

CHAPTER 1

UNDERSTANDING AND WORKING WITH THE FEDERAL TAX LAW

SOLUTIONS TO PROBLEM MATERIALS

<u>Question/ Problem</u>	<u>Topic</u>	<u>Status: Present Edition</u>	<u>Q/P in Prior Edition</u>
1	Nonrevenue considerations	New	
2	Revenue neutrality	New	
3	Section 179 election	New	
4	Encouraging certain industries	New	
5	Small business: encouraged in selected tax situations	Unchanged	5
6	Earned income credit	New	
7	Pension contributions	New	
8	Adoption credit	Unchanged	8
9	Concept of equity	Unchanged	9
10	Higher education incentives	New	
11	Tax credit versus deduction	Unchanged	11
12	Alleviating the effect of multiple taxation	Unchanged	12
13	Double taxation and effect of a credit versus a deduction	Unchanged	13
14	Wherewithal to pay concept: transfer to controlled corporation	Unchanged	14
15	Avoiding the corporate income tax	Unchanged	15
16	Wherewithal to pay concept in selected situations	Unchanged	16
17	Wherewithal to pay concept: gain or loss recognition by transferor	Unchanged	17
18	Wherewithal to pay concept: exchange of shares of stock in one corporation for a partnership	Unchanged	18
19	Exceptions to accrual concept	Unchanged	19
20	Annual accounting period concept	Unchanged	20
21	Indexation	Unchanged	21
22	Special interest legislation	Unchanged	22
23	States' impact	Unchanged	23

Question/ Problem	Topic	Status: Present Edition	Q/P in Prior Edition
24	Exploiting loopholes	Unchanged	24
25	Administrative feasibility achieved through selected situations	Unchanged	25
26	Arm's length concept		
27	Business purpose concept	Unchanged	27
28	IRS adjustment to clearly reflect income	Unchanged	28
29	Uncertainty produced by court decisions	Unchanged	29
30	Codification of laws	Unchanged	30
31	Origination of tax laws	Unchanged	31
32	Joint Conference Committee	Unchanged	32
33	Code section citation	New	
34	Code section citation	Unchanged	34
35	Missing code sections	Unchanged	35
36	Location of Regulations	New	
37	Citations	New	
38	Role of Federal Courts of Appeals	Unchanged	38
39	Failure of U.S. Government to appeal some court decisions	Unchanged	39
40	Identify selected abbreviations	Unchanged	40
41	Court citations	New	
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45	Electronic tax resources versus paper	Unchanged	45
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47	Like-kind exchange: wherewithal to pay concept	Unchanged	47
48	Objectives of tax provisions	Unchanged	48
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50	Arm's length concept	Modified	50
51	Letter rulings and TAMs	Unchanged	51
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53	Citations	Unchanged	53
54	U.S. Court of Appeals	New	
55	Court system	Unchanged	55
56	Tax services	Unchanged	56
57	Authority	Unchanged	57
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1	Finding cited items	Unchanged	1
2	Acq. versus Nonacq.	New	
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5	Small Cases Division	New	

<u>Research Problem</u>	<u>Topic</u>	<u>Status: Present Edition</u>	<u>Q/P in Prior Edition</u>
7	Research Tax Court case citation	New	
8	Internet activity	Unchanged	8
9	Internet activity	New	

CHECK FIGURES

- | | | | |
|-------|-------------------------------------|-------|-------------------------------------|
| 46. | No. | 47.b. | Realized loss \$300,000; recognized |
| 47.a. | Realized gain \$200,000; recognized | | loss \$0. |
| | gain \$100,000. | | |

