

Exam

Name \_\_\_\_\_

TRUE/FALSE. Write 'T' if the statement is true and 'F' if the statement is false.

- 1) Tax planning is not an integral part of open-fact situations. 1) \_\_\_\_\_  
Answer: True  False

MULTIPLE CHOICE. Choose the one alternative that best completes the statement or answers the question.

- 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 2) \_\_\_\_\_  
A) a closed-fact situation. B) a restricted-fact situation.  
C) an open-fact situation. D) a recognized-fact situation.  
Answer: C

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

ESSAY. Write your answer in the space provided or on a separate sheet of paper.

- 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.
- 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.

MULTIPLE CHOICE. Choose the one alternative that best completes the statement or answers the question.

- 6) Identify which of the following statements is true. 6) \_\_\_\_\_  
A) The first step in conducting tax research is to clearly understand the issues involved.  
B) Tax planning is an integral part of both closed-fact situations and open-fact situations.  
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

ESSAY. Write your answer in the space provided or on a separate sheet of paper.

7) 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.

8) 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. facts have not yet occurred, it is useful to review tax research material to determine which facts would pro 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.

9) There are no questions for this section.

Answer:

TRUE/FALSE. Write 'T' if the statement is true and 'F' if the statement is false.

10) The Internal Revenue Code of 1986 contains the current version of the tax law. 10) \_\_\_\_\_

Answer:  True  False

11) 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. 11) \_\_\_\_\_

Answer:  True  False

12) Final regulations have almost the same legislative weight as the IRC. 12) \_\_\_\_\_

Answer:  True  False

13) A revenue ruling is issued by the Internal Revenue Service only in response to a verbal inquiry by a taxpayer. 13) \_\_\_\_\_

Answer:  True  False

14) Taxpayers must pay the disputed tax prior to filing a case with the Tax Court. 14) \_\_\_\_\_

Answer:  True  False

15) Appeals from the U.S. Tax Court are to the Court of Appeals for the Federal Circuit. 15) \_\_\_\_\_

Answer:  True  False

16) 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. 16) \_\_\_\_\_

Answer:  True  False

MULTIPLE CHOICE. Choose the one alternative that best completes the statement or answers the question.

- 17) When the Tax Court follows the opinion of the circuit court of appeals to which the case is appealable, the court is following the \_\_\_\_\_ 17) \_\_\_\_\_  
A) Golsen rule. B) Forum shopping rule.  
C) Acquiescence rule. D) Conformity rule.

Answer: A

- 18) Which of the following citations denotes a regular decision of the Tax Court? 18) \_\_\_\_\_  
A) 35 T.C. 1083 (2003) B) 39 AFTR 2d 77-640  
C) 41 TCM 1272 D) all of the above

Answer: A

- 19) The primary citation for a federal circuit court of appeals case would be 19) \_\_\_\_\_  
A) 79-2 USTC & 9693. B) 40 AFTR 2d 78-1234.  
C) 3 F.3d 134. D) 44 F.Supp. 403.

Answer: C

- 20) You have the following citation: Joel Munro, 92 T.C. 71 (1989). Which of the following statements is true? 20) \_\_\_\_\_  
A) 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.  
B) The case was tried in 1989 and was appealed in 1992.  
C) The taxpayer, Joel Munro, won the case because there is no reference to the IRS.  
D) This citation refers to a taxpayer conference between the IRS and the taxpayer.

Answer: A

- 21) The term "tax law" includes 21) \_\_\_\_\_  
A) judicial decisions. B) legislation.  
C) treasury regulations. D) all of the above

Answer: D

- 22) Identify which of the following statements is false. 22) \_\_\_\_\_  
A) Records of committee hearings are helpful in determining Congressional intent.  
B) Members from both the House and the Senate are on the Conference Committee.  
C) When tax advisors speak of the "tax law," they usually have in mind just the Internal Revenue Code.  
D) All of the above are false.

Answer: C

- 23) The committee that is responsible for holding hearings on tax legislation for the House of Representatives is the \_\_\_\_\_ 23) \_\_\_\_\_  
A) Joint Committee on Taxation. B) Conference Committee.  
C) Ways and Means Committee. D) Finance Committee.

Answer: C

24) 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) forwarded to the Senate Finance Committee for consideration.  
D) voted upon by the entire House.

Answer: A

25) The Senate equivalent of the House Ways and Means Committee is the Senate \_\_\_\_\_  
A) Ways and Means Committee. B) Joint Conference Committee.  
C) Tax Committee. D) Finance Committee.

