

Chapter 28

Working with the Tax Law

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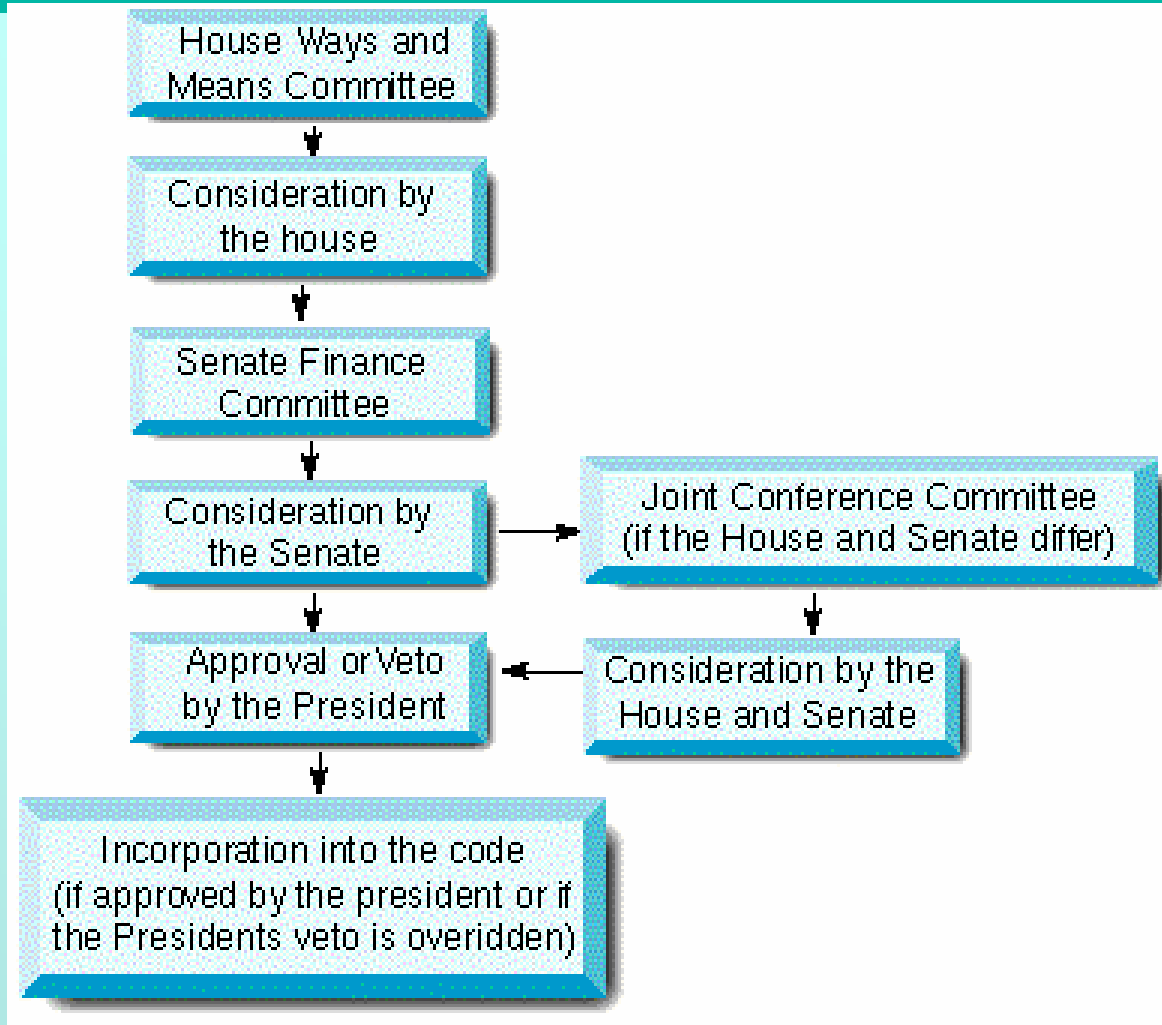
Statutory Sources (slide 1 of 3)