DISCUSSION QUESTIONS

1. Although the major objective of the Federal tax laws is the raising of revenue, other considerations explain many provisions. In particular, economic, social, equity, and political factors play a significant role. Added to these factors is the marked impact the Internal Revenue Service (IRS) and the courts have had and will continue to have on the evolution of Federal tax law. p. 1-2
2. Revenue neutrality refers to the Congressional concept of neither increasing nor decreasing 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. p. 1-3
3. Congress passed the § 179 provision to attempt to control the economy by controlling capital investment. p. 1-3
4. Favorable treatment for research and development expenditures and treatment of patents. p. 1-4
5.
 - 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. p. 1-5 at Footnote 4 and Chapter 4
 - 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 profit the most from these rates. In fact, the \$11,750 savings that results from the graduated rate structure is phased out for corporations with taxable income in excess of \$100,000. p. 1-5, Example 1, and Chapter 2
 - 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 concerns. p. 1-5 and Chapter 7
6. The earned income credit can be justified by social considerations. Congress deems it socially desirable to reduce the number of people on the welfare rolls and to cut funding for welfare programs. This credit is a negative income tax which replaces some welfare programs. p. 1-6
7. The special treatment is justified by social considerations. Private retirement plans are encouraged because they supplement the subsistence income level the employee would otherwise have under the Social Security system. p. 1-6
8. Social considerations justify allowing a credit to cover the expenses incurred by individuals who adopt or attempt to adopt a child. p. 1-6
9. The concept of equity is relative, and people disagree as to what is fair or unfair. But equity is not what appears fair or unfair to any one taxpayer or group of taxpayers. It is, instead, what the tax law recognizes. Some recognition of equity does exist, however, and explains part of the law (e.g., alleviating multiple taxation). pp. 1-6 and 1-7

10. Rather than using loans, grants, and other programs, Congress uses provisions in the tax law to provide incentives and benefits (e.g., the higher education deductions and credits). They would be considered social considerations. pp. 1-5 and 1-6
11. 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. p. 1-7
12. Some states allow a deduction on the state income tax return for any Federal income tax paid to alleviate the effect of multiple taxation. The justification for a deduction is to compensate for the supposed inequity of the same income earned by a taxpayer being taxed by different taxing authorities. p. 1-7
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.

p. 1-7

14. Under the general rule, a transfer of the sole proprietorship's assets to 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 Yvonne to a controlled corporation.

The wherewithal to pay concept recognizes the inequity of taxing a transaction when Yvonne lacks the means with which to pay any tax. Besides, Yvonne's economic position would not change significantly as a result of such a transfer. Yvonne owned the assets before the transfer and still would own the assets after a transfer to a controlled corporation.

Example 5

15. Yes, once incorporated, the business may be subject to the Federal corporate income tax. However, the corporate tax rates *might* be lower than Yvonne's individual tax rates, especially if dividends are not paid to Yvonne.

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.

pp. 1-5, 1-7, Footnote 5, Example 2, and Chapter 12

16. a. Generally, the basis of property received in a nontaxable exchange is the same as the basis of the property given up. In the case of transfers to controlled corporations (§351, discussed in Chapter 4) and certain corporate reorganizations (§§ 354 and 355, discussed in Chapter 7), see § 358.
- b. The price taxpayers must pay for the nonrecognition of gain usually is like-treatment for realized losses. Although this like-treatment is not true as to certain involuntary conversions (§ 1033), it is the case, for example, with transfers to controlled corporations (§ 351, discussed in Chapter 4).
- c. The receipt of boot generally makes an otherwise nontaxable exchange taxable to the extent of the lesser of the fair market value of the boot received or the realized gain on the transfer. See, for example, § 351(b) discussed in Chapter 4.

pp. 1-8, 1-9, and Footnote 19

17. In most cases, the application of the wherewithal to pay concept does *not* permanently avoid realized gain or loss but merely serves to delay its recognition. Since the basis of the old property carries over to the new property, the potential for gain or loss continues and must be recognized if the new property is ever disposed of in a taxable transaction. p. 1-9

A disposition of property by death provides the estate or heir with a new income tax basis equal to the property's fair market value on the date of the owner's death, or, if elected, the alternate valuation date (§ 1014). Figuratively speaking, therefore, death "wipes the slate clean" on postponed gains or losses and leads to a permanent avoidance or nonrecognition. See Chapter 18 for a further discussion of § 1014.

18. The wherewithal to pay concept does not shield the exchange from the recognition of any realized gain or loss. Although this treatment appears to yield a harsh result, the wherewithal to pay concept is particularly suited to situations in which the taxpayer's economic position has not changed significantly as a result of a transaction. Here, Brenda's ownership in Veritex Corporation has ceased, and an investment in an entirely different entity has been substituted. Example 8
19. Some exceptions include the installment method and the net operating loss deduction. p. 1-10
20. a. Mel was attempting to work around the annual accounting period concept to obtain a deduction for the Keogh plan contribution. The general rule is that in order to obtain a deduction in a certain year, the payment must be made within the same year.
- b. Mel was misinformed about the tax law. In some cases, the law permits a taxpayer to treat a transaction taking place in the next year as having occurred in the prior year. Requiring Mel to make the contribution by December 31, 2008, in order to obtain a deduction for 2008 would place a burden on the taxpayer to arrive at an accurate determination of net self-employment income long before Mel's income tax return needs to be prepared and filed. As long as the Keogh plan is established by December 31, 2008, Mel may make a deductible contribution up to the time, including extensions, prescribed for filing the individual's tax return.