Answer: D

26) Which of the following steps, related to a tax bill, occurs first? \_\_\_\_\_  
A) consideration by the Senate Finance Committee  
B) consideration by the House Ways and Means Committee  
C) signature or veto by the President of the United States  
D) consideration by the entire Senate

Answer: B

27) When the House and Senate versions of a tax bill are not in agreement, the disagreements are \_\_\_\_\_  
resolved by the  
A) Mediation Committee. B) Ways and Means Committee.  
C) Conference Committee. D) Revenue Committee.

Answer: C

28) Identify which of the following statements is true. \_\_\_\_\_  
A) Paragraph references are most commonly used when citing or referring to the tax statutes.  
B) The Internal Revenue Code contains chapters, which are further subdivided into titles.  
C) Before 1939, tax statutes were codified or compiled into one document.  
D) Title 26 of the United States Code and the Internal Revenue Code of 1986 are synonymous.

Answer: D

29) Title 26 of the U.S. Code includes \_\_\_\_\_  
A) income tax legislation only. B) alcohol and tobacco tax legislation only.  
C) gift tax and estate tax legislation only. D) all of the tax legislation mentioned above.

Answer: D

30) The tax statutes with the popular name "The Internal Revenue Code of 1986" are contained in \_\_\_\_\_  
which Title of the Code?  
A) 26 B) 20 C) 301 D) 25

Answer: A

31) Which of the following statements regarding proposed regulations is not correct? \_\_\_\_\_  
A) Proposed regulations expire after three years.  
B) Proposed regulations do not provide any insight into the IRS's interpretation of the tax law.  
C) Practitioners and other interested parties may comment on proposed regulations.  
D) Proposed and temporary regulations are generally issued simultaneously.

Answer: B

- 32) Final regulations can take effect on any of the following dates except 32) \_\_\_\_\_  
A) the date on which they were issued in final form.  
B) the date on which related temporary regulations were first published in the Federal Register.  
C) the date on which final regulations were proposed.  
D) 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.

Answer: D

- 33) 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 33) \_\_\_\_\_  
A) interpretative regulations. B) legislative regulations.  
C) congressional regulations. D) statutory regulations.

Answer: B

- 34) Regulations are 34) \_\_\_\_\_  
A) equal in authority to legislation.  
B) presumed to be valid and to have almost the same weight as the IRC.  
C) equal in authority to legislation if statutory.  
D) equal in authority to legislation if interpretative.

Answer: B

- 35) Identify which of the following statements is true. 35) \_\_\_\_\_  
A) Legislative regulations are more likely to be invalidated by the courts than are interpretative regulations.  
B) 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.  
C) Regulations have more authoritative weight than tax statutes.  
D) All of the above are false.

Answer: B

- 36) Identify which of the following statements is false. 36) \_\_\_\_\_  
A) 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.  
B) The Cumulative Bulletin is issued semiannually while the Internal Revenue Bulletin is issued weekly.  
C) The number "5" in the citation Reg. Sec. 1.166-5 refers to the paragraph number.  
D) All of the above are false.

Answer: C

- 37) The number appearing immediately following the decimal place in a regulation citation refers to the 37) \_\_\_\_\_  
A) general subject matter of the regulation.  
B) sequential number of the regulation.  
C) subsection of the Code section being interpreted.  
D) Code section being interpreted.

Answer: D

38) The citation "Reg. Sec. 1.199-2" refers to 38) \_\_\_\_\_  
A) the second regulation issued in 1999.  
B) a regulation that can be found on page 199.  
C) a regulation that interprets Code Section 199.  
D) the first regulation issued in 1999.

Answer: C

39) Which regulation deals with Code Section 165? 39) \_\_\_\_\_  
A) Reg. Sec. 1.165-5  
B) Reg. Sec. 165-5  
C) Reg. Sec. 1.5-165  
D) Reg. Sec. 165.183-5

Answer: A

40) Which regulation deals with the gift tax? 40) \_\_\_\_\_  
A) Reg. Sec. 301.7002-5  
B) Reg. Sec. 20.2014-5  
C) Reg. Sec. 25.2518-5  
D) Reg. Sec. 1.165-5

Answer: C

41) Which of the following best describes the weight of a revenue ruling? 41) \_\_\_\_\_  
A) Revenue rulings should never be used as authority since they only apply to the taxpayer requesting the ruling.  
B) Revenue rulings carry more weight than regulations.  
C) Regulations carry more weight than revenue rulings.  
D) Revenue rulings carry more weight than federal court decisions.

