

# FEDERAL TAX POLICY RESEARCH

Hofstra Tax Research Guide (see Policy tab)- <http://libguides.law.hofstra.edu/taxresearch>

## **Primary Sources - Federal**

- Federal Tax law based on the IRC (Internal Revenue Code) - Title 26 of USCA/USCS
- The IRC is implemented by the IRS (Internal Revenue Service, which is part of the Dept. of the Treasury) - Title 26 of CFR (Code of Federal Regulations ; numbering of regulations in CFR corresponds to the numbering of the IRC)
- For interpretation of the IRC and regulations, see
  - ▶ Legislative History of IRC section(s) ; JCT reports and Bluebooks
  - ▶ Internal Revenue Service (IRS) documents (see attached for descriptions)
  - ▶ Judicial decisions
    - U.S. Tax Court - hears only tax cases
    - U.S. District Courts - generally hears tax refund claims and criminal tax cases
    - U.S. Federal Court of Claims - hears monetary claims against the federal government, including tax refund claims
    - U.S. Courts of Appeals - appeals from above courts
    - U.S. Supreme Court - appeals from Courts of Appeals

## **Executive Summary on Research Process**

1. To start (in any order):
  - a. WestlawNext > Topics > Tax > Secondary (Law Reviews and Treatises)
  - b. National News (New York Times, Wall Street Journal) - if topic is of popular interest
  - c. Think Tanks/Blogs/Web sites - JCT, Tax Policy, blogs, think tanks (these also good for topic finding and honing)
  - d. To get grounding in operation of tax law - Treatises (on WLN or RIA), BNA Portfolios (for topic, try circuit split search)
2. Follow up references
3. RIA Checkpoint ; annotated code on WLN, Lexis with sec number - also good for LH
4. Check current developments - BNA News, blogs, Tax Notes, think tanks
5. ASK!!!

## **RESEARCH GUIDES**

- Chanin, Leah F., Specialized Legal Research [Law Ready Ref KF240 .S64 ]
- Gardner, Robert L. Tax Research Techniques [Law Ready Ref KF241.T38 G35 2012 ]
- Georgetown, Federal Tax Policy Research Guide - <http://www.law.georgetown.edu/library/research/guides/taxpolicyresearch.cfm>
- Lowy, Peter A., U.S. Federal Tax Research. [ BNA Tax Center Portfolio 100 at <http://tinyurl.com/8poxlgb> ]

- NYU Federal Tax Research Guide - <http://nyulaw.libguides.com/content.php?pid=271175> (best for specific research tasks and finding specific documents)
- Raabe, Whittenburg, & Bost, West's Federal Tax Research. [Law Ready Ref KF241.T38 R33 2003]
- Richmond, Gail, Federal Tax Research: Guide to Materials and Techniques. [Law Ready Ref KF241.T38 R5 2010 ]
- West's Tax Law Dictionary. [ Law Ready Ref KF6287 .W473 ]
- Zimmerman's Research Guide - Internal Revenue Service - <http://law.lexisnexis.com/infopro/zimmermans/disp.aspx?z=1988>

### **DATABASES**

- BNA TM Portfolios (restricted access) - detailed "booklets" on specific tax issues  
<http://0-taxandaccounting.bna.com.libweb.hofstra.edu/btac/#/>
- Non-legal - see Axinn's Research databases - Economics or Business -  
<http://libguides.hofstra.edu/content.php?pid=71381&sid=528538> > Econ Lit or Academic Search Complete or Business Source Premier
- RIA Checkpoint (restricted access) - search by keyword or IRC section  
<http://0-checkpoint.riag.com.libweb.hofstra.edu/login?iploc=hoflawlib>
- WestlawNext - *Topic>Tax>Secondary>All Tax Secondary*

