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Tax Administration and Procedure: Final Examination (February 1, 1956)

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TAX ADMINISTRATION AND PROCEDURE

FINAL EXAMINATION - February 1, 1956.

Case - An officer of the Armed Forces of the United States prior to his retirement owned with his wife a home and occupied it as his principal residence. Because of a change in his post of duty, the taxpayers were forced to give up their occupancy of the residence and rent it for a period of 3 years. The home was inherited and was regarded as the family residence. Upon retirement of the officer, the rented residence was sold and a new residence was built in another city, upon land which the taxpayers owned. Such new residence was then occupied as a principal residence. (Quoted from Rev. Rul. 55-222, which held that "postponement" of gain was not proper.)

For tax computation purposes - assume the following for this case:

<u>Tax year - 1954</u>	<u>Without the gains</u>	<u>With the gains</u>
Retired pay (Salary)	\$8000	\$8000
(Net) Rent	900	900
Cap. Gain to be taken into account	-	2500
Adjusted Gross income	\$8900	\$11400
Stand. ded. and exemption	2090	2200
Taxable income	\$6810	\$9200
Tax liability	1518.20	1992
Tax withheld and declaration	1422.00	1422
Bal. due	\$96.20	\$570. <i>credit</i>
		<i>96.20</i>
		<i>473.80</i>

I. Requests for extension of time and official advice -

Assume that this taxpayer asked you to obtain an official expression of opinion before preparing his returns and to obtain an extension of time for filing, if necessary, for purposes of getting an official reply.

- Explain the procedure incident to a request for an extension of time.
- What courses are open for obtaining official advice and how does one go about getting such advice?
- Evaluate the reliance that the taxpayer can place upon the various forms of advice.
- Where reasonable and honest doubt exists as to the taxability of an item would you advise the taxpayer to request an extension of time for filing and to request official advice prior to filing his return? If not, what would you advise him to do?

II. Audits and appeals -

Assume that upon audit the revenue agent questions the postponement in this case -

- Outline the courses open to the agent to make an audit as to manner, time, place, etc. (Statutory limitations on time of audit are not involved in this question)
- What is the taxpayer's best course of action in assisting the agent in this audit?
- If the agent does not allow the postponement of the gain, sketch out step by step the appeal route open to the taxpayer (other than payment of tax and filing of a claim). Include reference to related documents involved in each step.
- If more than one audit is needed to be made during the year, what is the usual procedure preliminary to such audit?

III. Assessment of the tax -

In the case cited - (a) assume that the Tax Court rendered a decision on merit for the respondent and (b) no appeal was taken by the petitioner -

- What is the amount of the deficiency to be assessed?
- What are the rules (not the amount) for determining the interest on the deficiency in this case?
- When may the deficiency including the interest, be assessed?
- When must the assessment be paid without incurring additional interest?

IV. Claim for Refund -

Assume that this taxpayer did not wish to avail himself of the appeal procedure for protesting the agent's findings but preferred to pay the tax and take a chance on recovery through the claims' procedure.

(a) What may the taxpayer do by way of having the tax assessed and paid in order to file a claim?

(b) Describe the claim procedure step by step, including jurisdictional choices and time factors.

V. Limitation on Assessment and Collection and Credits and Refunds -

Assume that, in this case, a 90 day extension to file Form 1040 was granted and the return was filed on July 15, 1955. *copy*

(a) What is the last day on which the added tax could be assessed in the absence of any consent extending the statute and in the absence of any appeal to the Tax Court?

(b) What is a consent extending the statute and when must such be executed to be effective?

(c) What is the last day on which a claim can be filed if the return was due April 15, 1955, filed under extension July 15, and the added tax was paid March 15, 1958? *1958*

(d) What is the last day (in the absence of a consent extending the statutory period) on which the added tax can be collected if it were assessed on January 1, 1956?

VI. Levy and distraint -

Assume the tax was assessed on January 1, 1956, but not paid in response to first notice and demand.

(a) When does a lien arise?

(b) What steps would the district director take following failure to pay first notice?

(c) Outline briefly the levy, seizure, and sale provisions.

VII. Jurisdictional scope -

Indicate the general types of tax cases usually encompassed in the following jurisdictions: (a) Informal Conference (b) Appellate Division (c) Tax Court (d) District Court (e) Court of Claims (e) U. S. Courts of Appeal.

VIII. Jeopardy assessments -

(a) What is the basis for jeopardy assessments?

(b) What is the effect of a jeopardy income tax assessment on taxpayer's right to a hearing by the Tax Court?

IX. Criminal prosecution for alleged income tax evasion -

Indicate the major procedural and jurisdictional aspects of a fraud case after it has been turned in by a special agent with his report.

X. Powers and duties of the Revenue Service -

List at least 10 important powers and duties vested in the Secretary or his delegate by Subtitle F which are essential to the administration and enforcement of the tax laws.