USD Tax Law Research

Federal, State, and International resources

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Sources of Rules and Ethics for Tax Practitioners

- IRS Circular 230
- AICPA Statements on Standards of Tax Service & Code of Conduct
- State Codes of Conduct
- ABA Model Code
- Internal Revenue Code
IRS Comment to its Examiners:

1. Conclusions reached by examiners must reflect correct application of the law, regulations, court cases, revenue rulings, etc. Examiners must correctly determine the meaning of statutory provisions and not adopt strained interpretations.

2. The Federal tax system is constantly changing. Examiners must keep well informed of the ever-growing body of tax authorities and advances in the management and storage of information.

3. Income tax law is too complex for examiners to immediately perceive its ramifications and provisions in all examinations. In the words of Supreme Court Justice Jackson, "No other branch of the law touches human activities at so many points. It can never be made simple."

4. This section focuses on researching Federal tax law, evaluating the significance of various authorities, and supporting conclusions reached with appropriate citations. The profiles of various tax authorities in this chapter are intended to help examiners become familiar with the most common, but by no means all, sources or available research techniques.

Tax Research Methodology

• Establish the Facts
• Identify the Issues
• Locate Authority
• Evaluate Authority
• Draw Conclusions/Recommendations
Outline

- Discussing Primary Federal Tax Sources
- Organization of Primary Federal Tax Sources
- Finding Primary Sources, Using Secondary Tax Sources
Primary Authority

1. Statutory/Legislative Authority
   - Internal Revenue Code, the Constitution, tax treaties

2. Administrative Authority:
   - Treasury Department Regulations, Revenue Rulings,
   - Pronouncements

3. Judicial Authority:
   - Federal Tax courts
Legislative Authority

Constitutional and Legislative Sources

- **Statutory Sources:**
  - Internal Revenue Code (Title 26 U.S.C.)
  - Constitution
  - Tax Treaties
Amending the Tax Law

Joint Conference Committee Reconciles Differences

Voted by the House

Revised Bill Re-Voted by House and Senate (House votes first)

Voted by the Senate

Signed by the President

Incorporated into the Internal Revenue Code
Legislative Intent Resources

- **Finding Committee Reports:**
  - When a new tax law is passed committee reports are released in the IRS’s weekly IRB. **Past reports** can be found in the IRS’s Cumulative Bulletin
  - Congress.gov
  - www.waysandmeans.house.gov
  - www.finance.senate.gov

- **Legislative History Research**
  - [Joint Committee on Taxation: the Blue Book](#)
Primary Authority

1. Statutory/Legislative Authority
   - Internal Revenue Code

2. Administrative Authority
   - Treasury Department Regulations, Revenue Rulings,
   - Pronouncements + much, much more

3. Judicial Authority:
   - Federal Tax courts
Administrative Pronouncements

4 MAJOR TYPES OF PRONOUNCEMENTS:

1. Regulations (IRS) = Treasury Decisions (TDs), published in the Federal Register and in the IRB - written by the Office of Chief Counsel, Internal Revenue Service, approved by the Dept of the Treasury
   - “Proposed” = awaiting the hearing process; may be relied upon
   - “Temporary” = not subject to public hearings, effective immediately. Provide immediate guidance and must be followed until superseded.
   - “Final” = when pub in the FR; have the effect of law

• Types of Regulations:
  - Interpretive Regs: issued under the general authority granted to the IRS to interpret the language of the Code
  - Legislative Regs: IRS is directed by Congress to fulfill a law-making function; not easily challenged.
Administrative Pronouncements

Next 3 TYPES OF PRONOUNCEMENTS:

2. Revenue Rulings
   - Second to theRegs as important administrative sources of precedent. Deals with the application of the Code and Regs to a specific factual situation.
   - Earlier Terms: Appeals and Review Memorandum (ARM), General Counsel’s Memorandum (GCM), and Office Decision (OD)

3. Revenue Procedures
   - Issued in the same manner similar to that for Revenue Rulings; an official statement of procedure or instruction. Pub in the IRB.

