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SKU: 9780357989074-SOLUTIONS

Solution and Answer Guide

NELLEN, YOUNG, CRIPE, LASSAR, PERSELLIN, CUCCIA, SWFT CORPORATIONS, PARTNERSHIPS, ESTATES & TRUSTS 2025, 9780357989074; CHAPTER 1: UNDERSTANDING AND WORKING WITH THE FEDERAL TAX LAW

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DISCUSSION QUESTIONS

1. (LO 1) When enacting tax legislation, Congress often is guided by the concept of revenue neutrality so that any changes neither increase nor decrease the net revenues raised under the prior rules. Revenue neutrality does not mean that any one taxpayer's tax liability remains the same. Since this liability depends on the circumstances involved, one taxpayer's increased tax liability could be another's tax saving. Revenue-neutral tax reform does not reduce deficits, but at least it does not aggravate the problem.

2. (LO 2) Economic, social, equity, and political factors play a significant role in the formulation of tax laws. Furthermore, the Treasury Department, the IRS, and the courts have had impacts on the evolution of tax laws. For example, control of the economy has been an important economic consideration in passing a number of laws (e.g., rapid depreciation, changes in tax rates). But ultimately the tax law is written by Congress.

3. (LO 2) The tax law encourages technological progress by allowing amortization deductions and tax credits for research and development expenditures.

4. (LO 2) Saving leads to capital formation and makes funds available to finance home construction and industrial expansion. For example, the tax laws provide incentives to encourage savings by giving private retirement plans preferential treatment.

5. (LO 2)

   a. Code § 1244 allows ordinary loss treatment on the worthlessness of small business corporation stock (discussed in Chapter 4). Since this stock normally would be a capital asset, the operation of § 1244 converts a less desirable capital loss into a more attractive ordinary loss. This tax treatment was designed to aid small businesses in raising needed capital through the issuance of stock.

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b. The S corporation election (see footnote 5 and a detailed discussion in Chapter 11) allows the profits (or losses) of the corporation to flow through to its individual shareholders (avoiding the corporate income tax). In addition, the qualified business income deduction may apply to any flow-through profits (allowing a maximum 20% deduction to the shareholders). However, with the corporate tax rate being 21% (and individual marginal tax rates potentially being higher), individuals need to compare the benefits of avoiding the corporate tax rate with the taxes on any S corporation flow-through profits.

6. (LO 2) Reasonable persons can, and often do, disagree about what is fair or unfair. In the tax area, moreover, equity is generally tied to a particular taxpayer's personal situation. For example, one equity difference relates to how a business is organized (i.e., partnership versus corporation). Two businesses may be equal in size, similarly situated, and competitors in the production of goods or services, but they may not be comparably treated under the tax law if one is a partnership and the other is a corporation. The corporation is subject to a separate Federal income tax of 21%; the partnership is not. The tax law can and does make a distinction between these business forms. Equity, then, is not what appears fair or unfair to any one taxpayer or group of taxpayers. Equity is, instead, what the tax law recognizes.

7. (LO 2) Allowing a deduction for charitable contributions can be explained by social considerations. The deduction shifts some of the financial and administrative burden of socially desirable programs from the public (the government) sector to the private (the citizens) sector.

8. (LO 2) Preferential treatment of private retirement plans encourages saving. Not only are contributions to Keogh (H.R. 10) plans and certain Individual Retirement Accounts (IRA) deductible, but income from these contributions accumulates on a tax-free basis.

9. (LO 2) The availability of percentage depletion on the extraction and sale of oil and gas and specified mineral deposits and a write-off (rather than capitalization) of certain exploration costs encourage the development of natural resources.

10. (LO 2) Favorable treatment of corporate reorganizations provides an economic benefit. By allowing corporations to combine and split without adverse consequences, corporations are in a position to reduce their taxes and possibly more effectively compete with other businesses (both nationally and internationally).

11. (LO 2) Although the major objective of the Federal tax law is the raising of revenue, other considerations explain many provisions. In particular, economic, social, equity, and political factors play a significant role. Added to these factors is the impact the Treasury Department, the Internal Revenue Service, and the courts have had and will continue to have on the evolution of Federal tax law.

