

CHAPTER 1

UNDERSTANDING AND WORKING WITH THE FEDERAL TAX LAW

SOLUTIONS TO PROBLEM MATERIALS

<u>Question/ Problem</u>	<u>Learning Objective</u>	<u>Topic</u>	<u>Status: Present Edition</u>	<u>Q/P in Prior Edition</u>
1	LO 1	Revenue neutrality	Unchanged	1
2	LO 2	Nonrevenue factors	Unchanged	2
3	LO 2	Encouraging technological factors	Unchanged	3
4	LO 2	Special treatment for farmers and natural resources	Unchanged	4
5	LO 2	Impact of personal savings	Unchanged	5
6	LO 2	Encouragement of small business	Unchanged	6
7	LO 2	Equity considerations	Unchanged	7
8	LO 2	Purpose of charitable contributions	Unchanged	8
9	LO 2	Purpose of child credit	Unchanged	9
10	LO 2	Political campaign expenses	Unchanged	10
11	LO 2	Tax credit for tuition	Unchanged	11
12	LO 2	Credits versus deductions	Unchanged	12
13	LO 2	Double taxation and effect of a credit versus a deduction	Unchanged	13
14	LO 2	Wherewithal to pay concept: transfer to controlled corporation	Unchanged	14
15	LO 2	Avoiding the corporate income tax	Unchanged	15
16	LO 2	Wherewithal to pay: example	Unchanged	16
17	LO 2	Recognized gain versus realized gain: amount	Unchanged	17
18	LO 2	Like-kind exchange versus involuntary conversion: losses	Unchanged	18
19	LO 2	Settlement time period	Unchanged	19
20	LO 2	Installment method	Unchanged	20
21	LO 2	Keogh plan: grace period	Unchanged	21
22	LO 2	Bracket creep: indexation	Unchanged	22
23	LO 2	Community property states	Unchanged	23
24	LO 2	Community property states	Unchanged	24
25	LO 2	Deterrence provisions	Unchanged	25
26	LO 3	\$14,000 annual gift tax exclusion: audit	Unchanged	26
27	LO 4	Continuity of interest concept	Unchanged	27
28	LO 3	IRS adjustment to clearly reflect income	Unchanged	28
29	LO 5	Structure of the Code	Unchanged	29
30	LO 5	Legislative origin of tax laws	Unchanged	30
31	LO 5	Effect of President's veto	Unchanged	31

Question/ Problem	Learning Objective	Topic	Status: Present Edition	Q/P in Prior Edition
32	LO 5	Identifying the Subtitle of Internal Revenue Code	Unchanged	32
33	LO 5	Code section citation	Unchanged	33
34	LO 5	Code section citation	Unchanged	34
35	LO 5	Missing code sections	Unchanged	35
36	LO 6	Location of Regulations	Unchanged	36
37	LO 6	Citations	Unchanged	37
38	LO 5	Role of Federal Courts of Appeals	Unchanged	38
39	LO 5	Failure of U.S. Government to appeal some court decisions	Unchanged	39
40	LO 5, 8	Identify selected abbreviations	Unchanged	40
41	LO 6	Tax research	Unchanged	41
42	LO 7	Starting tax research	Unchanged	42
43	LO 8	Primary and secondary sources	Unchanged	43
44	LO 9	Components of tax planning	Unchanged	44
45	LO 10	CPA exam: simulations	Unchanged	45
46	LO 2	Like-kind exchange: wherewithal to pay concept	Unchanged	46
47	LO 2, 3	Objectives of tax provisions	Unchanged	47
48	LO 2	Community versus common law property	Unchanged	48
49	LO 4	Arm's length concept	Unchanged	49
50	LO 5	Letter rulings and TAMs	Unchanged	50
51	LO 5	Administrative citation	Unchanged	51
52	LO 6	Citations	Unchanged	52
53	LO 5	U.S. Court of Appeals	Unchanged	53
54	LO 5	Court system	Unchanged	54
55	LO 6	Tax services	Unchanged	55
56	LO 5, 8	Authority	Unchanged	56
57	LO 5	Court Citations	Unchanged	57

Research Problem	Topic	Status: Present Edition	Q/P in Prior Edition
1	Locate and describe tax law sources	New	
2	Assessing the validity of tax law sources	Unchanged	2
3	Determining the disposition of court cases	Unchanged	3
4	Tax implications of a prize	Unchanged	4
5	Internet activity	Unchanged	5
6	Internet activity	Unchanged	6

Proposed solutions to the **Research Problems** are found in the Instructor's Guide.