### **WEB SITES**

- ABA Tax section - <http://www.americanbar.org/groups/taxation.html>
- Americans for Tax Reform - <http://www.ATR.org/> - for conservative viewpoint on tax issues
- Congressional Budget Office - <http://www.cbo.gov/>
- Congressional Research Service reports -
  - ▶ OpenCRS - <https://opencrs.com/> ; UNT - <http://digital.library.unt.edu/explore/collections/CRSR/>
- CQ Electronic Library - [https://my.hofstra.edu/Home/Library/library\\_research\\_db.jsp?subjectid=19](https://my.hofstra.edu/Home/Library/library_research_db.jsp?subjectid=19)  
(subscription content - must log into portal first)
- Institute on Tax and Economic Policy - <http://www.itep.org/>
- IRS - official site of the Internal Revenue Service ; includes forms - <http://www.irs.gov/>
  - ▶ IRS Documents - <http://www.irs.gov/Tax-Professionals/Tax-Code,-Regulations-and-Official-Guidance>

- Joint Committee on Taxation - House/Senate joint committee - <https://www.jct.gov/>
- Tax Analysts - current developments in Tax law ( subscription content-Tax Notes)  
<http://www.taxanalysts.com/>
- Taxpayers for Common Sense - focuses on spending of tax dollars (e.g. "earmarks")  
<http://www.taxpayer.net/>
- Tax Policy Center - <http://www.taxpolicycenter.org/index.cfm>
- Tax Prof Blog - blog by tax professor frequently discussing tax policy issues  
<http://taxprof.typepad.com/>
- Tax World - portal for tax related web sites - <http://www.taxworld.org/>
- US Treasury - Tax Policy Center - <http://www.treasury.gov/resource-center/tax-policy/Pages/default.aspx>

### **TREATISES / LOOSELEAFS**

- Boris I. Bittker, Boris ; Lawrence Lokken, Lawrence, Federal Taxation of Income, Estates, and Gifts. [Law Reserve KF6335 .B572]
- Erin M. Collins, Edward M. Robbins, Jr., Internal Revenue Service Practice and Procedure Deskbook [Law Classified KF6301 .S52 ]
- Standard Federal Tax Reporter (CCH) - organized by IRC section [Law Classified KF6365 .C6 ]
- Federal Tax Coordinator 2d (RIA) - organized by topic [Law Classified KF6285 .F44 ]

**INTERNAL REVENUE SERVICE DOCUMENTS** (*Bluebook abbreviations in italics*)

- **Treasury Regulations:** Title 26 of the Code of Federal Regulations (*Treas. Reg.*)

The IRS issues tax regulations, officially known as Treasury Regulations. Its regulations are the Treasury Department's official interpretations of the Internal Revenue Code. The IRS issues three types of regulations: final, temporary and proposed. Final regulations provide legally binding guidance. Temporary regulations are effective upon publication in the Federal Register and may be valid for no more than three years from their date of issuance. Proposed regulations do not become effective until after comments and testimony have been received and reviewed and a final version of the regulations have been issued.

Temporary and final regulations are initially published as Treasury Decisions ("*T.D.*"). TD's include an explanatory preamble, which can be a great source for research. TD's as well as proposed regulations are published in the Federal Register and Internal Revenue Bulletin. Final and temporary regulations are later codified in Title 26 of the Code of Federal Regulations ("*C.F.R.*"), however, the explanatory preambles are not published in the C.F.R.

Numbering of Treasury regulations corresponds to the U.S. Code section which they interpret. For example, 26 C.F.R. § 1.221-1(a)(1) interprets 26 U.S.C. 221(a).