Answer: C

42) The citation "Rev. Rul. 2006-8, 2006-1 C.B. 541" refers to 42) \_\_\_\_\_  
A) the 1st ruling of 2006 found on page 541 in the 2006 volume of the Cumulative Bulletin.  
B) the 541st ruling of 2006 found on page eight in Vol. 1 of the 2006 Cumulative Bulletin.  
C) the eighth ruling of 2006 found on page 541 in the 2006 volume of the Cumulative Bulletin.  
D) the eighth ruling of 2006 found on page 541 in Vol. 1 of the 2006 Cumulative Bulletin.

Answer: D

43) Which of the following documents is issued by the IRS to a specific taxpayer? 43) \_\_\_\_\_  
A) letter ruling  
B) information release  
C) regulation  
D) revenue procedure

Answer: A

44) Identify which of the following statements is false. 44) \_\_\_\_\_  
A) The citation Ltr. Rul. 200611075 usually indicates the ruling was made public in the 11th week of 2006.  
B) Rev. Proc. 2006-19 is a revenue procedure that was published in 2006.  
C) A technical advice memorandum is made available as a letter ruling.  
D) A revenue ruling is issued by the Internal Revenue Service only in response to a written inquiry by a taxpayer.

Answer: D

- 45) Identify which of the following statements is false. 45) \_\_\_\_\_
- A) 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.
  - B) The citation Ann. 2006-12, I.R.B. 2006-51, 22 refers to an annotation of an Internal Revenue Service release.
  - C) Letter rulings are not published by the U.S. Government Printing Office.
  - D) Announcements are more technical than information releases.
- Answer: B
- 46) A Technical Advice Memorandum is usually 46) \_\_\_\_\_
- A) issued by the national office in response to an audit request.
  - B) an internal IRS document describing alternative legislative proposals.
  - C) requested by the taxpayer before entering into a taxable transaction.
  - D) part of a Tax Court decision.
- Answer: A
- 47) Which of the following courts is not a trial court for tax cases? 47) \_\_\_\_\_
- A) U.S. District Court
  - B) U.S. Tax Court
  - C) U.S. Court of Federal Claims
  - D) U.S. Bankruptcy Court
- Answer: D
- 48) The taxpayer need not pay the disputed tax in advance when the suit is initiated in 48) \_\_\_\_\_
- A) U.S. District Court.
  - B) both A and B.
  - C) U.S. Court of Federal Claims.
  - D) U.S. Tax Court.
- Answer: D
- 49) If the U.S. Supreme Court decides to hear an appeal of a tax case, it will grant a 49) \_\_\_\_\_
- A) writ of habeas corpus.
  - B) writ of detainer.
  - C) writ of appeal.
  - D) writ of certiorari.
- Answer: D
- 50) Tax Court memorandum decisions 50) \_\_\_\_\_
- A) cannot be appealed.
  - B) have less precedential value than regular decisions.
  - C) usually deal with factual variations of issues litigated previously.
  - D) are not published.
- Answer: C
- 51) 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? 51) \_\_\_\_\_
- A) He would appeal first to the U.S. Court of Appeals for the Federal Circuit.
  - B) He would appeal first to the U.S. Court of Federal Claims.
  - C) There is no appeal.
  - D) He can appeal the case, but only if the amount of tax involved is greater than \$5,000.
- Answer: C

- 52) Identify which of the following statements is false. 52) \_\_\_\_\_
- A) The IRS may retroactively revoke an acquiescence.
  - B) Letter rulings are binding only with respect to the taxpayer requesting the ruling.
  - C) 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.
  - D) The small cases procedure of the U.S. Tax Court allows a less formal hearing but provides for no appeal.

Answer: C

- 53) The phrase "Entered under Rule 155" indicates that 53) \_\_\_\_\_
- A) only one Tax Court judge reviewed the case.
  - B) the parties have agreed not to appeal the decision.
  - C) the court has not reached a decision concerning the appropriate tax treatment of an issue.
  - D) the computation of the exact amount of the tax deficiency has been left to the litigating parties.

Answer: D

- 54) Small case procedures of the U.S. Tax Court requires that the amount in dispute not exceed 54) \_\_\_\_\_
- A) \$50,000.
  - B) \$10,000.
  - C) \$100,000.
  - D) \$5,000.

Answer: A

- 55) The acquiescence policy of the IRS extends to the 55) \_\_\_\_\_
- A) U.S. District Court decisions.
  - B) U.S. Supreme Court decisions.
  - C) U.S. Tax Court regular decisions.
  - D) both B and C

Answer: D

- 56) A tax case cannot be appealed when initiated in the 56) \_\_\_\_\_
- A) U.S. Tax Court using the small case procedures.
  - B) U.S. Court of Federal Claims.
  - C) U.S. Tax Court.
  - D) none of the above

Answer: A

- 57) Identify which of the following statements is false. 57) \_\_\_\_\_
- 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 Board of Tax Appeals preceded the Tax Court.
  - C) The citation Cristofani, 97 T.C. 74 (1991) indicates that the decision is a regular decision of the Tax Court.
  - D) 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.

