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PRACTICE & PROCEDURE SUPPLEMENT AS OF 6/22/25

11/5/25 Exam given remotely – Important dates!

In a 5/5/25 Press Release, the Tax Court announced that the exam will be held remotely on Wednesday November 5, 2025 at 12:30 pm ET using the ExamSoft platform. There will be two sessions “approximately two hours each” covering

Practice & Procedure (25%)

Federal Taxation (40%)

Evidence (25%)

Legal Ethics (10%)

Summary of Important dates:

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July 14, 2025: Application Period opens

August 15, 2025: Recommended medical accommodation deadline

September 19, 2025: Application Period closes

October 6, 2025: ExamSoft registration and mock exam(s) opens

October 20, 2025: Examsoft registration and mock exam(s) closes

November 5, 2025: Nonattorney Examination

Brief Description of the Examination

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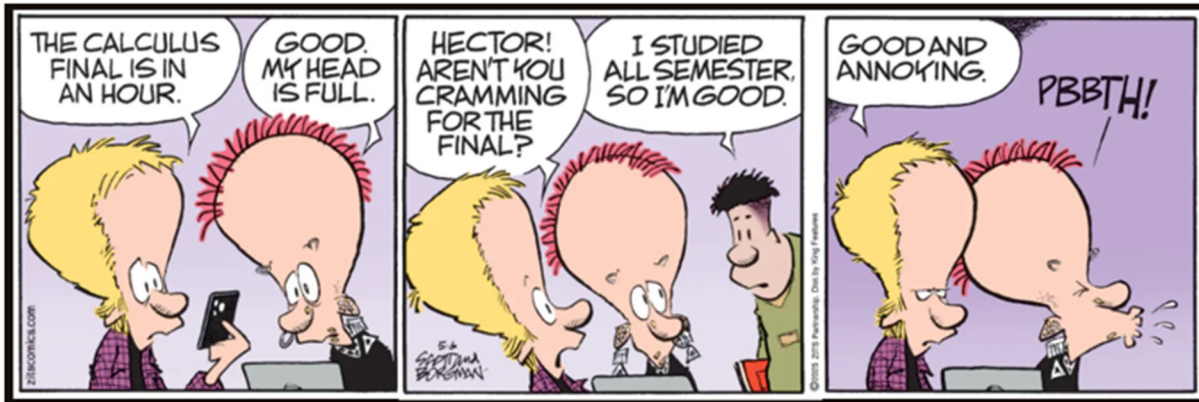
The examination will be administered in two sessions approximately two hours each, with a comfort break between sessions. After the first session is over, applicants will not be allowed to return to those questions. The examination will consist of four parts, accorded the percentages indicated, covering the following subjects:

- A. Tax Court Rules of Practice and Procedure (25%);
- B. Federal Taxation (40%);
- C. Federal Rules of Evidence (25%); and
- D. Legal Ethics (10%).

The remote exam is not an open book exam. The Nonattorney Examination will test the ability of applicants to represent parties in the preparation and trial of cases before the Tax Court, and an applicant must demonstrate proficiency in each of the tested subjects under time pressure. Rule 200(a)(1), U.S. Tax Court Rules of Practice and Procedure.

Source: <https://ustaxcourt.gov/files/documents/05052025.pdf>

Be sure you follow all instructions precisely as written!



HOW ARE YOU GOING TO USE THIS TIME?

JULY 2025						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
29	30	1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31	1	2

AUGUST 2025						
Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
28	29	30	31	1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

SEPTEMBER 2025						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
31	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	1	2	3	4

2025 OCTOBER						
SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
28	29	30	1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	1

NOVEMBER 2025						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
26	27	28	29	30	31	1
2	3	4	5	6	7	8

SHERRILL'S NOTE: Exam date 11/5/25
12-week mark is August 13, 2025
17-week mark is July 16, 2025

THE ONE TIMERS' 12 WEEK STUDY PLAN - ADAPTED

By Ken Newhouse, CPA, USTCP (2014)

I was sitting in Sherrill's second class in July of 2014 and really started feeling the pressure about not having studied that much for the exam until that point. The exam was only about 16 weeks away - I had a lot going on at work and I really needed a plan. I spoke to one mentor who introduced me to others in class who were looking to form a group. That afternoon I felt compelled to come up with a study plan to make sure we covered all the major topics. Below is some of the text from the original email I sent to the group, all of whom passed on their first attempt at this exam.