12. (LO 2) The deduction allowed for Federal income tax purposes for state and local income taxes is not designed to neutralize the effect of multiple taxation on the same income. At most, this deduction provides only partial relief. The $10,000 overall limitation on state and local taxes also reduces the tax benefit of these taxes. Only allowing a full tax credit would achieve complete neutrality.

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a. With the standard deduction, a taxpayer is *indirectly* obtaining the benefit of a deduction for any state or local income taxes he or she may have paid. The standard deduction is in lieu of itemized deductions, which include any allowed deductions for state and local income taxes.

b. If the taxpayer is in the 10% tax bracket, $1 of a deduction for state or local taxes would save $0.10 of Federal income tax liability. In the 32% tax bracket, the saving becomes $0.32. The deduction approach (as opposed to the allowance of a credit) favors high-bracket taxpayers.

13. (LO 2) Under the general rule, a transfer of a partnership's assets to a new corporation could result in a taxable gain. However, if certain conditions are met, § 351 postpones the recognition of any gain (or loss) on the transfer of property by Heather to a controlled corporation (see Example 4).

    The wherewithal to pay concept recognizes the inequity of taxing a transaction when Heather lacks the means with which to pay any tax. Besides, Heather's economic position would not change significantly should the transfer occur. Heather owned the assets before the transfer and still would own the assets after a transfer to a controlled corporation. See Chapter 4 for a more detailed discussion of § 351.

14. (LO 2) Yes. Once incorporated, the business may be subject to the Federal corporate income tax. However, the 21% corporate tax rate *might* be lower than Heather's individual tax rates, especially if dividends are not paid to Heather.

    The corporate income tax could be avoided altogether by electing to be an S corporation. An S corporation is generally not taxed at the corporate level; instead, the income flows through the corporate veil and is taxed at the shareholder level. An S election allows a business to operate as a corporation but be taxed like a partnership. With a partnership, there is no double tax. Income and expenses flow through to the partners and are taxed at the partner level.

15. (LO 2) Examples include like-kind exchanges, involuntary conversions, transfers of property to a controlled corporation, transfers of property to a partnership, and tax-free reorganization.

16. (LO 2) Generally, a recognized (taxable) gain cannot exceed the realized gain.

17. (LO 2) Recognition of gain ultimately occurs when the property is disposed of.

18. (LO 2) One year.

19. (LO 2) The installment method on the sale of property permits the gain to be recognized over the payout period.

20. (LO 2) Requiring a taxpayer to make a contribution to a Keogh retirement plan by the end of the year would force an accurate determination of net self-employment income long before the income tax return must be prepared and filed.

21. (LO 2) The difference between common law and community property systems centers around the property rights possessed by married persons. In a common law system, each spouse owns whatever he or she earns. Under a community property system, one-half of the earnings of each spouse is considered owned by the other spouse. Assume, for example, that Harold and Ruth are husband and wife and that their only

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income is the $90,000 annual salary Harold receives. If they live in New York (a common law state), the $90,000 salary belongs to Harold. If, however, they live in Texas (a community property state), the $90,000 salary is divided equally, in terms of ownership, between Harold and Ruth.

22. (LO 2) Deterrence provisions include the following:

    - Alternative minimum tax.
    - Imputed interest rules.
    - Limitation on the deductibility of interest on investment indebtedness.
    - Gift and estate taxes.

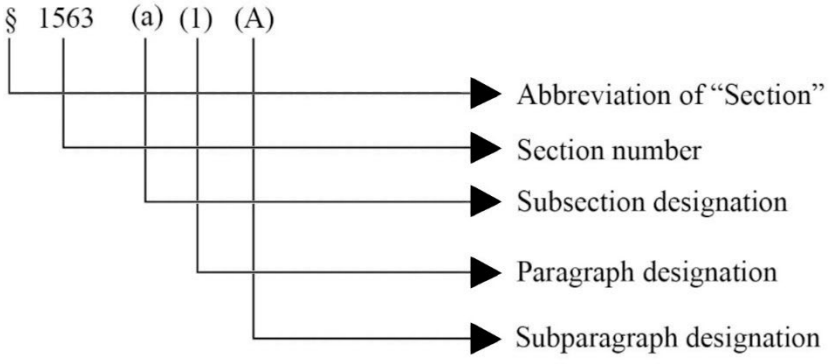
23. (LO 3) Under § 482, the IRS has the authority to allocate income and deductions among businesses owned or controlled by the same interests when the allocation is necessary to prevent the evasion of taxes or to clearly reflect the income of each business. As a result, the IRS might allocate interest income to White Corporation even though none was provided for in the loan agreement. See Example 11 and footnote 24.