Example 11

21. Because of the progressive nature of the income tax, wage adjustments that compensate for inflation can increase the income tax bracket of the recipient. The overall impact is an erosion of purchasing power. In 1985, Congress recognized this problem and began to adjust various income tax components (the indexation procedure), based upon the rise in the consumer price index. p. 1-11
22. Special interest legislation is not necessarily to be condemned if it can be justified on economic or social grounds. At any rate, it is an inevitable product of our political system. p. 1-11
23. At one time, the tax position of the residents of these states was so advantageous that many common law states adopted community property systems. The political pressure placed on Congress to correct the disparity in tax treatment was considerable. To a large extent, this disparity was accomplished in the Revenue Act of 1948, which extended many of the community property tax advantages to residents of common law jurisdictions. Thus, common law states avoided the trauma of discarding the time-honored legal system familiar to everyone. p. 1-12 and Chapters 17 and 18
24. There are numerous examples of attempts by the IRS to plug loopholes. These examples are discussed throughout the textbook. Some examples include:
 - Use of fiscal year by most entities to defer income recognition.
 - Use of cash method of accounting by certain large corporations.
 - Deduction of passive investment losses and expenses against other income.
 - Shifting of income to lower-bracket taxpayers through the use of reversionary trusts.p. 1-13
25. Some tax provisions are designed to make the IRS's task of collecting the revenue and administering the tax law easier. As such, they can be justified on the grounds of administrative feasibility.
 - a. The standard deduction reduces the number of individual taxpayers who will elect to itemize deductions. With fewer deductions to check, therefore, the audit function is simplified.
 - b. The unified tax credit allowed to estates of decedents and for taxable gifts reduces the number of estate and gift tax returns that have to be filed. With fewer returns to audit, the IRS saves time and effort. Chapter 17
 - c. The \$12,000 annual exclusion allowed for gift tax purposes decreases the number of gift tax returns that must be filed (as well as reducing the taxes paid) and thereby saves audit effort. Particularly in the case of nominal gifts among family members, taxpayer compliance in reporting and paying a tax on such transfers would be questionable. The absence of the \$12,000 gift tax exclusion would, therefore, create a serious enforcement problem for the IRS. Chapter 17p. 1-14 and Footnote 28

26. The judicial arm's length concept involves testing a particular transaction by ascertaining if the taxpayer acted in an arm's length manner. Would unrelated parties have handled the transaction in the same way? Example 14
27. The business purpose concept principally applies to transactions involving corporations. Under this concept, some sound business reason should exist for the transaction to be recognized for tax purposes. The avoidance of taxation is not considered to be a sound business purpose. p. 1-15
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. Example 12
29. In some situations, judicial decisions led to changes in the Code in order to add clarity to the result reached and to provide "safe harbors" for planning purposes. An example includes:

- The enactment of §§ 302(b)(2) and (3) [the "substantially disproportionate" and "complete termination of an interest" types of stock redemptions] provided more definite criteria as to when a stock redemption will be treated as an exchange or as a dividend. Previous to this time, the only test was the judicially formulated "not essentially equivalent to a dividend" which was none too clear and treacherous to rely on. Chapter 6

In other situations, judicial decisions led to changes in the Code in order to neutralize the effect of such decisions. In other words, Congress disagreed with the result reached and, so to speak, chose to undo the damage done. An example includes:

- The passage of the general rule of § 357(a), to prevent the transfer of a liability to a controlled corporation under § 351 from being treated as boot or "other property" (see Chapter 3). This rule negated the result reached by the U.S. Supreme Court in the *Hendler* decision, 38-1 USTC ¶9215, 20 AFTR 1041, 58 S.Ct. 655 (USSC, 1938).

p. 1-16

30. The tax law was not recodified in 1986 as it had been in 1954 and 1939. The Tax Reform Act of 1986 merely redesignated the Internal Revenue Code of 1954 as the Internal Revenue Code of 1986. Congress did, however, amend, delete, or add some new provisions. p. 1-17
31. Federal tax legislation generally originates in the House of Representatives, where it is first considered by the House Ways and Means Committee. Tax bills originate in the Senate when they are attached as riders to other legislative proposals. If acceptable to the House Ways and Means Committee, the proposed bill is referred to the entire House of Representatives for approval or disapproval. p. 1-18
32. When the Senate version of the bill differs from that passed by the House, the Joint Conference Committee resolves these differences. The Joint Conference Committee includes members of the House Ways and Means Committee and the Senate Finance Committee. p. 1-18

