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TAX ADMINISTRATION AND PROCEDURE

December 8, 1961

The following questions have been taken from the Administration, Procedure and Ethics Part of the Special Enrollment Examination given by the Internal Revenue Service on September 27 and 28, 1961: (Please answer as many of them as you can without reference to any other material, and give your paper to Mrs. Ware at the close of the class session on Friday, Dec. 8, 1961.)

NUMBER 1 (Estimated time 20-30 minutes)

The following statements are true or false. For each statement, indicate your choice by placing an "X" in the space provided on the answer sheet in the examination workbook which identifies the answer you select.

- (a) The records of the investigation of applicants for enrollment are available for public inspection.
- (b) For misconduct, an enrolled attorney or agent may be disbarred by the Director of Practice without being granted a hearing.
- (c) In a proceeding before the Tax Court involving the issue of whether the taxpayer has been guilty of fraud with intent to evade tax, the burden of proof with respect to such issue is upon the taxpayer.
- (d) An enrolled attorney or agent may represent a client in a matter before the Internal Revenue Service for a wholly contingent fee when the client is financially unable to pay a reasonable fee on any other terms.
- (e) An accountant enrolled to practice before the Internal Revenue Service may maintain a partnership with an unenrolled public accountant legally practicing accounting.
- (f) An enrollment card for practice before the Internal Revenue Service becomes void five years after the date of its issuance.
- (g) A taxpayer can be liable for both a penalty for failure to file a timely return and the fraud penalty for the same taxable year.
- (h) An enrolled attorney or agent may be disbarred from further practice before the Internal Revenue Service on the ground that he had been disbarred from practice before another Federal Government agency.
- (i) A corporation may pay the tax due on its declaration of estimated tax in four equal installments.
- (j) The Tax Court of the United States has jurisdiction over retailers' excise tax cases.
- (k) Interest on a refund of income taxes caused by a net operating loss carry-back is computed from the date on which the return should have been filed.
- (l) The Internal Revenue Service has a period of only three years to collect income taxes after they have been assessed.
- (m) An unenrolled accountant who did not prepare the taxpayer's income tax return may explain the taxpayer's books and records to an examining agent.
- (n) A taxpayer can raise issues only as to those items stated in the statutory notice of deficiency upon appeal to the Tax Court.
- (o) The District Director has authority to grant an extension of the period for replacing a factory building after an involuntary conversion.
- (p) A second statutory notice increasing the tax liability may be issued within the 3-year assessment period if the taxpayer has not petitioned to the Tax Court and the 90-day period for the previous notice has expired.
- (q) If the period of limitations for assessment of tax or the period

of limitations for refund of tax has expired, the Commissioner and the taxpayer may sign a written agreement extending the period of limitations in the event it is to their mutual advantage.

(r) In the event of the death of a transferor, the additional period of limitations for assessment of a tax liability against a transferee commences from the date of death of the transferor.

(s) If there is not sufficient time to file a petition in the Tax Court within the 90-day period set forth in a statutory notice of deficiency, the taxpayer may obtain an extension of time provided an appropriate request is filed with the Tax Court within the 90-day period.

(t) A corporation income tax return is valid if it is impressed with the corporation's seal and is signed by an authorized officer.

NUMBER 3 (Estimated time 2-4 minutes)

State the conditions or circumstances under which a married couple filing a joint return are required to file a declaration of estimated income tax.

NUMBER 4 (Estimated time 2-4 minutes)

Your client is a partnership which engages in a limited number of transactions. Because its income equaled its expenses during the year, the partners suggest that the partnership not file a Federal Income tax return.

What would you advise them?

NUMBER 5 (Estimated time 1-2 minutes)

Mr. Davis and his wife filed their 1960 income tax returns on a separate basis. They later discovered that a substantial tax savings would result from filing a joint return.

Assuming that you learn these facts on June 30, 1961, what would your advice to them be?

NUMBER 6 (Estimated time 1-2 minutes)

Mr. and Mrs. Edwards filed a joint return for 1960. On September 28, 1961, they come to you stating that they now desire to file separate returns for 1960.

What would you tell them?

NUMBER 7 (Estimated time 2-4 minutes)

When, and under what circumstances, must a self-employment tax return be filed by persons having self-employment income?

NUMBER 9 (Estimated time 4-6 minutes)

Explain when it is necessary for the payor to file information returns (Form 1099) for the following items:

- a. Rents
- b. Dividends paid by a domestic corporation.
- c. Interest paid by a savings and loan association.

NUMBER 10 (Estimated time 6-8 minutes)

An audit of the Pen Corporation's 1958 income tax return resulted in a deficiency of \$15,000 which the corporation agreed to in June 1961. The corporation has not paid the deficiency since it operated at a loss during

the first half of 1961, and expects to report a net operating loss exceeding \$50,000 for the taxable year 1961. The corporation lacks working capital. What would you advise?