24. (LO 4) Primarily concerned with business readjustments, the continuity of interest concept permits tax-free treatment only if the taxpayer retains a substantial continuing interest in the property transferred to the new business. Due to the continuing interest retained, the transfer should not have tax consequences because the position of the taxpayer has not changed. This concept applies to transfers to controlled corporations (Chapter 4), corporate reorganizations (Chapter 7), and transfers to partnerships (Chapter 9).

25. (LO 5) False. Federal tax legislation generally originates in the House of Representatives, where it is first considered by the House Ways and Means Committee. Only rarely does Federal tax legislation originate in the Senate. The Tax Equity and Fiscal Responsibility Act of 1982 originated in the Senate; its constitutionality was upheld by the courts.

26. (LO 5) A President's veto can be overridden by a two-thirds vote in both the House and Senate.

27. (LO 5)



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28. (LO 5) Yes. Some Code Sections omit the subsection designation and use, instead, the paragraph designation as the first subpart [e.g., §§ 212(1) and 1221(1)].

29. (LO 5) When the 1954 Code was drafted, the omission of some Code section numbers was intentional. This omission provided flexibility to incorporate later changes into the Code without disrupting its organization. This technique is retained in the 1986 code.

30. (LO5) Proposed, Final, and Temporary Regulations are published in the *Federal Register* (**federalregister.gov**) and are reproduced in major tax services. Final Regulations are issued as Treasury Decisions (TDs).

31. (LO 5)

    a. A Temporary Regulation, with 1 referring to the type of regulation (i.e., income tax), 707 is the related code section number, 5 is the subsection number, T means temporary, (a) is the paragraph designation, and (2) is the subparagraph designation.

    b. Revenue Ruling number 11, appearing on page 174 of Volume 1 of the *Cumulative Bulletin* issued in 1960.

    c. Technical Advice Memorandum number 3 issued during the 37th week of 1988.

32. (LO 5)

SWFT, LLP
5191 Natorp Boulevard
Mason, OH 45040

October 17, 2024

Ms. Jennifer Olde
3246 Highland Drive
Clifton, VA 20124

Dear Ms. Olde:

In response to your recent request, the fact-finding determination of a lower trial court is binding on a Federal Court of Appeals. A Federal Court of Appeals is limited to a review of the record of trial compiled by a trial court. Rarely will an appellate court disturb a lower court's fact-finding determination.

Should you need more information, do not hesitate to contact me.

Sincerely,

Marilyn S. Crumbley
Tax Partner

33. (LO 5)

TAX FILE MEMORANDUM

DATE: September 5, 2024

FROM: Sarah Flinn

RE: Telephone conversation with Will Thomas regarding the failure of the IRS to appeal

I explained to Mr. Thomas that there were numerous reasons why the IRS may decide not to appeal a decision it loses in a District Court. For example, the workload may be

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too heavy. Or the IRS may have decided that this particular case is not a good decision to appeal (e.g., sympathetic taxpayer). Third, the IRS might not want to appeal this case to the appropriate Court of Appeals. I stressed that the failure to appeal does not necessarily mean that the IRS agrees with the results reached.

34. (LO 5, 8)

    a. If the taxpayer decides to choose a District Court as the trial court for litigation, the District Court of Utah would be the forum to hear the case. Unless the prior decision has been reversed on appeal, one would expect the same court to follow its earlier holding.

    b. If the taxpayer decides to choose the Court of Federal Claims as the trial court for litigation, the decision previously rendered by this Court should have a direct bearing on the outcome. If the taxpayer selects a different trial court (i.e., the appropriate U.S. District Court or the U.S. Tax Court), the decision rendered by the Court of Federal Claims would be persuasive but not controlling. It is assumed that the results reached by the Court of Federal Claims were not reversed on appeal.

    c. The decision of a Court of Appeals carries more weight than one rendered by a trial court. Since the taxpayer lives in California, however, any appeal from a District Court or the U.S. Tax Court would go to the Ninth Court of Appeals. Although the Ninth Court of Appeals might be influenced by what the Second Court of Appeals has decided, it is not compelled to follow the Second Circuit's holding.