CHECK FIGURES

- 46.a. Realized gain \$200,000; recognized gain \$100,000. 46.b. Realized loss \$300,000; recognized loss \$0.

DISCUSSION QUESTIONS

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 upon 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. Economic, social, equity, and political factors play a significant role in the formulation of tax laws. Furthermore, 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).
3. The tax law encourages technological progress by allowing immediate (or accelerated) deductions and tax credits for research and development expenditures.
4. Farmers are accorded special tax treatment by being permitted to expense rather than capitalize certain soil and water conservation expenditures and fertilizers. Also, the tax law favors the development of natural resources through percentage depletion deductions and favorable treatment of certain intangible drilling costs.
5. Saving leads to capital formation and thus 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.
6.
 - a. Section 1244 allows ordinary loss treatment on the worthlessness of small business corporation stock. Since such stock normally would be a capital asset, the operation of § 1244 converts a less desirable capital loss into a more attractive ordinary loss. Such tax treatment was designed to aid small businesses in raising needed capital through the issuance of stock.
 - b. The corporate income tax rates favor those corporations with taxable income under \$75,000. On a relative basis, it is the smaller corporations that will benefit the most from the graduated corporate tax rates. Further, the \$11,750 in tax savings that result from the graduated rate structure is phased out for corporations with taxable income in excess of \$100,000.
 - c. By allowing corporations to split or combine (i.e., merge or consolidate) without adverse tax consequences, small corporations are in a position to compete more effectively with larger counterparts.
7. 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, the text discusses the difference in tax treatment for taxpayers renting an apartment versus purchasing a house. Another equity difference relates to how a business is organized (i.e., partnership versus corporation). Equity, then, is not what appears fair or unfair to any one taxpayer or group of taxpayers. It is, instead, what the tax law recognizes.
8. This deduction 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.
9. Encouraging taxpayers to provide care for children and disabled dependents while gainfully employed is socially desirable.

10. Allowing a deduction for campaign expenditures in excess of campaign contributions, some believe, would encourage the use of a candidate's personal wealth as a means of winning elections.
11. Such a provision might be justified on social considerations because private schools do relieve the public sector of the cost of educating these students. Equity also might serve as a justification since the parents are, in effect, paying twice for the cost of education: first through taxes paid to finance public education and second for the tuition paid to the private school.
12. A credit allows a dollar-for-dollar reduction in tax liability, whereas a deduction's value depends upon the taxpayer's tax bracket. Thus, a deduction is worth more to a high tax bracket individual than a lower tax bracket individual.
13. 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. Only the allowance of a full tax credit would achieve complete neutrality.
 - 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. This is so because the standard deduction is in lieu of itemized deductions, which include the deductions for state and local income taxes.
 - b. If the taxpayer is in the 10% tax bracket, one dollar of a deduction for state or local taxes would save ten cents of Federal income tax liability. In the 33% tax bracket, the saving becomes thirty-three cents. The deduction approach (as opposed to the allowance of a credit) favors high bracket taxpayers.
14. 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.