Email to One Timers' Group in 2014 – feel free to adapt this plan to suit your needs:
The 12 Week Study Plan.

- I chose 12 weeks to allow for a buffer of time to cover topics and recover any topics we feel weak in.
- Next, I broke the material into 4 week increments by major categories Evidence, Tax Practice and Procedures combined with Ethics and lastly Tax Law.
- I put evidence first because I knew it was the topic that historically testers have struggled with the most and it was the subject I knew the least about. This also allowed me the greatest opportunity to repeat the prior questions.
- Finally, I used Sherrill's breakdown of number questions per topic area to make sure we cover the major topics for each section first. Then I assigned a person in group to one topic per week.

Meetings Layout

- For each meeting, each person will present a topic of study to the others the meeting.
- After the meeting I will send out the exam questions and flash cards that can be loaded into Flash+ (a flash card program for self-testing). Our admin is keying these for me each week to save us some time.
- After practicing those exam questions from the topics reviewed in the previous week we will review and ask questions at the beginning of the meeting.
- The basic agenda layout for each meeting:
 - 10 – 15 Mins. Review prior week topics covered and exam questions
 - 8 – 10 Mins Topic 1
 - 5 – 10 Mins Q & A Topic 1

- 8 – 10 Mins Topic 2
 - 5 – 10 Mins Q & A Topic 2
 - 8 – 10 Mins Topic 3
 - 5 – 10 Mins Q & A Topic 3
 - 8 – 10 Mins Topic 4
 - 5 – 10 Mins Q & A Topic 4
 - 8 – 10 Mins Topic 5
 - 5 – 10 Mins Q & A Topic 5
 - 5 Mins Review of next week's topics
 - Continued discussions on topics that have problems. Individuals can feel free to continue or leave as they feel necessary.
- Ken used GoToMeeting to record the meetings to allow people who have to miss the meeting an opportunity to catch up and people to have access to the information to review at a later time when they are studying (this functionality is available in Zoom and other platforms as well).
 - Once the meeting has started, I will give the person who is in charge of that section control to present their topics. You can do an outline in Word or a quick PowerPoint, whatever you are comfortable with doing.
 - To stay on track, hold questions until the end of a presentation – enter questions in chat as the presenter is talking, which allows the presenter to address them in order.
 - Chat will be used to let the speaker know when they get close to time so the group stays on track.
 - If a member must miss a meeting, let everyone know so someone can present your topic for you. Still prepare the outline or PowerPoint.

Other items

Please feel free to provide input as to what we can do differently to improve the experience and contribute to everyone's success.

Ken Newhouse's After Thoughts -

- The name of our group was properly named the One Timers and all of us passed on the first try.
- No plan is perfect – I don't think a meeting went by that we didn't tweak the schedule or topics at the end of the meeting.
- The meetings always took longer than planned. I would say on average they were about 2 to 3 hours long – **plan 30 mins for each topic you cover.**
- I always felt like I learned something from every member of the group and remembered them

when I was reading questions on the exam.

- **Have a headset and play some of your favorite music on the way to the exam.**

Format Of Outlines – (We followed one member's format after the first session)

- I. **Background / discussion about the rule or law**
- II. **Sample Questions**
- III. **Tax Court Cases**
- IV. **Comments/suggestions**
- V. **References of where we found the information**

Ken's Weekly Study Routine –

Everyday:

Morning – Read Court Cases – From those provided by Sherrill

Evening - 10 Gleim Questions and go to bed listening to Sum & Substance or other material

Weekly Routine:

Thursday & Friday - Review prior week's material

Saturday Morning – Practice exam covering all the topics covered the previous week

Saturday Afternoon – Review the practice exam

Sunday Afternoon – Read and start outline for next study session

Monday – Look for supporting test questions and court cases for outline

Tuesday – Review of information for study session

Wednesday - Study Session

Approximate amount of time: Monday through Friday 1 to 3 hours each day, Saturdays and Sundays 8 to 10 hours each day.