    d. Since the U.S. Supreme Court is the top appellate court, complete reliance can be placed on its decisions. Nevertheless, one should investigate any decision to see whether the Code has been modified to change the results reached. The rare possibility also exists that the Court may have changed its position in a later decision.

    e. When the IRS acquiesces in a decision of the Tax Court, it agrees with the results reached. As long as the acquiescence remains in effect, taxpayers can be assured that this represents the position of the IRS on the issue involved. Keep in mind, however, that the IRS can change its mind and can, at any time, withdraw the acquiescence and substitute a nonacquiescence.

    f. The issuance of a nonacquiescence reflects that the IRS does not agree with the results reached by a Tax Court decision. Consequently, taxpayers are placed on notice that the IRS will continue to challenge the issue involved.

35. (LO 6, 7) Aleshia has a number of approaches available, depending on the available materials.

    - Aleshia can begin with the index volumes of the available tax services: RIA, CCH, or BNA Portfolios.
    - A key word search on an online service should be helpful—Thomson Reuters *Checkpoint*, CCH *IntelliConnect*, LexisNexis, or Westlaw (or WestlawNext).
    - She should browse through IRS publications (available on the IRS website).

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- Aleshia could explore various tax periodicals (see text page 1-27) to locate appropriate articles written about § 351 transfers to a controlled corporation.
- Additional information might be available on the internet (but she should be cautious regarding sources).

36. (LO 7) Some tax researchers begin with a keyword search on an online tax service. If the problem is not complex, the researcher may bypass a tax service and turn directly to the Internal Revenue Code and the Treasury Regulations (both are available online; see Exhibit 1.7). For the beginner, this process saves time and will solve many of the basic problems. If the researcher does not have access to the Code or Regulations, the resources of a tax service may be necessary. Several of the major tax services publish paperback editions of the Code and Treasury Regulations that can be purchased at modest prices.

37. (LO 5, 8)

    a. Primary source.

    b. Secondary source.

    c. Primary source.

    d. Secondary source (but substantial authority for purposes of the accuracy-related penalty in § 6662).

    e. Secondary source.

38. (LO 9) The key components of effective tax planning are as follows:

    - Avoid the recognition of income (usually by resorting to a nontaxable source or nontaxable event).
    - Defer recognition of income (or accelerate deductions).
    - Convert the classification of income (or deductions) to a more advantageous form (e.g., ordinary income into capital gain).
    - Choose the business entity with the desired tax attributes.
    - Preserve formalities by generating and maintaining supporting documentation.
    - Act in a manner consistent with the intended objective.

    Don't just focus on tax considerations. Keep generally accepted accounting principles, sound business judgment, and overall economic outcomes in mind as well.

39. (LO 10) Task-based simulations on the CPA exam are case studies that allow candidates to demonstrate their knowledge and skills by generating responses to questions rather than simply selecting an answer. They typically require candidates to use spreadsheets and/or to research authoritative literature provided in the CPA exam (e.g., Internal Revenue Code, Treasury Department Regulations, IRS publications, and Federal tax forms). In addition, the task-based simulations provide increased background material and data that require candidates to determine what information is or is not relevant to the questions.

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PROBLEMS

40. (LO 2)

a. Juniper has a realized gain of $200,000 determined as follows:

Amount received on the exchange:		
FMV of real estate received	$900,000	
Cash	100,000	$1,000,000
Amount given up on the exchange:		
Basis of real estate		(800,000)
Realized gain		$ 200,000

Juniper's recognized gain is limited to the *lesser* of realized gain of $200,000 or the other property (boot) received of $100,000. As a result, the recognized gain is limited to other property (boot) received of $100,000 [the amount of cash (boot) received by Juniper]. Refer to § 1031.

b. Birch has a realized loss of $300,000, determined as follows:

Amount received on the exchange		$ 1,000,000
Amounts given up on the exchange:		
Real estate (basis)	$1,200,000	
Cash	100,000	
Basis of property given up		(1,300,000)
Realized loss		$ (300,000)

None of Birch's realized loss can be recognized.

c. Under the wherewithal to pay concept, forcing Juniper to recognize a gain of $100,000 makes sense. Because of the $100,000 cash received, not only has Juniper's economic position changed, but it now has the means to pay the tax on the portion of the realized gain that is recognized.