- Internal Revenue Code
 - Codification of the Federal tax law provisions in a logical sequence
 - Have had three codes:
 - 1939, 1954, 1986

Statutory Sources (slide 2 of 3)

- Example of Code Citation: § 2(a)(1)(A)
 - 2 = section number
 - (a) = subsection
 - (1) = paragraph designation
 - (A) = subparagraph designation

Statutory Sources (slide 3 of 3)



Administrative Sources

- Treasury Department Regulations,
- Revenue Rulings,
- Revenue Procedures, and
- Various other administrative pronouncements

Regulations (slide 1 of 4)

- Issued by U.S. Treasury Department
- Provide general interpretations and guidance in applying the Code

Regulations (slide 2 of 4)

- Issued as:
 - Proposed: preview of final regulations
 - Do not have force and effect of law
 - Temporary: issued when guidance needed quickly
 - Same authoritative value as final regulations
 - Final:
 - Force and effect of law

Regulations (slide 3 of 4)

- Example of Regulation citation:

Reg. § 1.117-4(c)(1)

1 = income tax regulation

117 = code section to which regulation pertains

-4 = fourth regulation on section 117 issued

Regulations (slide 4 of 4)

- Example of Proposed Regulation citation:
Prop. Reg. § 1.2
- Example of Temporary Regulation citation:
Temp. Reg. § 1.1(i)-1T

Revenue Rulings (slide 1 of 2)

- Officially issued by National Office of IRS
 - Provide specific interpretations and guidance in applying the Code
 - Less legal force than Regulations
 - Issued in IRB and accumulated in the Cumulative Bulletins
- Private Letter Rulings are rulings issued to a specific taxpayer

Revenue Rulings (slide 2 of 2)

- Example of Temporary Revenue Ruling citation
 - Rev. Rul. 2002-4 I.R.B. No. 4, 389
 - Rev. Ruling No. 4, on pg. 389 of 4th weekly issue of Internal Revenue Bulletin for 2002
- Example of Permanent Revenue Ruling citation
 - Rev. Rul. 2002-4, 2002-1 C.B. 389
 - Rev. Ruling No. 4 on pg. 389 of Vol. 1 of the Cumulative Bulletin for 2002
- Example of Letter Ruling citation
 - Ltr. Rul. 200231006
 - 6th ruling issued in the 31st week of 2002

Revenue Procedures (slide 1 of 2)

- Concerned with the internal procedures of IRS
 - Issued similar to Revenue Rulings
 - Issued in IRB and accumulated in the Cumulative Bulletins

Revenue Procedures (slide 2 of 2)

- Example of Revenue Procedure citation
 - Rev. Proc. 92-29, 1992-1 CB 748
 - 29th Rev. Procedure in 1992 found in volume 1 of Cumulative Bulletin on page 748

Other Administrative Pronouncements (slide 1 of 3)

- Treasury Decisions-issued by Treasury Dept. to:
 - Promulgate new or amend existing Regulations
 - Announce position of the Government on selected court decisions
 - Published in the Internal Revenue Bulletin
 - Then transferred to the Cumulative Bulletin