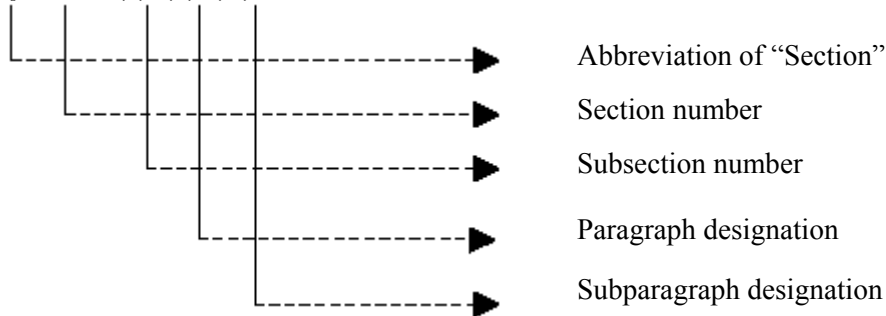
The wherewithal to pay concept recognizes the inequity of taxing a transaction when Heather lacks the means with which to pay any tax. Besides, Heather's economic position would not change significantly as a result of such a transfer. Heather owned the assets before the transfer and still would own the assets after a transfer to a controlled corporation.
15. Yes, once incorporated, the business may be subject to the Federal corporate income tax. However, the corporate tax rates *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.
16. Examples include like-kind exchanges, involuntary conversions, transfers of property to a controlled corporation, transfers of property to a partnership, and tax-free reorganization.
17. Generally, a recognized (taxable) gain cannot exceed the realized gain.
18. Recognition of gain ultimately occurs when the property is disposed of.
19. One year.
20. The installment method on the sale of property permits the gain to be recognized over the payout period.

21. 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.
22. Because of the progressive nature of the income tax, any wage adjustment to compensate for inflation can increase the income tax bracket of the recipient. The overall impact is an erosion of purchasing power. Congress recognized this problem and began to adjust various income tax components (the indexation procedure) in 1985, based upon the rise in the consumer price index over the prior year.
23. Louisiana, Texas, New Mexico, Arizona, California, Washington, Idaho, Nevada, Wisconsin, and (if elected by the spouses) Alaska.
24. 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, Harold and Ruth are husband and wife, and their only income is the \$80,000 annual salary Harold receives. If they live in New York (a common law state), the \$80,000 salary belongs to Harold. If, however, they live in Texas (a community property state), the \$80,000 salary is divided equally, in terms of ownership, between Harold and Ruth.
25. Deterrence provisions include:
 - Alternative minimum tax.
 - Imputed interest rules.
 - Limitation on the deductibility of interest on investment indebtedness.
 - Unreasonable accumulated earnings tax.
 - Personal holding company tax.
26. The exclusion decreases the number of gift tax returns that must be filed (as well as reduces the taxes paid) which reduces audit effort.
27. 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 10).
28. 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. Pursuant to § 482, therefore, the IRS might allocate interest income to White Corporation even though none was provided for in the loan agreement.
29. No, Congress merely redesignated the Internal Revenue Code of 1954 as the Internal Revenue Code of 1986. The Tax Reform Act merely amended, deleted, or added provisions to the TRA of 1954.
30. False. Federal tax legislation generally originates in the House of Representatives, where it is first considered by the House Ways and Means Committee. Tax bills can originate in the Senate only when they are attached as riders to other legislative proposals as was the case with the American Taxpayer Relief Act of 2012.
31. A president's veto can be overridden by a two-thirds vote in both the House and Senate.

32. Subtitle A.

33. § 1563 (a) (1) (A)



34. 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)].

35. 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.

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

37. a. A Temporary Regulation, with 1 referring to the type of regulation (i.e., income tax), 428 is the related code section number, (7) is the subsection number, T means temporary, b is the paragraph designation, and (4) 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.

38. Hoffman, Raabe, Maloney, & Young CPAs
5191 Natorp Boulevard
Mason, OH 45040

October 12, 2014

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

39. TAX FILE MEMORANDUM

DATE: September 12, 2014

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 work load may be 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 wish 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.

- 40.
- 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 will carry 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 such 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 or not the Code has been modified to change the results reached. There also exists the rare possibility 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 such 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.
41. Mack Rogers has a number of hardcopy approaches available, depending upon the available library. One approach is to begin with the index volume of a tax service. Since the subject matter “§ 1244 stock” is somewhat self-contained, he may start with the Internal Revenue Code and Treasury Regulations. The textbook identifies the major tax services which Mr. Rogers could consult. Another approach for Mr. Rogers is to use CCH’s *Federal Tax Articles*. After looking up “§ 1244 stock” in the subject index, Mr. Rogers should be able to find a number of articles written about this subject. In addition, the RIA tax service has a topical “Index to Tax Articles” section that is organized using the service’s paragraph index system. He should check *Tax Management Portfolios* also. Several computer-based tax research tools are also available to Mr. Rogers, which may be the quickest approach.