33. § 108 (a) (1) (A)
-
- The diagram illustrates the components of the citation § 108 (a) (1) (A) using dashed lines and arrows:
- §: Abbreviation of "Section"
 - 108: Section number
 - (a): Subsection number
 - (1): Paragraph designation
 - (A): Subparagraph designation

p. 1-20

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)]. Footnote 34
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. Footnote 32
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). p. 1-22
37. a. A letter ruling issued in 2000 during the 19th week, number 7. pp. 1-23 and 1-24
- b. Revenue Procedure number 27, appearing on page 343 of Volume 2 of the Cumulative Bulletin in 1993. p. 1-22
- c. Revenue Ruling number 26, appearing on page 184 of Volume 1 of the Cumulative Bulletin for 1991. p. 1-22
- d. Notice number 99, appearing on page 422 of Volume 2 of the Cumulative Bulletin in 1988. p. 1-22
- e. Technical Advice Memorandum issued in 1999 during the first week, number 4. pp. 1-23 and 1-24

38. Hoffman, Raabe, Smith, and Maloney, CPAs
5191 Natorp Boulevard
Mason, OH 45040

October 13, 2008

Mr. Cy Young
1072 Richmond Lane
Keene, NH 01720

Dear Mr. Young:

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

p. 1-28

39. TAX FILE MEMORANDUM

DATE: September 12, 2008

FROM: Sarah Flinn

RE: Telephone conversation with Milt Pappas regarding the failure of the IRS to appeal

I explained to Mr. Pappas 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.

p. 1-27

40. a. If the taxpayer decides to choose a District Court as the trial court for litigation, the District Court of Wyoming 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.

pp. 1-24 to 1-29, 1-41, 1-42, and Figure 1-1

- 41.
 - a. Supreme Court decision. p. 1-31
 - b. Fifth Circuit Court of Appeals. p. 1-31
 - c. U.S. Tax Court Memorandum decision. p. 1-30
 - d. U.S. Tax Court regular decision. p. 1-29
 - e. U.S. District Court in Texas. p. 1-30
 - f. Not a court decision; a revenue ruling. p. 1-22
- 42.
 - a. The symbol “sx” means that the Supreme Court has denied certiorari for the same case.
 - b. Abbreviation “na” indicates that the Commissioner has nonacquiesced to a particular decision (i.e., disagrees with the results reached by the court).
 - c. The abbreviation “r” means that a higher court has reversed a lower court’s decision.
 - d. The symbol “a” means that a higher court affirmed a lower court.
 - e. The abbreviation “f” means that another court has followed cited decision.
 - f. The symbol “e” indicates that a court has explained a decision (comment generally favorable, but not to a degree that indicates the cited case is followed).
 - g. Abbreviation “k” indicates that another decision has reconciled the cited case.
 - h. The symbol “c” means that a decision has criticized the cited case (i.e., adverse comment).
 - i. The symbol “q” means that a decision has questioned the cited case (i.e., not only criticized, but its correctness questioned).
 - j. Abbreviation “o” indicates that the cited item is overruled.

Figure 1-7

43. Kenny 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 “corporate liquidations” is somewhat self-contained, he may start with the Internal Revenue Code and Treasury Regulations. The textbook on p. 1-33 lists 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 “corporate liquidations” 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. pp. 1-33, 1-37, and 1-38
44. 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.
- p. 1-42
45. A citator is a multivolume service (or a feature of an online service) which allows a researcher to determine the status of a court decision, a Revenue Ruling, or a Revenue Procedure. pp. 1-34 and 1-47

PROBLEMS

46. Presuming the IRS challenges the transaction, the concept of substance over form would be applied to disallow recognition of Thelma’s \$55,000 realized loss. By collapsing, or disregarding, the role played by Paul (i.e., telescoping the result), one can see that what really has taken place is a sale by Thelma to Sandy. Since Thelma and Sandy are related parties, § 267(a)(1) comes into play to deny Thelma a deduction for the loss sustained.