Final Note - Good Luck and YOU CAN DO THIS!!!!!!

SHERRILL'S TEST TAKING STRATEGIES

- 1) **SAVE TIME:** Use common abbreviations (TP, NOD, or SNOD if you prefer, etc.) Identify any unusual abbreviations you use to avoid confusing the grader. Using bullet points or lists, rather than complete sentence, can save time when possible.
- 2) **BE CONCISE IN YOUR ANSWERS:** Stick with the “four corners of the question” and don’t add more than what was asked in the call of the question. Timing is critical to your success, so be sure you answer the question, but “just the facts” to show you understand the concept.
- 3) **SHOW YOUR WORK:** You may receive full or partial points if the grader can see your calculation even if you arrive at the wrong answer. This is tougher to do on a remote exam, so practice now how can you show calculations using the computer.
- 4) **DON'T GET STUCK:** If you don't know the answer move on – often your brain will continue to work on that question or another one will make you remember the previous answer. Just remember what you skipped so you can go back to it.
- 5) **KEEP TRACK OF YOUR TIMING:** Note your starting and projected ending time.
- 6) **SCAN AHEAD FOR BIG POINT QUESTIONS:** Don't miss big point questions that may lurk near the end of the exam questions, especially in Federal Tax. Take a moment to scan through the exam before you start to be sure you know is ahead of you.
- 7) **DECIDE ORDER OF EXAM IN EACH SECTION IN ADVANCE:** Consider Legal Ethics first, then Tax if they are paired again. Do you lead with your strongest or your weakest in the next segment (Practice or Evidence)?
- 8) **NO BONUS POINTS AVAILABLE!** You need a minimum of 70% on all sections, not 100%, to pass. Don't try to provide every technical nuance of what you know. If you run out of time and fail to complete one section, you will not be successful.
- 9) **ANSWER THE QUESTION ASKED:** When facing a long question, scan the actual 'call of the question' then read the question for what you need to answer that question.
- 10) **ELIMINATE UNNECESSARY STRESS ON EXAM DAY:** Be ready to go before 12:30 pm ET. Take every opportunity to practice with the ExamSoft platform while you can so you're comfortable with it and the various features. Get enough sleep the night before so you are rested and ready. Be sure you are well nourished before the exam and consider if a snack in between parts will help you. Be relaxed and confident on exam day – you CAN do this!!

HOW TO FRAME EXAM ANSWERS

In the student portal we provided a 2023 Points Awarded Analysis available along with the 2023 Suggested Answers for guidance. Spend time now developing a sense of how you can frame your answers effectively and efficiently. Don't memorize prior exam answers, but you can prepare some answers in advance for commonly tested concepts, such as cash basis, accrual basis, last known address, etc.

Consider these samples from the 2021 exam:

A: This 2021 Practice and Procedure question (2 minutes, 4 points) demonstrates how 2 candidates handled their answers. Be concise in your answers because writing more isn't better; you won't receive more than the stated maximum amount of points available and it will cost you time.

P-2(a) (2 minutes) Discuss the meaning of the phrase "last known address" with respect to a §6212 statutory notice of deficiency.

CALL OF THE QUESTION: What is the meaning of the phrase "last known address" for a notice of deficiency?

FULL POINT ANSWER: Last known address is the address of record with the IRS. A Statutory Notice of Deficiency must be mailed to the last known address unless the TP submits a proper change of address either via a filed tax return or change of address form. (4/4)

ALTERNATE FULL POINT ANSWER: If notice of deficiency was not mailed to the last known address of the TP and TP did not receive it within 30 days of the petition filing deadline it will not be considered valid. If the NOD was mailed to the last known address of TP even if not received by TP it is considered valid NOD for the 90 day/150 day deadline for the Tax Court petition. Last known address is the address filed with IRS (both spouses can have separate addresses through this form) or clear notification of the IRS of the new address made by the TP. (4/4)

B: This 2021 Practice and Procedure question (2 minutes, 4 points) demonstrates how answering the question asked gets full points and saves time. We cover this point, and this particular question, multiple times each cycle in class; it's true, you only need a few words for full points.

