return position, (b) how the client can avoid a penalty through disclosure, (c) errors in a previously filed tax return, and (d) corrective measures to be taken; (2) to inquire of the client (a) when the client must satisfy conditions to take a deduction and (b) when information provided by him or her appears incorrect, incomplete, or inconsistent on its face, and (3) not to disclose tax-related errors without the client's consent.
Page Ref.: C:1-31 through C:1-33
Objective: 8

10) Your client wants to deduct commuting expenses on his tax return. You explain to the client that there is no legal authority allowing this deduction. The client, however, continues to insist on this action. What guidance do the Statements on Standards for Tax Services provide in this dilemma?
Answer: According to Statement on Tax Standards, the CPA should explain to the client that this action is a violation of the tax law and would trigger IRS penalties. If the client insists on the deduction, the CPA should consider withdrawing from the engagement.
Page Ref.: C:1-31 through C:1-33
Objective: 8

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11) Discuss the conflict between advocacy for a client and responsibility to the IRS.
Answer: The CPA's primary duty is to his or her client, not the IRS. The CPA should provide quality advice based on sound legal authority. CPAs do not have to verify client data unless it appears inconsistent, erroneous, or incomplete. CPAs also are not required to report most potential tax law violations to the IRS. If a client refuses to correct a tax-related error, the CPA may terminate the relationship.
Page Ref.: C:1-31 through C:1-33
Objective: 8

LO9: Sample Work Papers and Client Letter

1) There are no questions for this section.

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