Example 13

47. 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. Thus, the recognized gain is \$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	100,000	
Amount received on the exchange	\$1,300,000	
Real estate worth		(1,000,000)
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)].

pp. 1-8, 1-9, Example 3, and Footnotes 18 and 19

48. a. W. Wherewithal to pay concept. Example 3
- b. CE. Control of the economy. p. 1-3
- c. ESB. Encouragement of small business. pp. 1-4, 1-5, and Footnote 5
- d. SC. Social considerations. p. 1-6
- e. EI. Encouragement of certain industries. p. 1-4
- f. AF. Administrative feasibility. p. 1-14
- g. SC. Social considerations. p. 1-6
49. a. Texas, community property state.
- b. Vermont, common law.

- c. Arizona, community property.
- d. North Carolina, common law.
- e. Alaska, community property may be elected by spouses.
- f. California, community property.

p. 1-12 and Footnote 23

50. The real question is whether the parties acted in an arm's length manner. In other words, was the \$50,000 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 \$50,000. In this event, the difference probably is dividend income to Troy.
 - b. The same danger exists even if Troy (the seller) is not a shareholder in Beige Corporation (the purchaser) as long as he is related to the one in control. If the value of the property is less than \$50,000, the IRS could find a constructive dividend to Troy's father of any difference. Because Troy ended up with the benefit, it follows that the father has made a gift to the son of such difference. Chapter 5
 - c. Since Troy is neither a shareholder in Beige Corporation nor related to any of its shareholders, it is doubtful that the IRS would question the \$50,000 selling price or the substance of the sale.

Example 14

51.
 - 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.

p. 1-23

52.
 - a. Revenue Procedure number 37, appearing on page 1030 of the 22nd weekly issue of the Internal Revenue Bulletin for 2002.
 - b. Revenue Ruling number 269 in the second volume of the Cumulative Bulletin issued in 1967 on page 298.
 - c. Notice number 37, appearing on page 522 of the first volume of the 1988 Cumulative Bulletin.

p. 1-22

53. a. IRB, CB. p. 1-22
b. IRC. p. 1-20
c. NA, court decision.
d. IRB, CB. p. 1-23
e. FR, IRB, CB. p. 1-22
f. NA. A letter ruling. p. 1-22
g. FR, IRB, CB. p. 1-22
54. a. Fifth Circuit.
b. Tenth Circuit.
c. Eleventh Circuit.
d. Ninth Circuit.
e. Second Circuit.

Figure 1-2

55. a. N
b. D
c. T
d. T
e. T
f. C
g. U
h. A

pp. 1-23 and 1-29 to 1-31

56. a. *United States Tax Reporter* is published by Research Institute of America (formerly published as *Federal Taxes* by Prentice-Hall, Inc.) and is organized by Code sections (annotated).
b. *Standard Federal Tax Reporter* is published by Commerce Clearing House, Inc., and is organized by Code sections (annotated).
c. *Federal Tax Coordinator 2d* is published by Research Institute of America and is organized by topics.

- d. *Mertens Law of Federal Income Taxation* is published by West Group and is organized by topics.
- e. *Tax Management Portfolios* is published by The Bureau of National Affairs, Inc., and is organized by topics.
- f. CCH's *Tax Research Consultant* is published by Commerce Clearing House, Inc., and is organized by topics.

p. 1-33

- 57.
- 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.

pp. 1-21 to 1-24, and 1-42

58. The items would rank in this order:
- 1. Code section
 - 2. Legislative Regulation
 - 3. Temporary and interpretive Regulations (the same)
 - 4. Revenue Ruling
 - 5. Letter ruling (applies to one taxpayer)
 - 6. Proposed Regulation (assuming not issued as a Temporary Regulation also)

pp. 1-40 and 1-41

59. a. a. and x. This Tax Court decision was affirmed by the Fourth Court of Appeals and the Supreme Court denied *certiorari*.
- b. r. and remg. The Third Court of Appeals remanded a Delaware district court decision and the Supreme Court reversed the Third Court of Appeals decision.
- c. f-2. The Tax Court followed issue 2 in another decision.
- d. a. and x. and (A). The Second Court of Appeals affirmed a Tax Court case which the IRS acquiesced to and the Supreme Court denied *certiorari*.
- e. g. A memorandum decision distinguished a case either in law or on the facts.

Figure 1-7

The answers to the **Research Problems** are incorporated into the *Instructor's Guide with Lecture Notes* to accompany the 2009 Annual Edition of *SOUTH-WESTERN FEDERAL TAXATION: CORPORATIONS, PARTNERSHIPS, ESTATES & TRUSTS*.