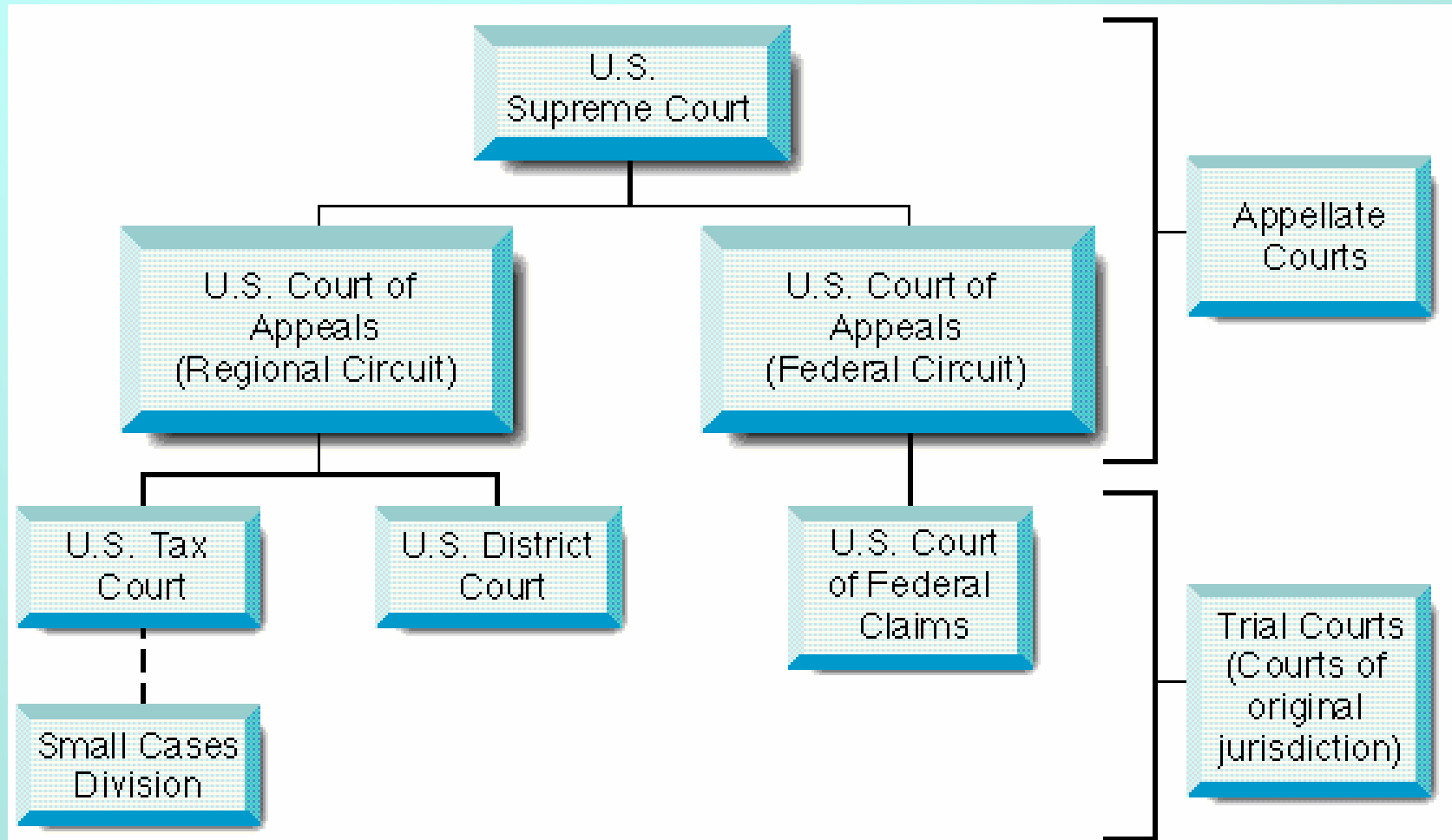
Other Administrative Pronouncements (slide 2 of 3)

- Determination Letters
 - Issued by Area Director at taxpayer's request
 - Usually involve completed transactions
 - Not published
 - Made known only to party making the request

Other Administrative Pronouncements (slide 3 of 3)

- General Counsel Memoranda
- Technical Advice Memoranda
- Field Service Advice

Federal Judicial System



Judicial Sources (slide 1 of 2)

- There are four courts of original jurisdiction (trial courts)
 - U.S. Tax Court: Regular
 - U.S. Tax Court: Small Cases Division
 - Federal District Court
 - U.S. Court of Federal Claims

Judicial Sources (slide 2 of 2)

Issue	U.S. Tax Court	U.S. District Court	U.S. Court of Federal Claims
Number of judges per court	19*	1	18
Payment of deficiency before trial	No	Yes	Yes
Jury trial available	No	Yes	No
Types of disputes	Tax cases only	Most criminal and civil issues	Claims against the United States
Jurisdiction	Nationwide	Location of taxpayer	Nationwide
IRS acquiescence policy	Yes	Yes	Yes
Appeal route	U.S. Court of Appeals	U.S. Court of Appeals	U.S. Court of Appeals for the Federal Circuit

*There are also 14 special trial judges and 9 senior judges.