Answer: A

- 58) 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 58) \_\_\_\_\_
- A) not published in American Federal Tax Reports.
  - B) not published in the Federal Supplement.
  - C) not published in United States Tax Cases.
  - D) settled out of court.

Answer: B



59) A jury trial is permitted in the 59) \_\_\_\_\_  
A) U.S. Tax Court.  
B) U.S. Tax Court when the small case procedures are used.  
C) U.S. District Court.  
D) U.S. Court of Federal Claims.

Answer: C

60) Which of the following citations is the primary citation for a U.S. District Court case? 60) \_\_\_\_\_  
A) 40 F.Supp. 453  
B) 43 AFTR 2d 79-1023  
C) 55 F.2d 930  
D) 79-1 USTC &9323

Answer: A

61) Identify which of the following statements is true. 61) \_\_\_\_\_  
A) The American Federal Tax Reports contain only tax cases.  
B) The Federal Supplement contains only tax cases.  
C) The citation, 41 TCM 1272, refers to a Tax Court regular decision published by Commerce Clearing House.  
D) All of the above are false.

Answer: A

62) Identify which of the following statements is true. 62) \_\_\_\_\_  
A) The U.S. Court of Federal Claims hears cases only in Washington, D.C.  
B) Federal district court decisions and federal courts of appeals decisions are not printed by the U.S. Government Printing Office.  
C) Each state has at least one U.S. District Court.  
D) All of the above are false.

Answer: C

63) Identify which of the following statements is false. 63) \_\_\_\_\_  
A) A U.S. Supreme Court opinion in a tax matter has the same status as Congressional tax legislation.  
B) Circuit Court decisions are reported in the Federal Reporter.  
C) Citations to the AFTR and the USTC are referred to as secondary citations.  
D) 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.

Answer: D

64) Identify which of the following statements is false. 64) \_\_\_\_\_  
A) The opportunity for "forum shopping" occurs when different precedents on the same point exist.  
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 U.S. Tax Court must follow the previous decisions of the U.S. District Court for the district in which the taxpayer lives.  
D) The U.S. Tax Court may intentionally issue conflicting decisions.

Answer: C

- 65) The Tax Court departs from its general policy of ruling uniformly for all taxpayers where 65) \_\_\_\_\_
- A) the IRS has indicated that it will acquiesce.
  - 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) a U.S. District Court has ruled differently on the issue in the taxpayer's jurisdiction.

Answer: C

- 66) Identify which of the following statements is false. 66) \_\_\_\_\_
- A) *Dicta* are not authoritative.
  - B) *Dicta* in a court opinion has no influence on other tax proceedings.
  - C) When a court opinion discusses facts and issues on which the court does not rule, the comments are called *dicta*.
  - D) Published articles and tax services are examples of secondary sources of authority.

Answer: B

- 67) When a court discusses issues not raised by the facts, the comments 67) \_\_\_\_\_
- A) will cause the court's decision to be declared invalid.
  - B) are excluded from the formal court opinion.
  - C) may be referenced by the parties in other cases having the same facts.
  - D) are not *dicta*.

Answer: C

- 68) Which of the following is a true statement regarding primary authority of tax law? 68) \_\_\_\_\_
- A) Primary authority includes the Code, as well as administrative and judicial interpretations.
  - B) The Bloomberg BNA Daily Tax Reporter is a source of primary tax authority.
  - C) Tax services are sources of primary tax authority.
  - D) Articles in The Journal of Taxation are viewed as primary authority.

Answer: A

- 69) Which of the following is secondary authority? 69) \_\_\_\_\_
- A) RIA and CCH tax services
  - B) Internal Revenue Code
  - C) Treasury Regulations
  - D) Revenue Ruling

Answer: A

ESSAY. Write your answer in the space provided or on a separate sheet of paper.

- 70) 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.

- 71) 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."

72) 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.

73) 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.

74) 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.

75) 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.

76) 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.

77) 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.

78) 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.

79) 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.

80) 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.

81) 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.

82) 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.

83) 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.

84) 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.

85) Indicate which courts decided the case cited below. Also indicate on which pages and in which publications the case 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.

86) 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.

87) 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.

88) 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.

89) 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.

90) 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 explicit 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.

91) 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.

92) 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.

93) 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.

94) 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 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.

95) Assume that the Tax Court decided an expenditure in question was deductible. The government appealed to the 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 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.