- **Officially Published IRS Documents**

- ▶ Internal Revenue Bulletin (*I.R.B.*)/Cumulative Bulletin (*C.B.*)

The IRS produces many documents, some of which are published in the weekly Internal Revenue Bulletin. The IRB has four main parts: the Code (which includes revenue rulings, final regulations, and Supreme Court tax decisions relating to the provisions of the IRC); Treaties and Tax Legislation (which includes treaties, tax legislation, and committee reports); Administrative, Procedural, and Miscellaneous (which includes notices and revenue procedures); and Items of General Interest (which includes notices of proposed rulemakings and announcements). The IRB also publishes notices of IRS acquiescence or nonacquiescence of judicial decisions against the government. The IRB is later compiled into the Cumulative Bulletin which is published twice per year.

- ▶ **Revenue Rulings** - (*Rev. Rul.*)

Revenue Rulings are official interpretations of the Internal Revenue Code and Treasury Regulations, issued by the Internal Revenue Service (IRS) in response to a taxpayer's request for clarification of the law. If the IRS decides that a ruling, an application of law to a set of facts, is of general interest, it will publish it in the IRB as a **Revenue Ruling**. If the ruling is not of general interest the IRS will issue a **Private Letter Ruling**, discussed in more detail below. Revenue Rulings have modest weight and can be relied on by a taxpayer whose factual situation is substantially similar to that described in a Revenue Ruling. Revenue Rulings, however, are not as authoritative as a Treasury Regulation, and, therefore, a conflicting Regulation trumps a Revenue Ruling. Revenue Rulings can be revoked, modified or become obsolete with the issuance of a future Revenue Ruling or Treasury Decision. Revenue Rulings contain several segments including: Purpose, Issue, Facts, Law and Analysis, Civil and Criminal Penalties, Holding and Drafting Information. Revenue Rulings are numbered with a two-part numbering system; the first number corresponds to the year and the second to the number of that ruling for that year in order of publication. Before 1953, Revenue Rulings had many different names including: Appeals and Review Memoranda, General Counsel's Memoranda, Internal Revenue Mimeograph, Income Tax Unit Ruling, Law Opinion, and Office Decision. These can be found

in the Cumulative Bulletin.

▶ **Revenue Procedures** (*Rev. Proc.*) and Procedural Rules

Revenue Procedures and Procedural Rules are the official statements of the IRS on its internal practices and procedures. The Revenue Procedures are added to the Procedural Rules in 26 CFR Part 601. They are available in the IRB, the CB, in Westlaw on the Tax tab, and in Lexis in the Tax Center. CCH's Standard Federal Tax Reporter and RIA's United States Tax Reporter contain annotations referencing Revenue Procedures following each IRC section. CCH's online product CCH Intelliconnect and RIA's online product RIA Checkpoint contain the text of Revenue Procedures.

▶ **Notices of Acquiescence or Nonacquiescence** (*acq. or nonacq.*)

These notices are important because they reveal whether the IRS will continue to litigate an issue it has lost in a judicial proceeding. An acquiescence describes why the IRS will not appeal and a nonacquiescence describes the reasons the IRS will appeal a judicial decision favorable to a taxpayer. Until 1993, the IRS issued the notices only for Tax Court Regular decisions, but now the IRS issues these notices for all trial and circuit courts. They are only available from 1981 forward and cannot be cited as precedent.

They are available in the IRB, the CB, in the CB databases on Lexis (this database contains acquiescence and nonacquiescence tables), and Westlaw, in CCH's Standard Federal Tax Reporter in the Rulings Section, and in RIA's United States Tax Reporter in the IRS Rulings volume. In addition, citators indicate the existence of an acquiescence or nonacquiescence with a notation of A, Acq., N, or Nonacq. next to the case citation.

• **Publicly Released IRS Documents**

The following documents are helpful in determining the IRS' position on certain issues. The documents do not have precedential value and should not generally be cited in court documents. Some of the documents may, however, constitute authority for avoiding the substantial underpayment penalty.