42. Most tax researchers begin with the index volume of a hard copy tax service or 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 1.3). 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.
43. 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, but substantial authority for purposes of the accuracy-related penalty in § 6662.
44. Key components of effective tax planning are:
- 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.
45. Simulations are small case studies designed to test a candidate's tax knowledge and skills using real-life, work-related situations. Simulations include a four-function pop-up calculator, a blank spreadsheet with some elementary functionality, and authoritative literatures appropriate to the subject matter. The taxation database includes authoritative excerpts (e.g., Internal Revenue Code and Regulations, IRS publications, and Federal tax forms) that are necessary to complete the tax case study simulations.

PROBLEMS

46. a. Bart has a realized gain of \$200,000 determined as follows:

Amount received on the exchange		
Real estate worth	\$900,000	
Cash	<u>100,000</u>	\$1,000,000
Amount given up on the exchange		
Basis of real estate		<u>(800,000)</u>
Realized gain		<u>\$ 200,000</u>

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

- b. Roland has a realized loss of \$300,000, determined as follows:

Amount given up on the exchange		
Real estate with a basis of	\$1,200,000	
Cash	<u>100,000</u>	
Basis of property given up		\$1,300,000
Amount received on the exchange		<u>1,000,000</u>
Realized loss		<u>\$ (300,000)</u>

None of Roland's realized loss can be recognized.

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

The disallowance of Roland's realized loss is consistent with the usual approach of the wherewithal to pay concept. Not only is this the price that must be paid for tax-free treatment, but also a carryover basis and adjustment under § 1031(d) prevents a deterioration of Roland's tax position. Note: After the exchange, Roland has a basis of \$1,300,000 in the real estate received from Bart [i.e., \$1,200,000 (basis in the real estate given up) + \$100,000 (cash given up)].

47. 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.
48. 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.

49. 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. It 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 find 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 such difference. (Chapter 5)
 - c. Since Benny is neither a shareholder in Jet Corporation nor related to any of its shareholders, it is doubtful that the IRS would question the \$100,000 selling price or the substance of the sale.
- 50.
- 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 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.
- 51.
- 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.
- 52.
- 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.
- 53.
- a. Fifth Circuit.
 - b. Tenth Circuit.
 - c. Eleventh Circuit.
 - d. Ninth Circuit.
 - e. Second Circuit.

54. a. A
b. T
c. U
d. T
e. T
f. C
g. N
h. D
55. a. *United States Tax Reporter* is published by Research Institute of America (formerly published as *Federal Taxes* by Prentice-Hall, Inc.).
b. *Standard Federal Tax Reporter* is published by Commerce Clearing House, Inc.
c. *Federal Tax Coordinator 2d* is published by Research Institute of America.
d. *Mertens Law of Federal Income Taxation* is published by West Group.
e. *Tax Management Portfolios* is published by The Bureau of National Affairs, Inc.
f. *CCH Tax Research Consultant* is published by Commerce Clearing House, Inc.
56. 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.

57. 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. Second Circuit Court of Appeals that was rendered in 1969. The decision can be found in Volume 408, page 1117, of the Federal Reporter, Second Series (F. 2d), 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.
- 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, now published by RIA (formerly P-H).
- [Note that the citations that appear in parts b., c., and d. are for the same case.]
- e. For a decision of the U.S. District Court of Mississippi that was rendered in 1967. The decision can be found in Volume 293, page 1129, of the Federal Supplement Series, 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, now published by RIA (formerly P-H).
- [Note that the citations that appear in parts e., f., and g. are for the same case.]
- 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, now published by RIA (formerly P-H).
- [Note that the citations that appear in parts h., i., and j. are for the same case.]
- k. For a decision of the former U.S. Court of Claims that was rendered in 1970. The decision can be found in Volume 422, page 1336, of the Federal Reporter, Second Series, published by West Publishing Company. This court is the Claims Court (renamed the Court of Federal Claims effective October 30, 1992) and current cases are in the Federal Claims Reporter.

SOLUTIONS TO ETHICS & EQUITY FEATURES

Choosing Cases for Appeal (p. 1-40). 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 a 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 such an 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.

NOTES