4. Letter Rulings
   - Issued by the IRS in several forms: Private Letter Rulings, Determination Letters, notice, AoD, and TAMs. Are available from the IRS website and commercial sources.

Primary Authority

1. Statutory/Legislative Authority
   - Internal Revenue Code

2. Administrative Authority:
   - Treasury Department Regulations, Revenue Rulings,
   - Pronouncements

3. Judicial Authority:
   - Federal Tax courts
Judicial Decisions – Tax Court Org.

- Taxpayer has paid the tax
  - Jury
  - Taxpayer has paid the tax
  - < $50,000, no appeal

Taken from: checkpoint.riag.com
Judicial Decisions

Tax Court Decisions (*Golsen Rule)

**Regular Opinions:** new decisions on points of law

- Published in:
  - Officially 2x a year: *U.S. Tax Court Reports* (Prior to 1943, named Board of Tax Appeals) citation:
    - **Party Name, vol T.C. page, Dec. No. (year)**
  - Unofficial: CCH - USTC & RIA – AFTR (also District Court opinions)
  - Actions on Decisions

**Memorandum Decisions:** factual from well-established legal rules

- Published in:
  - CCH (*party vol T.C.M page decision #, CCH Dec #)
  - RIA (*Party year T.C. Memo decision #)

**Small Case Division** – Summary Opinions, no appeal
(no precedential value, available after 2000 in RIA & CCH)
STOP!

- Knowledge Check Time
Finding Federal Authority

- **Secondary Sources:**
  Interpretations of Primary materials by using:
  
  - **Print**
  - **Electronic Resources**
  - **Tax Journals & News Resources**
Major Print Tax Services

- **Tax Coordinator 2d**
- **United States Tax Reporter**
- **Standard Federal Tax Reporter**
- **Federal Tax Service**
- **Tax Management Portfolios**
- **Mertens Law of Federal Income Taxation**
Finding Federal Authority

- **Secondary Sources**: Interpretations of Primary materials by using:
  - Print
  - **Electronic Resources**
    - Tax Database Services:
      i. RIA
      ii. CCH
      iii. Bloomberg BNA
      iv. Lexis
      v. Westlaw

- Tax Journals & News Resources
Online Tax Resources

- legalbitstream
- IRS.gov
- congress.gov
- deloitte.com
- ey.com
- TaxSites.com
- Kleinrock’s
- RIA Checkpoint
- CCH Tax Research Network
- Lexis
- Westlaw
- Bloomberg BNA
- Tax Analysts
Locating Federal Authority, cont.

- **Secondary Sources**
  - Interpretations of Primary materials by using:
  - Print and Electronic Resources
  - Tax Journals & News Resources
## Tax News Resources

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<td>Worldwide Tax Daily</td>
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# Major Tax Journals

| Journal of Taxation         | Warren, Gorham & Lamont - RIA  
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<tr>
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<th>Sophisticated Tax Practitioners</th>
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| Practical Tax Strategies    | WGL                             
|                              | Tax Practitioners in general practice |
| Estate Planning             | WGL                             
|                              | Practioners who are interested in estate and gift tax matters |
| The Tax Advisor             | American Institute of CPAs     
|                              | Members of AICPA and other tax practitioners |
| TAXES                       | CCH                             
|                              | General Tax Practioners         |
STOP!

- Knowledge Check Time
State Tax Research

- Westlaw State Tax Services
- BNA State Services
- Periodicals and Government Sites
  - CA: Board of Equalization & the FTB
- RIA State and Local Service (SALT)
  - Charts
  - All State Tax Guide
- CCH (State Tax Tab)
- Lexis – Tax Tab (acquired StateNet)
International Tax Research

- **International Taxation**
  - Governed in the US by the IRC **and** by Tax Treaties (*negotiated by the Treasury Department, signed by the President*).
  - The code and treaties should work in harmony in the U.S.
  - The most recently issued provision generally prevails.

- **US has over 60 bilateral tax treaties**

- **Electronic Resources**
  - Bloomberg BNA
  - CCH
  - **IBFD - International Bureau of Fiscal Documentation**
  - Lexis - Tax Tab; Tax Analysts
  - Westlaw – Tax Tab use of RIA and BNA