

CHAPTER 2--WORKING WITH THE TAX LAW

Student: _____

1. A large part of tax research involves determining the intent of Congress.

True False

2. Neither the 1939 nor the 1954 Code substantially changed the tax law existing on the date of its enactment.

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3. Federal tax legislation generally originates in the Senate Finance Committee.

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4. Individual Senators have considerable latitude to make amendments on the Senate floor.

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5. Subchapter K refers to the "Partners and Partnerships" section of the Code.

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6. A Revenue Procedure is an administrative source of Federal tax law.

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13. Revenue Procedures deal with the internal management practices and procedures of the IRS.

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18. General Counsel Memoranda may be cited as precedents by taxpayers.

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19. Unlike determination letters, letter rulings are issued by the National Office of the IRS.

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20. A taxpayer must pay any tax deficiency assessed by the IRS and sue for a refund to bring suit in the U.S. District Court.
True False
21. In a U.S. District Court, a jury can decide both questions of fact and questions of law.
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22. Three judges will normally hear each U.S. Tax Court case.
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23. A taxpayer can obtain a jury trial in a U.S. Court of Federal Claims.
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25. Arizona is in the jurisdiction of the First Circuit Court of Appeals.
True False
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27. The *Golsen* rule has been overturned by the U.S. Supreme Court.
True False
28. The granting of a Writ of Certiorari indicates that at least five members of the Supreme Court believe that an issue is of sufficient importance to be heard by the full court.
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29. The “defendant” refers to the party against whom a suit is brought.

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32. The following citation *cannot* be correct: *James E. Wiese*, T.C. Summary Opinion, 2005-91.

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34. Accessing tax documents through electronic means offers limited advantages over a strictly paper-based approach.

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36. Among the approaches available for online tax research are a keyword approach, a table of contents approach, an index approach, and a citation approach.

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- A. § 212(1).
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- A. There is a \$1,000 penalty per failure to disclose on the tax return where there is a direct treaty conflict for an individual.
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52. Which of the following sources has the *highest* tax validity?

- A. Revenue Ruling.
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77. Which is a primary source of tax law?

- A. *J. W. Yarbo v. Comm.*, 737 F.2d 479 (CA-5, 1984).
- B. Article by a Federal judge in *Harvard Law Review*.
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78. Which statement is *incorrect* with respect to taxation on the CPA exam?

- A. The CPA exam now has only four parts.
- B. There are no longer case studies on the exam.
- C. A candidate may not go back after exiting a testlet.
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79. How can congressional committee reports be used by a tax researcher?

80. Why are some Code section numbers intentionally omitted from the *Internal Revenue Code*?

81. Compare a determination letter with a letter ruling.

82. Explain the function of Temporary Regulations.

83. Explain the *Golsen* doctrine.

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

85. Explain the difference between tax avoidance and tax evasion.

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Some Code section numbers are intentionally omitted from the *Internal Revenue Code* so that later changes in the law can be incorporated into the Code without disrupting its organization.

81. Compare a determination letter with a letter ruling.

Like letter rulings, determination letters are issued at the request of taxpayers and provide guidance on the tax law. Determination letters differ from letter rulings in that the issuing source of a determination letter is the Area Director rather than the National Office of the IRS. Also, determination letters usually involve completed (as opposed to proposed) transactions. Determination letters are not published and are made known only to the party making the request.

82. Explain the function of Temporary Regulations.

Sometimes the U.S. Treasury Department issues Temporary Regulations relating to matters where immediate guidance is important. These regulations are issued without the comment period required for Proposed Regulations. Temporary Regulations have the same authoritative value as Final Regulations and may be cited as precedents. Temporary Regulations also must be issued as Proposed Regulations and automatically expire within three years after the date of issuance. Temporary Regulations and the simultaneous Proposed Regulations carry more weight than traditional Proposed Regulations.

83. Explain the *Golsen* doctrine.

Because the Tax Court is a national court, it decides cases from all parts of the country. For many years, the Tax Court followed a policy of deciding cases based on what it thought the result should be, even though its decision might be appealed to a U.S. Circuit Court of Appeals that had previously decided a similar case differently. A number of years ago this policy was changed in the *Golsen* decision. Now the Tax Court will decide a case as it feels the law should be applied *only* if the Circuit Court of Appeals of appropriate jurisdiction has not yet passed on the issue or has previously decided a similar case in accord with the Tax Court's decision. If the Circuit Court of Appeals of appropriate jurisdiction has previously held otherwise, the Tax Court will conform under the *Golsen* rule even though it disagrees with the holding.

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

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

85. Explain the difference between tax avoidance and tax evasion.

A fine line exists between legal tax planning and illegal tax planning—tax avoidance versus tax evasion. Tax avoidance is merely tax minimization through legal techniques. In this sense, tax avoidance is the proper objective of all tax planning. Tax evasion, while also aimed at the elimination or reduction of taxes, connotes the use of subterfuge and fraud as a means to an end. Popular usage—probably because of the common goals involved—has so linked these two concepts that many individuals are no longer aware of the true distinctions between them. Consequently, some taxpayers have been deterred from properly taking advantage of planning possibilities.