▶ **Private Letter Rulings** (*Priv. Ltr. Rul.*)(also PLR or LR)

Private Letter Rulings (also known as Letter Rulings) are written by the national office of the IRS in response to taxpayer questions seeking guidance concerning the tax consequences of future transactions. They are binding only on the taxpayer to whom they are specifically addressed, and only he can rely on that ruling. They are not officially published and lack precedential value. Therefore, other taxpayers cannot cite to them. If the issue could affect many other taxpayers, the IRS may issue a Private Letter Ruling as a Revenue Ruling. These are available on Lexis, Westlaw as well as both print and online in CCH and RIA.

▶ **Determination Letters**

Determination Letters are similar to Private Letter Rulings, but they are issued by local offices of the IRS rather than the national office. They describe how tax law applies to a completed transaction. Local offices will only write Determination Letters if clear precedent and well-established rules apply to a transaction. If there is no clear precedent, the national office will handle the inquiry. Determination Letters are not published in the IRB; they are available in the Daily Tax Report, Tax Notes, and in CCH's IRS Letter Rulings Reporter.

▶ **Technical Advice Memoranda** (*Tech. Adv. Mem.*) (also TAM)

The national office of the IRS issues Technical Advice Memoranda to local offices of the IRS to promote the consistent application of law to completed taxpayer transactions. TAMs are

specific to a taxpayer and are usually written in connection with an audit or claim for refund. Although taxpayers can request that an issue be submitted to the national office, the local offices of the IRS decide whether or not to request a TAM from the national office. Like a judicial opinion, TAMs usually contain a restatement of the facts and discussions of precedent, reasoning and conclusions specific to the request. TAMs are available on Lexis, Westlaw, CCH Intelliconnect and RIA Checkpoint.

▶ **General Counsel Memoranda** (*Gen. Couns. Mem.*) (also GCM)

The Office of the Chief Counsel of the IRS issues General Counsel Memoranda (GCM) in response to requests for advice from IRS personnel. They generally answer questions relating to Technical Advice Memoranda, Private Letter Rulings, and Revenue Rulings and provide the reasoning and authority used and relied on in those documents. GCMs are numbered sequentially from the original date of publication. GCMs are available on Lexis, Westlaw, CCH Intelliconnect and RIA Checkpoint.

▶ **Actions on Decisions** (*action on dec.*) (also AOD)

Actions on Decisions are legal memoranda prepared by IRS tax litigation attorneys when the IRS loses a case. AODs provide two recommendations: 1) whether to appeal or not appeal an adverse decision and why and 2) whether to acquiesce or not acquiesce and why. This distinction is important because the IRS may decide not to appeal a specific decision at the same time that it decides not to acquiesce and to continue litigating the same issue in future cases. AODs are numbered sequentially by year. AODs are available on Lexis, Westlaw, CCH Intelliconnect and RIA Checkpoint.

For print sources for these documents see:

- Cumulative Bulletin (back to 1919) [ KF6282.A2 I491 ]
- Standard Federal Tax Reporter (back to 1945) [ KF6365.C6 ]
- IRS Letter Rulings (for Private Letter Rulings (PLR) back to 1977) [ KF6301.A4 C6 ]

Abbreviations key for frequently cited tax documents:

- *acq or nonacq.* - Notices of Acquiescence or Nonacquiescence
- *action on dec.* also AOD - Actions on Decisions
- *C.B.* - Cumulative Bulletin
- *Gen. Couns. Mem.* also GCM - General Counsel Memoranda
- *I.R.B.* - Internal Revenue Bulletin
- *I.R.C.* - Internal Revenue Code: Title 26 of the United States Code
- *JCS, JCX* - report from the Joint Committee on Taxation
- *Priv. Ltr. Rul.* also PLR or LR - Private Letter Rulings
- *Rev. Proc.* - Revenue Procedures
- *Rev. Rul.* - Revenue Rulings
- *Tech. Adv. Mem.* also TAM - Technical Advice Memoranda
- *T.D.* - Treasury Decision (regulation with preamble)
- *Treas. Reg.* - Treasury Regulations: Title 26 of the Code of Federal Regulations