(2 minutes) Describe the effect of a Tax Court petition that does not address an issue raised in the §6212 notice of deficiency.

CALL OF THE QUESTION: What does it mean if the petition doesn't address an issue in the NOD?

FULL POINT ANSWER: Deemed admitted or conceded. (4/4)

ALTERNATE FULL POINT ANSWER: The tax court petition may only raise issues pertinent to the NOD. The petition is not a free for all for TP to address all sorts of issues they feel need to be addressed. They must stick with the errors they feel are in the NOD and the law with which they base these facts upon. (4/4)

C. 2021 Legal Ethics question (3 minutes, 6 points) shows how answering with more words doesn't result in more points. The second answer likely took more time to write, but went deeper than what was required to receive full points.

LE-2 (3 minutes) Aubrey Palmer has received notices of deficiency with respect to his 2018 and 2019 federal income tax returns, disallowing expenses claimed on Palmer's Schedule C. Among the items at issue are depreciation deductions for Palmer's pickup truck, which Palmer reported was used 100% for business purposes. B drafted Palmer's petition, which stated that the truck had been used 100% for business purposes, and represents Palmer in Tax Court. The two agree to meet over dinner to discuss the case. Palmer arrives at the designated restaurant in his pickup truck, which B notices is in pristine condition. When B asks Palmer how he keeps the truck in such good shape, Palmer replies, "This truck is my baby! I never take it to work." What action, if any, should B take? Briefly explain your answer.

CALL OF THE QUESTION: Client hasn't been truthful, what must you do?

FULL POINT ANSWER: B should inform Palmer that he needs to correct the false statements in the petition or he is bound to inform the Court if Palmer refuse to correct the false statements. Rule 3.3 Candor to the Tribunal. (6/6)

PARTIAL POINT ANSWER: Assuming that Palmer has already testified in court, B must inform Palmer that he must go back on the stand and correct his testimony. If Palmer refuses, B has a fiduciary duty as a court official to correct the error in facts to preserve a correct transcript in trial. He would notify the Judge and opposing counsel. If the trial has not been calendared for trial, B must amend the petition which may be

done once if the trial is not calendered. Otherwise, B must make motion to amend the petition in fairness. If it will not prejudice the case, B may withdraw by informing both opposing counsel and motion the court for permission which may not be granted. (4/6)

D: This 2021 Federal Tax question (3 minutes, 6 points) demonstrates how you can still get points for not answering the question as asked, but it took time to do that, which may have made a difference in their results.

S-8 (3 minutes) **Explain generally** (without discussing the technical operation of any particular Internal Revenue Code provision/s) **(1) what the nonrecognition provisions of the Internal Revenue Code are designed to accomplish and (2) how they operate.**

CALL OF THE QUESTION: Explain generally the nonrecognition provisions (what they are designed to accomplish and how they operate).

Note it says without discussing the technical operations of any particular IRC provision, and the first answer focused on 1031. Remember to read the question, and answer the question asked.

FULL POINT ANSWER: Nonrecognition provision has to do with a 1031 exchange for property. Property can be exchanged for another like kind property (under current law only real property). The taxpayer recognizes no gain on the sale at the time of transfer unless there is boot received. The gain is deferred until the property that was received in the sale is sold. (6/6)

ALTERNATE FULL POINT ANSWER: Nonrecognition allows for transfer of an asset without recognition of gain while securing an alternate asset similar in value. TP maintains the adjusted basis of the old property to the new property plus any costs of transfer. (6/6)

E. This 2021 Federal Tax question (8 minutes, 16 points) demonstrates how you can make it easier for the grader to see your answer by how you arrange the answer. Both answers received full points, but for me, the second answer is easier to follow. Show your work, and make it easy for them to see your answer.