Appeals Process

- Appeals from District Court or Tax Court go to the U.S. Court of Appeals for circuit where taxpayer resides
- Appeals from Court of Federal Claims is to Court of Appeals for the Federal Circuit
- Appeal to the Supreme Court is by Writ of Certiorari
 - Only granted for those cases it desires to hear

Courts' Weights As Precedents

- From high to low
 - Supreme Court
 - Circuit Court of Appeals
 - Tax Court (Regular), U.S. Court of Federal Claims, & U.S. District Courts
- Decisions of Small Cases Division of Tax Court have no precedential value, not published and cannot be appealed

Tax Court Decisions (slide 1 of 2)

- Regular decisions are published by U.S. government
 - First Chicago Corp., 96 TC 438 (1991)

Tax Court Decisions (slide 2 of 2)

- Tax Court Memorandum decisions
 - Not published by the government but by private publishers
 - Jack D. Carr, TC Memo 1985-19
 - Jack D. Carr, 49 TCM 507 (CCH citation)
 - Jack D. Carr, RIA TC Mem. Dec. ¶85, 019 (RIA citation)

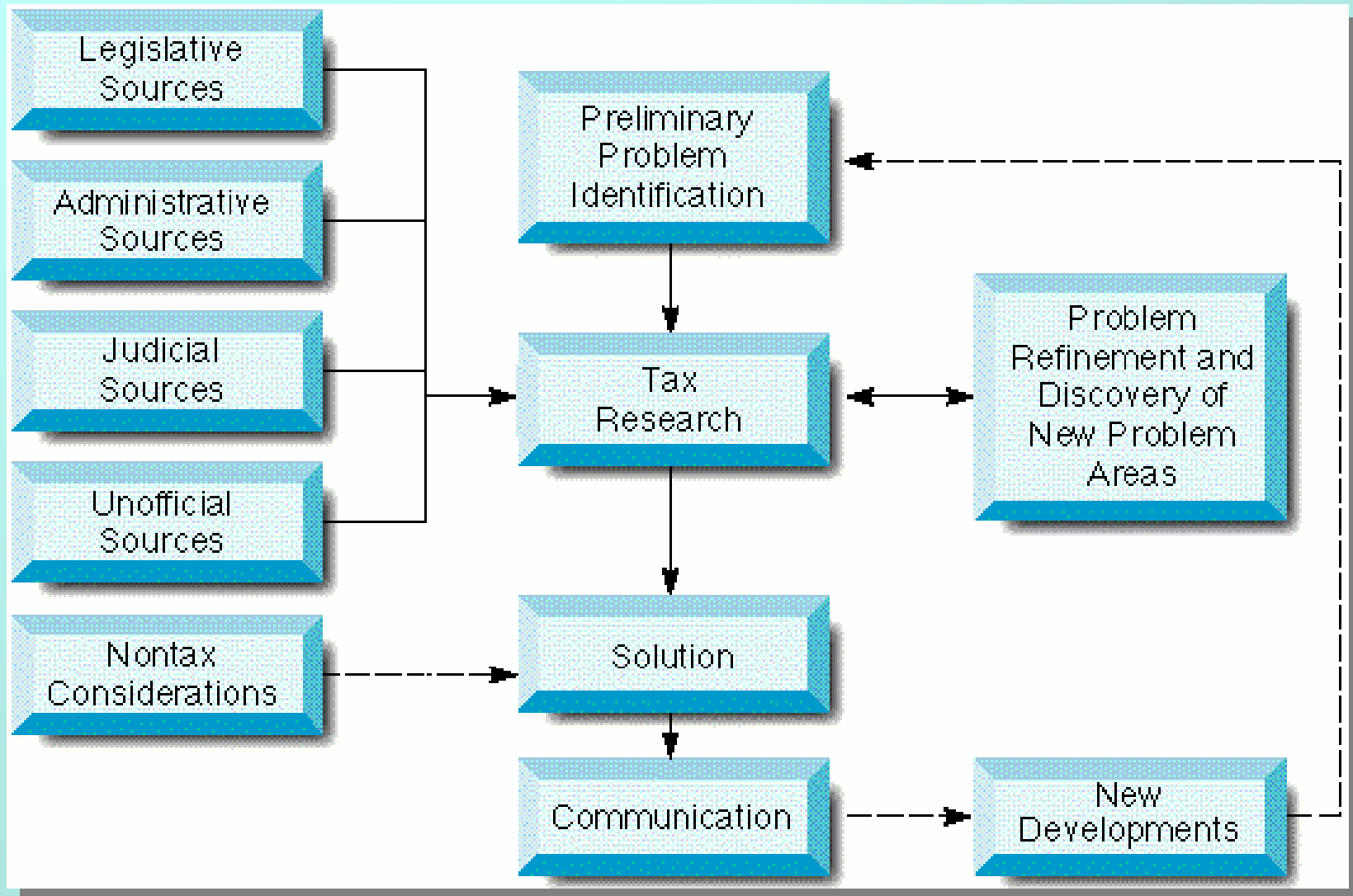
Trial and Appellate Court Decisions

- Examples of citations
 - Simmons-Eastern v. U.S., 73-1 USTC ¶9279
(CCH citation)
 - Simmons-Eastern v. U.S., 31 AFTR2d 73-640
(RIA citation)
 - Simmons-Eastern v. U.S., 354 F. Supp. 1003
(West citation)

Supreme Court Decisions

- Examples of citations
 - Donruss Co., 69-1 USTC ¶9167 (CCH citation)
 - Donruss Co., 23 AFTR2d 69-418 (RIA citation)
 - Donruss Co., 89 S. CT 501 (West citation)
 - Donruss Co., 393 U.S. 297 (U.S. Government citation)

Tax Research Process



Tax Research

- Tax research is the method by which an interested party determines the best solution to a tax situation

Assessing The Validity Of Tax Law Sources (slide 1 of 4)

- Regulations
 - Proposed Regulations are not binding on IRS or taxpayer
 - Burden of proof is on taxpayer to show Regulation incorrect

Assessing The Validity Of Tax Law Sources (slide 2 of 4)

- Final Regulations tend to be of three types
 - Procedural: housekeeping instructions
 - Interpretive: rephrase what is in Committee Reports and the Code. They are hard to get overturned
 - Legislative: allow the Treasury Department to determine the details of law. Congress has delegated its legislative powers and these cannot generally be overturned

Assessing The Validity Of Tax Law Sources (slide 3 of 4)

- Revenue Rulings
 - Carry less weight than Regulations
 - Not substantial authority in court disputes

Assessing The Validity Of Tax Law Sources (slide 4 of 4)

- Judicial sources
 - Consider the level of the court and the legal residence of the taxpayer
 - Determine whether the decision has been overturned on appeal

Tax Planning

- Consider social, economic, and business goals as well as tax motives
- Tax avoidance is the legal minimization of tax liabilities and one goal of tax planning
- Tax evasion is the illegal minimization of tax liabilities and can lead to fines and jail

Electronic Tax Research

- CD-ROM services
- On-line systems
- Internet: home pages, newsgroups, email, etc

If you have any comments or suggestions concerning this PowerPoint Presentation for West's Federal Taxation, please contact:

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