The disallowance of Birch's realized loss is consistent with the usual approach of the wherewithal to pay concept. This disallowance is the price that must be paid for tax-free treatment, and a carryover basis and adjustment under § 1031(d) prevents a deterioration of Birch's tax position. Note: After the exchange, Birch has a basis of $1,300,000 in the real estate received from Juniper [i.e., $1,200,000 (basis in the real estate given up) + $100,000 (cash given up)].

41. (LO 2, 3)

a. W. Wherewithal to pay concept.

b. CE. Control of the economy.

c. ESB. Encouragement of small business.

d. SC. Social considerations.

e. EI. Encouragement of certain industries.

f. AF. Administrative feasibility.

g. SC. Social considerations.

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42. (LO 2)

    a. Louisiana, community property.

    b. Virginia, common law.

    c. Arizona, community property.

    d. Rhode Island, common law.

    e. Alaska, community property may be elected by spouses.

    f. California, community property.

43. (LO 4) The real question is whether the parties acted in an arm's length manner. In other words, was the $100,000 selling price the true value of the property?

    a. Where the parties to a transaction are related to each other, the IRS is quick to apply the arm's length concept. The IRS might, for example, find that the value of the property was less than $100,000. In this event, the difference probably is dividend income to Benny.

    b. The same danger exists even if Benny (the seller) is not a shareholder in Jet Corporation (the purchaser) as long as he is related to the one in control. If the value of the property is less than $100,000, the IRS could argue for a constructive dividend to Benny's father of any difference. Because Benny ended up with the benefit, it follows that the father has made a gift to the son of the difference (see discussion in Chapter 5).

    c. Since Benny is not a shareholder in Jet Corporation and is not related to any of its shareholders, the IRS probably would not question the $100,000 selling price or the substance of the sale.

    d. The student e-mail should summarize the items above. Look for proper grammar and e-mail etiquette in addition to the correct answer.

44. (LO 5) Code § 263A indicates that oil/gas delay rentals paid or incurred are capitalized and added to the depletable leasehold of the property, assuming the lease is held for development (or development is reasonably certain). See also Reg. § 1.263A–2(a)(3)(ii).

    The lessor must include the delay rentals in gross income. See *Continental Oil Company*, 36 BTA 693 (1937) or *L.H. Glide v. Comm.*, 27 BTA 1264 (1933).

45. (LO 5)

    a. Letter rulings are issued for a fee by the National Office of the IRS upon a taxpayer's request and describe how the IRS will treat a proposed transaction for tax purposes. In general, they apply only to the taxpayer who asks for and obtains the ruling, but post-1984 rulings may be substantial authority for purposes of avoiding the accuracy-related penalties.

    b. 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. Letter rulings, however, are responses to requests by taxpayers, whereas TAMs are issued by the National Office of the IRS in response to questions raised by taxpayers or IRS field personnel during audits. TAMs deal with completed rather than proposed transactions and are often requested for questions relating to

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exempt organizations and employee plans. Although TAMs are not officially published and may not be cited or used as precedent, post-1984 TAMs may be substantial authority for purposes of the accuracy-related penalties.

46. (LO 5)

    a. Revenue Procedure number 10 appearing on page 272 of Volume 1 of the *Cumulative Bulletin* for 2001.

    b. Revenue Ruling number 14 appearing on page 31 of the 27th weekly issue of the *Internal Revenue Bulletin* for 2011.

    c. The 30th letter ruling issued during the 25th week of 2011.

47. (LO 5) The IRS maintains a website on digital assets (including virtual currency):

    irs.gov/businesses/small-businesses-self-employed/digital-assets

    In addition, Notice 2014–21 (2014–21 I.R.B. 938) explains how existing tax principles apply to transactions involving virtual currency. In Notice 2014–21, the IRS concludes that virtual currency is property and sales or exchanges of virtual currency result in capital gains or losses. Code § 1031 provides information on the tax consequences of like-kind exchanges. Currently, § 1031 only applies to real property (e.g., land and buildings). As a result, an exchange of cryptocurrencies (e.g., Bitcoin for Ethereum) will result in a capital gain or loss; § 1031 is not available.