MULTIPLE CHOICE. Choose the one alternative that best completes the statement or answers the question.

- 96) Identify which of the following statements is true. 96) \_\_\_\_\_
- A) An annotated tax service is organized by broad subject areas.
  - B) RIA United States Tax Reporter and CCH Standard Federal Tax Reporter are topical tax services.
  - C) Annotations are summaries of IRS pronouncements and court opinions.
  - D) All of the above are false.

Answer: B

- 97) Which tax service is usually deemed to be the most authoritative? 97) \_\_\_\_\_
- A) All are equally authoritative.
  - B) Federal Tax Coordinator 2d
  - C) Standard Federal Tax Reporter
  - D) United States Tax Reporter

Answer: A

ESSAY. Write your answer in the space provided or on a separate sheet of paper.

- 98) 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.

MULTIPLE CHOICE. Choose the one alternative that best completes the statement or answers the question.

- 99) Internet versions of topical tax services include 99) \_\_\_\_\_
- A) Court cases involving tax issues.
  - B) Code and Regulations.
  - C) Revenue rulings, letter rulings, and revenue procedures.
  - D) All of the above.

Answer: D

ESSAY. Write your answer in the space provided or on a separate sheet of paper.

- 100) 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.

TRUE/FALSE. Write 'T' if the statement is true and 'F' if the statement is false.

- 101) A citator enables tax researchers to locate authorities (e.g., cases and IRS pronouncements) that have cited a particular case. 101) \_\_\_\_\_
- Answer:  True       False

MULTIPLE CHOICE. Choose the one alternative that best completes the statement or answers the question.

- 102) 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 102) \_\_\_\_\_  
A) the Treasury Regulations. B) the Cumulative Bulletin.  
C) the Committee Reports. D) a citator.

Answer: D

- 103) Why does a researcher use a citator? 103) \_\_\_\_\_  
A) to determine whether a private letter ruling exists on the subject  
B) for examples of the application of a tax provision  
C) to check on authorities issued subsequent to a court decision  
D) none of the above

Answer: C

- 104) A citator is used to find 104) \_\_\_\_\_  
A) whether a case has been overturned.  
B) the cases that have cited a case subsequent to the issuance of the opinion.  
C) the judicial history of a case.  
D) all of the above.

Answer: D

ESSAY. Write your answer in the space provided or on a separate sheet of paper.

- 105) 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.

- 106) 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.

TRUE/FALSE. Write 'T' if the statement is true and 'F' if the statement is false.

- 107) According to the Statements on Standards for Tax Services, CPAs must verify all tax return information submitted by reviewing client documentation. 107) \_\_\_\_\_

Answer: True  False

MULTIPLE CHOICE. Choose the one alternative that best completes the statement or answers the question.

- 108) Which of the following statements about the Statements on Standards for Tax Services is true? 108) \_\_\_\_\_  
A) The CPA must tell the IRS upon becoming aware that an error has been made on a past tax return.  
B) 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.  
C) 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.  
D) A CPA is never allowed to use a taxpayer's estimates when preparing a tax return.

Answer: B

- 109) Statements on Standards for Tax Services are issued by 109) \_\_\_\_\_  
A) the SEC. B) the IRS. C) the FASB. D) the AICPA.  
Answer: D
- 110) A client wants to take a tax return position with less than a 10% probability of being upheld in court. The CPA should 110) \_\_\_\_\_  
A) take the client's desired position, but not sign the tax return.  
B) ask the client to sign a waiver of his right to sue the CPA in the event the IRS disallows the position.  
C) inform the client that the position does not have a realistic possibility of success.  
D) take the client's desired position and sign the return as usual.  
Answer: C
- 111) 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 111) \_\_\_\_\_  
A) AICPA.  
B) SEC.  
C) IRS.  
D) None of the above. The CPA does not report the false information to any external agencies, unless required by law.  
Answer: D
- 112) 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? 112) \_\_\_\_\_  
A) Estimates may be used, but Jane should disclose their use to the IRS.  
B) Estimates may be used without disclosing their use to the IRS.  
C) Estimates may not be used.  
D) The Statements on Standards for Tax Services do not address the use of estimates.  
Answer: A
- 113) 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 113) \_\_\_\_\_  
A) correct the error in the current year's tax return.  
B) ask the client for permission to disclose the error to the IRS.  
C) inform the IRS of the error, regardless of whether the client grants permission.  
D) withdraw from the engagement.  
Answer: B

ESSAY. Write your answer in the space provided or on a separate sheet of paper.

- 114) 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.



115) 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.

116) 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.

117) 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.

118) There are no questions for this section.

Answer: