

Federal Tax Research

Primary Sources

Statutory

Internal Revenue Code (I.R.C.)

text

legislative history

Tax treaties

Administrative

Treasury regulations (Treasury Decisions)

Revenue Rulings

Revenue Procedures

Private Letter Rulings

Technical Advice Memorandum

Acquiescences and nonacquiescences

Actions on Decisions (AOD)

Forms and publications

Court Decisions

Regular Federal courts

Tax Court

Weight of Authority

- **Precedential (I.R.C., T.D., etc.)**
- **Less formal (administrative) sources carry less weight**
- **IRC § 6662**
 - **Taxpayer subject to 20% penalty for significant understatement of income tax liability.**
 - **Penalty waived if taxpayer relied on “substantial authority” for a position.**

Substantial Authority (26 C.F.R. § 1.6662-4(d)(3)(iii))

1. I.R.C.
2. Other statutory provisions
3. Regulations of all types
4. Rev. Rulings
5. Rev. Procedures
6. Tax treaties and regulations
7. T.D. official explanations of treaties
8. Committee Reports
9. Floor statements made prior to bill enactment by manager
10. Blue Book
11. Letter Rulings
12. T.A.M.
13. A.O.D.
14. G.C.M.
15. I.R.S. press releases, notices, announcements
16. Other Admin. Pronouncements in the I.R.B.

Internal Revenue Code of 1986

In which sources can you find the Internal Revenue Code?

Title 26 – Internal Revenue Code

Subtitle A – Income Taxes

Chapter 1 – Normal taxes and surtaxes

**Subchapter A – Determination of tax
liability**

Part I – Tax on individuals

Section 1 – Tax imposed

26 USCA § 1

§ 1. Tax imposed

(a) Married individuals filing joint returns and surviving spouses

There is hereby imposed on the taxable income of –

- (1) every married individual (as defined in section 7703) who makes a single return jointly with his spouse under section 6013, and
- (2) every surviving spouse (as defined in section 2(a)),

a tax determined in accordance with the following table:

If taxable income is:	The tax is:
Not over \$36,900	15% of taxable income.
Over \$36,900 but not over \$89,150.	\$5,535, plus 28% of the excess over \$36,900.

.....

Legislative History

House Ways & Means Committee



Senate Finance Committee



Conference Committee

Joint Committee on Taxation (General Explanation of the Joint Committee on Taxation, U.S. Congress; a.k.a., Blue Book, available at

<http://www.gpoaccess.gov/congress/joint/taxation/index.html>)

File Edit View History Bookmarks Tools Help
http://www.gpoaccess.gov/congress/joint/taxation/index.html
Most Visited Getting Started Latest Headlines post to del.icio.us my del.icio.us Wine Weekly



Resources by Topic Go Site Search: advanced
LEGISLATIVE EXECUTIVE JUDICIAL HELP
A-Z RESOURCE LIST FIND A FEDERAL DEPOSITORY LIBRARY BUY PUBLICATIONS

JOINT COMMITTEE
Joint Committee on Taxation Main Page

Home Page > Legislative Branch > Congressional Committees > Joint Committee on Taxation

Joint Committee on Taxation: Main Page

| Committee Web Site |

- RELATED RESOURCES
Congressional Committee Prints
Congressional Documents
Congressional Hearings
Congressional Reports

Available via GPO Access:

Committee Publications

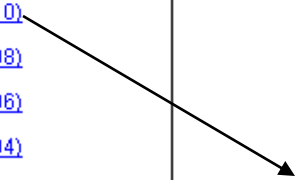
- 111th Congress (2009-2010)
110th Congress (2007-2008)
109th Congress (2005-2006)
108th Congress (2003-2004)
107th Congress (2001-2002)
106th Congress (2000-2001)
105th Congress (1997-1998)

A service of the U.S. Government

[JOINT COMMITTEE PRINT]

GENERAL EXPLANATION OF TAX LEGISLATION ENACTED IN THE 110TH CONGRESS

PREPARED BY THE STAFF OF THE JOINT COMMITTEE ON TAXATION



ABOUT GOVERNMENT
Ben's Guide to U.S. Government
Acrobat Reader logo

Use of Legislative History

If regulations exist –

legislative history can be used to challenge regulation(s)

If no regulations exist –

frequently used for interpretive assistance

Blue Book does not rise to level of legislative history but is given a good deal of weight.

Regulations

Interpretive regulations

IRC § 7805(a) authorizes the Secretary of Treasury to “prescribe all needful rules and regulations for the enforcement” of the tax statutes.

Court usually uphold unless they clearly contravene congressional intent.

Legislative regulations

Congress includes in an IRC section a specific grant of authority for regulations.

Unassailable

Regulations

Proposed

Final

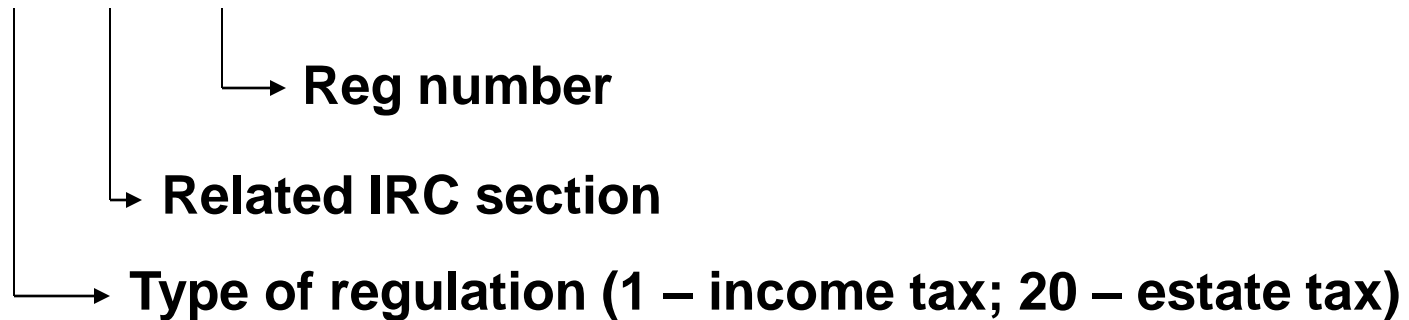
Temporary

- **three year limit**
- **also issued as proposed regulation**

Regulation numbering

T.D. 8567, 59 Fed. Reg. 51105

26 C.F.R. § 1.1363-2



Lapsed regulations

- Regulations lag behind code provisions and amendments
- Be sure the reg. is still relevant (check reg date)

Authority of regulations

- Proposed regs carry “no more weight than a position espoused in a brief.”
- Temporary regs are accorded same weight as final regs.

I.R.S. Pronouncements

Revenue Rulings

Official pronouncements of the National Office of the IRS indicating how IRS will treat a given tax situation.

Do not carry precedential weight of regulations but are “substantial authority” for avoiding § 6662 penalty.

May be affected by subsequent legislation, regulations, revenue rulings, or court decisions.

Revenue Ruling 89-51

ISSUE

If the owner of a vacation home donates a week's use of the home to a charity auction, is the use of the home by the successful bidder deemed personal use by the owner under section 280A(d) of the Internal Revenue Code?

FACTS

A, an individual, owns a vacation home that is a dwelling unit under section 280A(f)(1). A rented the home to individuals unrelated to A for 80 days during 1988 at a fair rental value

LAW AND ANALYSIS

Congress enacted section 280A of the Code to provide objective standards for the allocation of expenses attributable to a residence between personal and business use. See H.R. Rep. No. 658, 94th Con., 1st Sess. 164 (1975), 1976-3 (Vol. 2) C.B. 695

HOLDING

For purposes of section 280A(d) of the Code, the one week occupancy of the dwelling unit by B constitutes personal use of the unit by A

IRS Pronouncements

Revenue Procedures

Statement released by National Office of the IRS dealing with its practices and procedures that are of general interest to taxpayers.

Probably not as useful for direct resolution of tax issues but helpful sources of information.

Rev. Proc. 2007-1

TABLE OF CONTENTS

SECTION 1. WHAT IS THE PURPOSE OF THIS REVENUE PROCEDURE?	5
.01 Description of terms used in this revenue procedure.	5
.02 Updated annually.	6
SECTION 2. WHAT IS THE FORM IN WHICH THE SERVICE PROVIDES ADVICE TO TAXPAYERS?	6
.01 Letter ruling	6
.02 Closing agreement.	6
.03 Determination letter.	7
.04 Information letter.	7
.05 Oral Advice	8
(1) No oral rulings and no written rulings in response to oral requests.	8
(2) Discussion possible on substantive issues.	8
SECTION 3. ON WHAT ISSUES MAY TAXPAYERS REQUEST WRITTEN ADVICE UNDER THIS PROCEDURE?	8
.01 Issues under the jurisdiction of the Associate Chief Counsel (Corporate)	8
.02 Issues under the jurisdiction of the Associate Chief Counsel (Financial Institutions and Products)	8
.03 Issues under the jurisdiction of the Associate Chief Counsel (Income Tax and Accounting)	9
.04 Issues under the jurisdiction of the Associate Chief Counsel (International)	9
.05 Issues under the jurisdiction of the Associate Chief Counsel (Passthroughs and Special Industries)	9
.06 Issues under the jurisdiction of the Associate Chief Counsel (Procedure and Administration)	9
.07 Issues under the jurisdiction of the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities)	9

IRS Pronouncements

Private Letter Rulings

Issued by National Office of IRS in response to a taxpayer's request for the IRS' position on a specified tax issue. Reply issued directly and only to the taxpayer submitting request.

No precedential authority.

“Substantial authority” for avoiding § 6662

May lead to Rev. Rul.

PLR 9450056

Issued in 1994

50th week of year

56th ruling that week

PLR 200648024

Internal Revenue Service (I.R.S.)

Private Letter Ruling

Issue: December 1, 2006

August 4, 2006

Section 7871 -- Indian Tribal Governments Treated As States For Certain Purposes
7871.00-00 Indian Tribal Governments Treated As States For Certain Purposes
7871.03-00 Tax Exempt Bonds

CC:TEGE:EOEG:TEB
PLR-153149-05

Legend

Tribe =
Authority =
State =
Year 1 =
Year 2 =
w =
x =
y =
z =

Dear

This letter is in response to your request on behalf of the Tribe for a ruling that ownership and operation of a government office building, emergency services building, cultural center and museum, and infrastructure improvements (all of which are described below) by the Tribe on tribal land constitute essential governmental functions within the meaning of [§§ 7871\(c\)\(1\)](#) and [7871\(e\) of the Internal Revenue Code](#) (the "Code").

FACTS

The Tribe is listed as an Indian tribal government in [Rev. Proc. 2002-64, 2002-2 C.B. 717](#), which lists Indian tribal governments that are to be treated similarly to states for specified purposes under the Code.

IRS Pronouncements

Technical Advice Memorandum

Issued by national office in response to agent's request for interpretation of issue arising over examination of completed tax return or over an audit.

No precedential authority; “substantial authority”

Numbered same as PLR's



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

Date: January 15, 2008

Number: **200815035**

Release Date: 4/11/2008

UIL: 501.03-19
501.36-01

Contact Person:

Identification Number:

Contact Number:

Employer Identification Number:

Form Required To Be Filed:

Tax Years:

Dear

This is our final determination that you do not qualify for exemption from Federal income tax as an organization described in Internal Revenue Code section 501(c)(3). Recently, we sent you a letter in response to your application that proposed an adverse determination. The letter explained the facts, law and rationale, and gave you 30 days to file a protest. Since we did not receive a protest within the requisite 30 days, the proposed adverse determination is now final.

Since you do not qualify for exemption as an organization described in Code section 501(c)(3), donors may not deduct contributions to you under Code section 170. You must file Federal income tax returns on the form and for the years listed above within 30 days of this letter, unless you request an extension of time to file.

We will make this letter and our proposed adverse determination letter available for public inspection under Code section 6110, after deleting certain identifying information. Please read the enclosed Notice 437, *Notice of Intention to Disclose*, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, you should follow the instructions in Notice 437. If you agree with our deletions, you do not need to take any further action.

IRS Pronouncements

Acquiescence and nonacquiescence

IRS not necessarily bound by adverse decisions in any tribunal other than U.S. Supreme Court

Announcements issued by IRS when IRS receives an adverse ruling in court :

acquiescence or acquiescence in result– will not challenge

nonacquiescence – decision valid only for specific taxpayer involved.

Actions on Decisions (AOD)

Reasoning behind IRS decision to acquiesce

“Substantial authority”

Intended as guidance for IRS personnel, not a policy statement for taxpayers

ACTION ON DECISION

Subject: Cox v. Commissioner, 514 F.3d 1119 (10th Cir. 2008), rev'g 126 T.C. 367 (2006).

Issue: Whether indirect consideration of a tax liability in conjunction with evaluating collection alternatives raised in a collection due process hearing for an earlier tax year disqualifies an appeals officer under section 6330(b)(3) from conducting a subsequent CDP hearing focusing on that liability?

Discussion: After receiving a notice of intent to levy and right to hearing with respect to their unpaid 2000 income tax liability, the taxpayers requested a CDP hearing. The appeals officer considered the taxpayers' failure to pay their 2001 and 2002 tax liabilities in determining that collection for 2000 should proceed. Because the taxpayers failed to pay their 2001 and 2002 taxes, the Service later issued a separate notice of intent to levy and right to hearing for those tax years. The taxpayers again requested a CDP hearing and the case was assigned to the same appeals officer who handled the earlier hearing. The taxpayers objected to the involvement of the same appeals officer, but, in reliance on the 2002 version of Treas. Reg. § 301.6330-1(d)(2), the appeals officer concluded that his prior involvement did not preclude the handling of the CDP hearing before him. The appeals officer then determined it was appropriate to levy for tax years 2001 and 2002, and the Tax Court sustained this determination.

Although we disagree with the opinion, we recognize the precedential effect of the decision on cases appealable to the Tenth Circuit, and therefore will adhere to it in cases within that circuit that cannot be meaningfully distinguished. We do not, however, acquiesce in the opinion and will continue to litigate our position in all other circuits.

IRS Pronouncements

General Counsel Memoranda (GCM)

Statement from Office of General Counsel indicating reasoning and authority used in revenue rulings, private letter rulings, and TAM's.

AOD's and GCM's are "substantial authority"

Publications, forms, etc.

Not substantial authority

UIL Nos: 6402.00-00	6511.00-00
6402.08-01	6511.01-01
6402.12-00	6511.01-02
6402.12-01	6511.09-00
6511.09-01	6511.09-02

GCM 39893

Date Numbered: July 10, 2007

GCM 39542; Revocation of

Susan Carroll

Director, Accounts Management (Wage & Investment)

Non-Tax Refund Offset Program, GCM 39542, I-039-86 (July 30, 1986) treats a claim by a nonobligated spouse to recover his/her allocable share of an overpayment that was diverted by the Non-tax Refund Offset Program as a separate claim from an initial jointly filed claim on Form 1040 or Form 1040X seeking a refund of that overpayment. GCM 39542 held that the statute of limitations under 26 U.S.C. § 6511 does not apply to the subsequent claim filed separately by the nonobligated spouse. Instead, the subsequent claim is subject to the statute of limitations under 28 U.S.C. § 2401 (district courts) or 28 U.S.C. § 2501 (Court of Federal Claims), and the nonobligated spouse must file suit in a Federal district court or the Court of Federal Claims within the six year period prescribed in the applicable section of Title 28 to be fully protected for the claim.

We have since determined that the nonobligated spouse is not filing a separate claim, but, instead, he/she is simply providing additional information regarding his/her allocable share of the overpayment claimed on the Form 1040 or Form 1040X. Thus, the six year period in Title 28 is not applicable, as 26 U.S.C. § 6511 applies to the Form 1040 or Form 1040X to which the nonobligated spouse's claim relates. GCM 39542 is revoked.



Deborah A. Butler
Associate Chief Counsel
(Procedure and Administration)



Department
of the
Treasury

Internal
Revenue
Service

Publication 54

Cat. No. 14999E

Tax Guide for U.S. Citizens and Resident Aliens Abroad

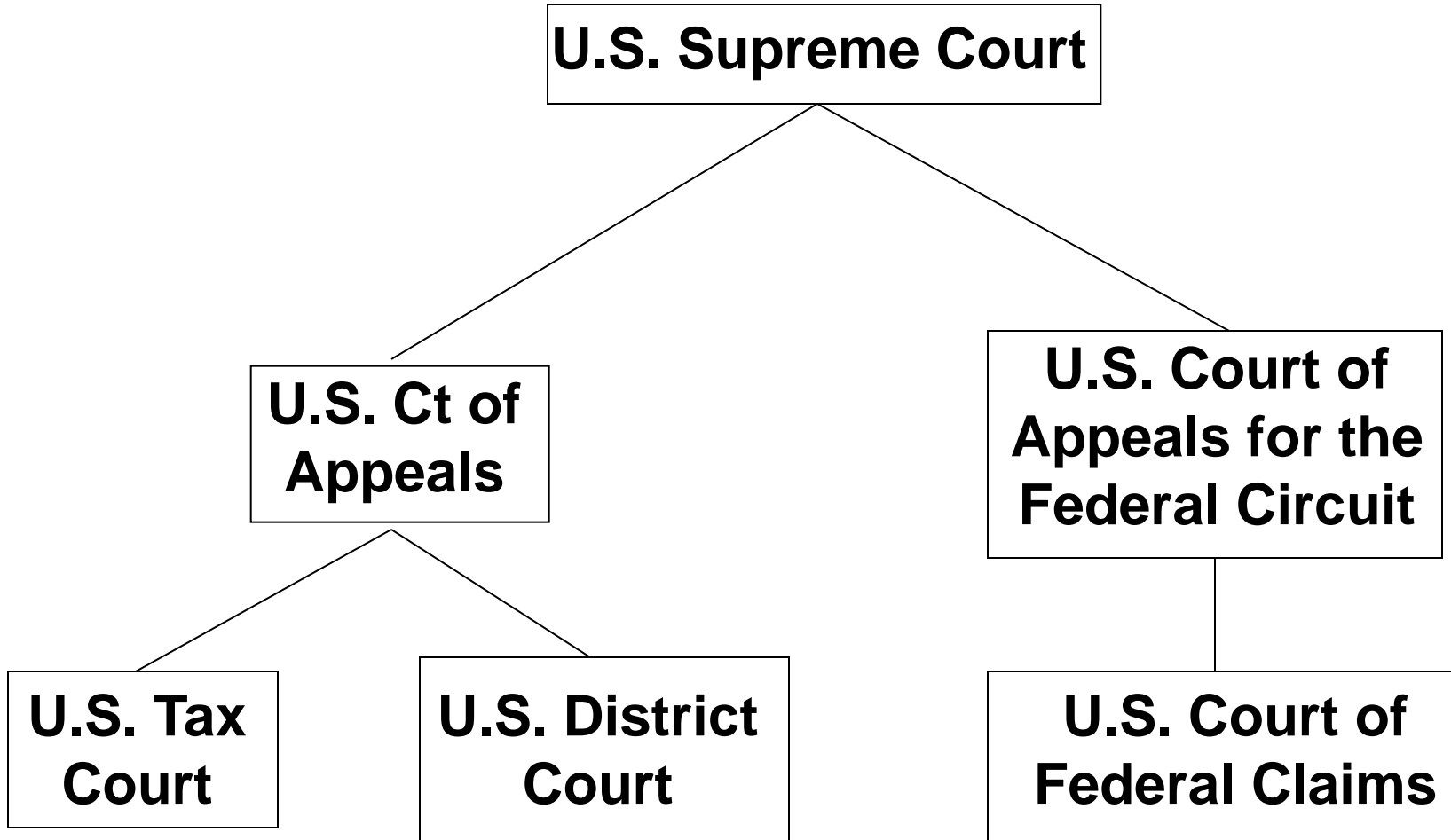
For use in preparing
2007 Returns



Contents

What's New	1
Reminders	2
Introduction	2
1. Filing Information	3
Filing Requirements	3
Nonresident Alien Spouse Treated as a Resident	6
Estimated Tax	7
2. Withholding Tax	8
Income Tax Withholding	8
30% Flat Rate Withholding	8
Social Security and Medicare Taxes	8
3. Self-Employment Tax	10
Who Must Pay Self-Employment Tax?	10
Exemption From Social Security and Medicare Taxes	11
4. Foreign Earned Income and Housing: Exclusion – Deduction	11
Who Qualifies for the Exclusions and the Deduction?	11
Requirements	11
Foreign Earned Income Exclusion	18
Foreign Housing Exclusion and Deduction	20
Form 2555 and Form 2555-EZ	22
5. Exemptions, Deductions, and Credits	38
Items Related to Excluded Income	38
Exemptions	38
Contributions to Foreign Charitable Organizations	38
Moving Expenses	39
Contributions to Individual Retirement Arrangements	39
Taxes of Foreign Countries and U.S. Possessions	40
How To Report Deductions	41
6. Tax Treaty Benefits	42
Purpose of Tax Treaties	42
Common Benefits	42
Competent Authority Assistance	42
Obtaining Copies of Tax Treaties	43
7. How To Get Tax Help	45
Questions and Answers	47
Index	51

Court decisions



- Reg. decision
- Memorandum decisions

Deciding the Best Court for You

Tax Court

- Do not pay tax – file for relief
- Judges are specialist in tax
- A national court – will follow decisions of Cir. Ct. of Appeals where taxpayer resides
- Court can review taxpayers entire return, not just those related to the issue at hand.

U.S. District Court

- Pay tax – sue for refund
- Judges not tax specialists
- Availability of jury trial
- Must follow law of Cir. Ct. of Appeals in which it is located
- Limited to review of issue in controversy

U.S. Court of Federal Claims

- Pay tax – sue for refund
- Judges are not tax specialists (they hear cases involving monetary claims against the federal gov't)
- No jury trials
- Appeals go to U.S. Court of Appeals for the Fed. Cir.
- Limited to review of issue in controversy