    Notice 2014–21 also discusses the tax implications of mining a cryptocurrency (see Q–8, Q–9, and Q–10). When a taxpayer successfully "mines" virtual currency, the fair market value of the virtual currency as of the date of receipt is includible in gross income. The question then becomes whether the mining of cryptocurrency is a "hobby" or a "trade or business." The IRS references a news release from April 2007 (FS–2007–18) to help make this determination.

    If a taxpayer's "mining" of virtual currency constitutes a trade or business and the "mining" activity is not undertaken by the taxpayer as an employee, the net earnings from self-employment (generally, gross income derived from carrying on a trade or business less allowable deductions) resulting from those activities constitute self-employment income and are subject to the self-employment tax. Consequently, the fair market value of virtual currency received for services performed as an independent contractor, measured in U.S. dollars as of the date of receipt, constitutes self-employment income and is subject to the self-employment tax.

    Beginning in 2025, cryptocurrency exchanges will be required to report a summary of any customer's cryptocurrency transactions to the IRS. The IRS will be requiring this information to be reported on a Form 1099–DA ("DA" for "digital assets"). The form is expected to be similar to the form currently used by brokers to report transactions involving stocks, bonds, or other investment securities (Form 1099–B). In addition, the Treasury Department has released proposed regulations to guide cryptocurrency exchanges with this reporting.

    The blockchain is a public ledger that records all crypto transactions. While the identities of the parties involved are typically anonymous, the transactions themselves are visible. The IRS has partnered with companies that specialize in blockchain analysis to track cryptocurrency transactions on the blockchain. These companies use

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advanced software to analyze and trace transactions, allowing the IRS to identify patterns and track down individuals who may be engaging in tax evasion.

48. (LO 5) A letter ruling is a written determination issued by the IRS Office of Chief Counsel in response to a taxpayer's written request, prior to the filing of a tax return (or other report required by law).

    Rev. Proc. 2024–1 (2024–1 I.R.B. 1) provides significant detail regarding this process (the revenue procedure is more than 115 pages long). The IRS will not provide rulings on certain issues [see, for example, Rev. Proc. 2024–3 (2024–1 I.R.B. 143)], and any ruling applies only to that taxpayer. In addition, any ruling can be revoked by the IRS. Rev. Proc. 2024–1 (which is updated annually) provides a schedule of user fees, a sample format for a letter ruling request, and a checklist for the request. Generally, the user fee is not refundable and the user fee can range from $30,000 to $38,000. Of course, the practitioner's fee must also be factored into this decision. These costs mean that only those tax issues with significant tax costs are considered for a private letter ruling request.

49. (LO 5)

    a. IRC.
    b. FR, IRB, CB.
    c. IRB, CB.
    d. FR, IRB, CB.
    e. IRB, CB.
    f. NA, a court decision.
    g. NA, a letter ruling.

50. (LO 5)

    a. Fifth Circuit.
    b. Tenth Circuit.
    c. Eleventh Circuit.
    d. Ninth Circuit.
    e. Second Circuit.

51. (LO 5)

    a. A.
    b. T.
    c. U.
    d. T.
    e. T.
    f. C.
    g. N.
    h. D.

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52. (LO 6)

    a. *United States Tax Reporter* is published by Research Institute of America (Thomson Reuters).

    b. *Standard Federal Tax Reporter* is published by CCH/Wolters Kluwer.

    c. *Federal Tax Coordinator 2d* is published by Research Institute of America (Thomson Reuters).

    d. *Mertens Law of Federal Income Taxation* is published by Thomson Reuters.

    e. *Tax Management Portfolios* is published by Bloomberg Tax.

    f. *Tax Pro Library* is published by Parker Tax Publishing.

53. (LO 5, 8)

    a. P.

    b. P.

    c. P.

    d. P.

    e. S.

    f. P.

    g. S.

    h. P.

    i. B. Primary to the taxpayer to whom issued but secondary for all other taxpayers.

    j. P.

    k. S. Cannot be cited as precedent.

    l. P.

    m. S.

    n. S. Courts generally do not recognize Proposed Regulations.

    o. P.

