

1968

Survey of Tax Literature: Final Exam (January 19, 1968)

William & Mary Law School

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SURVEY OF TAX LITERATURE

Final Exam

January 19, 1968

1. Please give one specific example of (a) a technical tax issue; and, (b) one specific example of a tax policy issue.
2. For the precise issues selected by you for your examples in 1(a) and (b) above, please indicate how you would plan your research to enable you to take a position on each of the issues. Please list the type of source materials involved in your research.
3. Assume you find a TCM squarely on all fours with a technical tax question presented to you by a client. What steps would you take before relying on the decision in giving your client an answer?
4. What is a "legislative" Court; and, are there any in this country that have any jurisdiction over Federal tax cases?
5. What is meant by the Dobson rule; and, what Congressional action was necessitated by it?
6. What, if any, difference exists from the standpoint of reliance by taxpayers in general on a "letter" ruling by the Commissioner as contrasted with a Commissioner's ruling published in the IRB?
7. In researching a tax case for precedent value, which do you prefer to use, and why (a) Shepard's, or (b) one of the Tax Services' Citators?
8. Please give one example of how Courts influence tax legislation.
9. What is meant by an "implied" amendment of the IRC?
10. For purposes of evaluating tax source material you should be able to answer "Yes" or "No" to each of the following - Please do so.
 - (a) Is there any legal reason for the Commissioner labelling some rulings as "Withdrawn" and others as "Revoked"?
 - (b) Can a Federal District Court over-rule a decision of the Tax Court.
 - (c) Can a Commissioner's published ruling be over-ruled by a Treasury Regulation.
 - (d) Can a U. S. Court of Appeals effectively rule a Treasury Regulation invalid in respect to all taxpayers.

- (e) Does the Commissioner have to follow a U. S. Court of Appeals decision in its application to all taxpayers.
 - (f) Does the Commissioner have to follow a U. S. Supreme Court decision in its application to all taxpayers.
 - (g) Can the U. S. Congress over-rule at will the U. S. Supreme Court by new legislation in any non-Constitutional tax question.
 - (h) Are Tax Court decisions reviewable by the U. S. Court of Claims.
 - (i) Are the U. S. Court of Claims decisions in tax cases reviewable by the U. S. Court of Appeals.
 - (j) Does the Commissioner have to publish "acquiescence" or "non-acquiescence" in all Tax Court decisions.
 - (k) Does the Commissioner ever publish "acquiescence" or "non-acquiescence" announcements in respect to decisions of the Judicial Branch of Government.
 - (l) Does the Commissioner ever publish an announcement that "he will not follow" a decision of the Judiciary.
 - (m) May the Commissioner publish "acquiescence" in a Tax Court decision and a few years later turn around and publish an announcement of "non-acquiescence."
 - (n) Can the Commissioner apply Court decisions retroactively to taxpayers who are not directly involved in the decision.
 - (o) Does a decision by a U. S. Court of Appeals in one Circuit have any effect on an earlier contrary decision by any other Circuit.
 - (p) Is the Commissioner required to automatically revoke a published ruling that has been over-ruled by the Tax Court or a U. S. Court of Appeals.
 - (q) Does the Commissioner have to follow the decision of the Tax Court, or any other Court of competent jurisdiction - assuming no appeal - in respect to the specific taxpayer involved in the decision.
11. Please indicate briefly any tax source material, if any, which you discovered for the first time in this course which you believe you would like to have convenient access to in your practice.