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FEDERAL TAXATION

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TAXATION OF BUSINESS ENTITIES

2011 EDITION

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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.
True False
3. Federal tax legislation generally originates in the Senate Finance Committee.
True False
4. Individual Senators have considerable latitude to make amendments on the Senate floor.
True False
5. Subchapter K refers to the “Partners and Partnerships” section of the Code.
True False
6. A Revenue Procedure is an administrative source of Federal tax law.
True False
7. Some Regulations are arranged in different sequence than the Code.
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8. Proposed Regulations have the force and effect of law.
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9. Temporary Regulations have the same authoritative value as Finalized Regulations.
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10. Proposed Regulations are not published in the *Federal Register*.
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11. Regulations are issued by the Treasury Department.
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12. Revenue Rulings carry the same legal force and effect as Regulations.
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13. Revenue Procedures deal with the internal management practices and procedures of the IRS.
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14. Letter rulings may *not* be substantial authority for purposes of the accuracy-related penalty in § 6662.
True False
15. Determination letters usually involve proposed transactions.
True False
16. Technical Advice Memoranda deal with completed transactions.
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17. Treasury Decisions are issued by the Treasury Department to promulgate new Regulations.
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18. General Counsel Memoranda may be cited as precedents by taxpayers.
True False
19. Unlike determination letters, letter rulings are issued by the National Office of the IRS.
True False
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.
True False
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.
True False
24. A taxpayer must pay any tax deficiency assessed by the IRS and sue for a refund to bring suit in the U.S. Court of Federal Claims.
True False
25. Arizona is in the jurisdiction of the First Circuit Court of Appeals.
True False
26. Texas is in the jurisdiction of the Second Circuit Court of Appeals.
True False

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.
True False
29. The “defendant” refers to the party against whom a suit is brought.
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30. The term “respondent” is a synonym for defendant.
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31. Before 1943, the U.S. Tax Court was called the Board of Tax Appeals.
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32. The following citation *cannot* be correct: *James E. Wiese*, T.C. Summary Opinion, 2005-91.
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33. An easy way to locate a journal article pertinent to a tax problem is through Commerce Clearing House’s *Federal Tax Articles*.
True False
34. Accessing tax documents through electronic means offers limited advantages over a strictly paper-based approach.
True False
35. The major tax services are *not* available in electronic format.
True False
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.
True False
37. The Internet provides a wealth of tax information in several popular forms, sometimes at no direct cost to the researcher.
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38. When dealing with proposed transactions, the tax research process is directed toward the determination of possible alternative consequences.
True False
39. Often a court will invalidate a Regulation or portion thereof on the grounds that the Regulation is contrary to the intent of Congress.
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40. IRS agents must give the Code and Regulations issued thereunder equal weight when dealing with taxpayers and their representatives.
- True False
41. Proposed Regulations are binding on the IRS and taxpayers.
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43. A U. S. District Court decision carries less weight than a decision issued by the Fifth Circuit Court of Appeals.
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44. The computer-based CPA examination has four sections with true-false, multiple-choice, and case studies (called simulations).
- True False
45. The Internal Revenue Code was codified in which of the following years?
- A. 1913.
 - B. 1933.
 - C. 1954.
 - D. 1957.
 - E. None of the above.
46. Tax bills are handled by which committee in the U.S. Senate?
- A. Taxation Committee.
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- A. Simplification.
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49. Which is *not* a Code section number?
- A. § 212(1).
 - B. § 2(a)(1).
 - C. § 280B.
 - D. § 6(a).
 - E. All are current Code sections.
50. Which statement is *false* with respect to tax treaties?
- 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.
 - B. There is a \$10,000 penalty per failure to disclose on the tax return where there is a direct treaty conflict for a corporation.
 - C. Treaties override the Code when in conflict.
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52. Which of the following sources has the *highest* tax validity?
- A. Revenue Ruling.
 - B. Letter ruling.
 - C. Regulations.
 - D. Internal Revenue Code section.
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53. Which of the following types of Regulations has the *highest* tax validity?
- A. Temporary.
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- A. Issued by the U.S. Congress.
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- A. Give equal weight to the Code and regulations.
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56. Which item may *not* be cited as a precedent?
- A. Regulations.
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57. What statement is *not* true with respect to Temporary Regulations?
- A. May not be cited as precedent.
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 - C. Automatically expire within three years after the date of issuance.
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 - E. None of the above.
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- A. 40 T.C. 1018.
 - B. 159 F. 2d 848 (CA-2, 1947).
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 - D. 914 F. 2d 396 (CA-3, 1990).
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71. Which trial court decision is generally more authoritative?
- A. U.S. District Court.
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 - E. All of the above are the same.
72. A Memorandum decision of the U.S. Tax Court could be cited as:
- A. T.C.Memo. 1990-650.
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 - D. There is a \$1,000 penalty per failure to disclose a conflicting tax treaty.
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75. Which of the following statements about an acquiescence is correct?
- A. An acquiescence is issued in the *Federal Registrar*.
 - B. Acquiescences are published only for certain regular decisions of the U.S. Tax Court.
 - C. An acquiescence is published in the *Internal Revenue Bulletin*.
 - D. The IRS does not issue acquiescences to adverse decisions that are not appealed.
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76. 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*.
 - C. Technical Advice Memoranda.
 - D. Letter ruling.
 - E. All of the above are primary sources.

77. 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.
- D. Simulations include a four-function pop-up calculator.
- E. None of the above are incorrect.

78. How can congressional committee reports be used by a tax researcher?

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

80. Compare a determination letter with a letter ruling.

81. Explain the function of Temporary Regulations.

82. Explain the *Golsen* doctrine.

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

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78. How can congressional committee reports be used by a tax researcher?

Congressional committee reports often explain the provisions of proposed legislation and are a valuable source for ascertaining the intent of Congress. The intent of Congress is the key to interpreting new legislation by taxpayers, especially before Regulations are published.

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

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.

80. 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.

81. 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.

82. 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.

83. 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.