54. (LO 5)

    a. For a regular decision of the U.S. Tax Court that was issued in 1970. The decision can be found in Volume 54, page 1514, of the *Tax Court of the United States Reports*, published by the U.S. Government Printing Office.

    b. For a decision of the U.S. First Circuit Court of Appeals that was rendered in 2007. The decision can be found in Volume 491, page 53, of the *Federal Reporter*, Third Series (F.3d), published by West Publishing Company.

    c. For a decision of the U.S. Second Circuit Court of Appeals that was rendered in 1969. The decision can be found in Volume 1 for 1969, paragraph 9319, of the *U.S. Tax Cases*, published by Commerce Clearing House.

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d. For a decision of the U.S. Second Circuit Court of Appeals that was rendered in 1969. The decision can be found in Volume 23, page 1090, of the Second Series of *American Federal Tax Reports*, published by RIA (Thomson Reuters).

[Note that the citations that appear in parts c. and d. are for the same case.]

e. For a decision of the U.S. District Court of the Virgin Islands that was rendered in 2011. The decision can be found in Volume 775, page 765, of the *Federal Supplement,* Second Series (F.Supp.2d), published by West Publishing Company.

f. For a decision of the U.S. District Court of Mississippi that was rendered in 1967. The decision can be found in Volume 1 for 1967, paragraph 9253, of the *U.S. Tax Cases*, published by Commerce Clearing House.

g. For a decision of the U.S. District Court of Mississippi that was rendered in 1967. The decision can be found in Volume 19, page 647, of the Second Series of *American Federal Tax Reports*, published by RIA (Thomson Reuters).

h. For a decision of the U.S. Supreme Court that was rendered in 1935. The decision can be found in Volume 56, page 289, of the *Supreme Court Reporter*, published by West Publishing Company.

i. For a decision of the U.S. Supreme Court that was rendered in 1935. The decision can be found in Volume 1 for 1936, paragraph 9020, of the *U.S. Tax Cases*, published by Commerce Clearing House.

j. For a decision of the U.S. Supreme Court that was rendered in 1935. The decision can be found in Volume 16, page 1274, of the *American Federal Tax Reports*, published by RIA (Thomson Reuters).

[Note that the citations that appear in parts h., i., and j. are for the same case.]

k. For a decision of the U.S. Fifth Circuit Court of Appeals that was rendered in 2003. The decision can be found in Volume 319, page 732, of the *Federal Reporter*, Third Series (F.3d), published by West Publishing Company.

55. (LO 5) The U.S. Tax Court can issue three types of decisions:

1. Regular decisions.
2. Memorandum decisions.
3. Small Cases Division decisions.

Regular decisions involve novel issues not previously resolved by the Tax Court. Memorandum decisions involve disputes that involve only the application of established principles of law. The Chief Judge determines the classification of these decisions.

The Tax Court includes a Small Cases Division that only hears cases involving amounts of $50,000 or less. The ruling of the judge is final (i.e., no appeal is available), and these rulings are not precedent for any other cases (i.e., they are not primary authority and are not citable as substantial authority).

Regular decisions are published semiannually by the U.S. Government in a series called the *United States Tax Court Reports*. All of these decisions are published online (**ustaxcourt.gov**).

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Here are citation examples for each decision type:

Regular Decision:	*TBL Licensing LLC*, 158 T.C. 1 (2022)
Memorandum Decision:	*Arthur T. Davidson,* T.C. Memo. 1978–167
Small Cases Decision:	*Larochelle and Larochelle,* T.C. Summary 2022–12

RESEARCH PROBLEMS

1. a. Code § 6694(a) deals with the penalty for understatements due to taking an unreasonable position on a tax return.

   b. Reg. § 1.6694–1(b) deals with the meaning of the term *tax preparer* for purposes of the tax preparer penalties.

   c. Revenue Ruling 86–55 deals with tax return preparers and the assignment of refund checks.

   d. PLR 8022027 deals with whether a tax return preparer is liable for a § 6694 penalty when they prepare a return claiming an IRA contribution that was not yet made and do not later ascertain that the contribution was made by the due date of the return.

2. a. *rev'd* 929 F.2d 1252 (CA–8, 1991).

   b. *aff'd* 734 F.2d 20 (CA–9, 1984), *cert. den*., 469 U.S. 857 (1984).

   c. *aff'd* 341 F.2d 341 (CA–5,1965).

   d. *aff'd per curiam*, 487 F.2d 515 (CA–8, 1973).

   e. *rev'd* 335 F.2d 507 (CA–6, 1964).

3. The vacation may not be free. Australia paid around $2,700,000 of the costs for the 300 vacations, but the trip is considered a taxable prize or award under IRC § 74(a) and not a nontaxable gift. Reg. § 1.74–1(a)(1) requires all amounts received as prizes and awards to be included in gross income (unless the prizes or awards qualify as an exclusion from gross income). Prizes and awards that are includible in gross income include amounts received from radio and television giveaway shows. Reg. § 1.74–1(a)(2) further states that if the prize or award is not made in money but is made in goods or services, the fair market value of the goods or services is the amount to be included in income. As a result, the "lucky" recipients would have to pay taxes on the fair market value of the trip, not the amount actually paid for the trip by the Oprah show.

   Oprah stated that she was paying any taxes of the lucky fans. Under *Old Colony Trust Co.*, 279 U.S. 716 (1929), the amount of any tax liability paid by Oprah is also taxable income. See Reg. § 1.61–14. If the initial tax liability is paid, another amount is taxable. As a result, an infinite amount of taxes would need to be paid by Oprah to make the vacation trip totally tax-free. The only way to make the prize tax-free is for Oprah to "gross up" the prize for any taxes due. Keep in mind there are also probably state taxes to be paid. All in all, this tax problem created a lot of work for the accountant Oprah chose to handle the tax issues of the 300 taxpayers.

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RESEARCH PROBLEMS 4 TO 7

These research problems require that students utilize online resources to research and answer the questions. As a result, solutions may vary among students and courses. You should determine the skill and experience levels of the students before assigning these problems, coaching where necessary. Encourage students to use reliable websites and blogs of the IRS and other government agencies, media outlets, businesses, tax professionals, academics, think tanks, and political outlets to research their answers.

7. Student responses will vary.

   Tax Notes Federal published an article in May 2023 titled "The Rise of Generative AI in Tax Research" (**papers.ssrn.com/sol3/papers.cfm?abstract_id=4476510**). It provides a detailed discussion of generative AI tools, their potential benefits, identifies concerns, and discusses how these tools can be improved.

   Here are a variety of websites that students might find during their internet research:

   ey.com/en_gl/tax/how-generative-ai-might-help-tax-functions-tackle-challenges

   kpmg.com/xx/en/home/insights/2023/09/the-use-of-generative-ai.html

   pwc.com/us/en/tech-effect/ai-analytics/generative-ai-insights-for-tax-leaders.html

   deloitte.com/us/en/pages/tax/articles/pairing-tax-with-artificial-intelligence.html

   bluej.com/blog/the-rise-of-generative-ai-in-tax-research

   qz.com/pwc-tax-advice-ai-chatgpt-consultation-bots-payment-1850937429

   wsj.com/articles/pricewaterhousecoopers-to-pour-1-billion-into-generative-ai-cac2cedd

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CHECK FIGURES

40.a. Realized gain $200,000; recognized gain $100,000.

40.b. Realized loss $300,000; recognized loss $0.

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SOLUTION TO ETHICS & EQUITY FEATURE

Choosing Cases for Appeal (p. 1-35). The issue is whether it is appropriate for the Government to select a case to appeal because of its potential for success (i.e., a reversal on appeal) rather than purely on its merits.

Without question, the tax laws treat taxpayers differently and often unfairly. Many laws are passed as the result of pressure from various groups (i.e., lobbying). "Don't tax you, don't tax me, tax that fellow behind the tree" is an appropriate statement of tax law development in many circumstances.

Part of the IRS's function is to maximize revenue with the limited time and budget resources at its disposal. By litigating specific cases in order to develop judicial law, the IRS does "save" taxpayers' dollars by avoiding marginal issues. And if the IRS position is sustained on appeal in Virginia, the judicial precedent might be important should the IRS choose to appeal the Iowa decision.

Certainly, there is an unfairness in this approach. If the IRS decides to appeal the Virginia case, the CPA must bear the burden of litigation expenses (rather than the minister). Further, should the IRS position be sustained on appeal, the CPA's trusts would be collapsed while the minister's trusts may be allowed to remain—even though the tax issues are identical.

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