S-10 (8 minutes) TP and B exchange unimproved real properties that are encumbered by mortgage debts. In the exchange transaction, TP's mortgage debts are assumed by B, and B's mortgage debts are assumed by TP. The gross fair market value of B's property is \$200,000, its adjusted basis is \$120,000, and it is encumbered by a \$50,000 mortgage debt leaving a net equity of \$150,000. The gross fair market value of TP's property is \$220,000, its adjusted basis is \$200,000, and it is encumbered by a \$70,000 mortgage debt leaving a net equity of \$150,000. **Discuss and quantify the § 1031 consequences to TP (not B).**

CALL OF THE QUESTION: Discuss and quantify §1031 consequence to TP (not B).

FULL POINT ANSWER: TP B FMV 220,000 200,000 MTG 70,000 50,000 EQUITY 150,000 150,000 basis 200,000 120,000 200K B's FMV -150K TP BASIS + 20K MTG RELIEF 70,000 Gain Realized, 20,000 Gain Recognized for the Mortgage relief. 200K FMV + 20K RECOGNIZED – 20K REALIZED = 200K BASIS. (16/16)

ALTERNATE FULL POINT ANSWER: TP will have a recognized boot of \$20,000 which is the difference between the two mortgages. TP assumed \$50,000 but gave up \$70,000. The basis of the property in TP's hands is the basis in the old property of \$200,000 plus the recognized gain of \$20,000 minus any boot received of \$20,000. $200,000 - 20,000 + 20,000 = 200,000$. (16/16)

F. This 2021 Evidence question (6 minutes, 12 points) shows how three different candidates answered the same question. While we believe the FRE number is needed for most full point Evidence answers, you can use a general FRE reference and still get full points, so don't worry about all the subsections.

E-3 (6 minutes) The IRS asks W on cross-examination the following question: "I want to direct your attention to 2016 when you were in college at State University. Is it true that you were accused of plagiarism?" TP objects. **How should the Court rule on the objection?**

CALL OF THE QUESTION: How should the Court rule on the objection – and yet, if you only answered that, I doubt you would receive a full point answer. Note that most evidence questions ask for the ruling, and the reason for that ruling, and that is how I would answer Evidence questions.

FULL POINT ANSWER: Overruled under **FRE 607**, any party can impeach a witness, and under **FRE 608**, a prior bad act, such as plagiarism, can be asked to impeach the witness's credibility for truthfulness, but if the witness denies it, no extrinsic evidence can be allowed; the IRS must accept the answer as is. (12/12)

ALTERNATE FULL POINT ANSWER: Objection overruled **FRE 608(b)**. This is an unconvicted crimen falsi act and subject to **FRE 608(b)** prior bad act. A prior bad act may be impeached if on a factual good faith basis. (12/12)

ALTERNATE FULL POINT ANSWER: Overruled, **FRE 608** Truth and veracity are being attacked. This is proper impeachment of a witness on cross. If they want to further the questioning, he would need to be convicted of fraud under **FRE 609**. Which has a higher standard including conviction that leads to more than one year in prison. This is not the case and they have to accept his testimony. (12/12)

INTERACTIVE ASSESSMENTS WITH SLIDO

For the July 2025 class, we will be using Slido, an assessment tool, to have greater audience participation throughout the class.

You can access Slido on your laptop, your tablet, or on your phone.

There are two ways to access Slido: QR code and website access.

Method #1: QR Code

Scan the QR code below with your phone, and you'll be taken to the webpage with the polls and quizzes!



Method #2: Website

Go to www.slido.com.

Look for the “Joining as a participant?” area, enter 3717342, and click the arrow.

You'll be taken to the webpage with the polls and quizzes!

CPAs should identify themselves; NASBA requires hourly content-driven engagement for CPE

§351 TRANSACTIONS – TOM’S THE EASY WAY

1. Is §351 applicable?

Transfer of money and/or property for at least 80% control of the voting shares AND total shares of all other classes of stock.

2. Consequences to Transferor due to Exchange of Property

- **Gain is recognized only to the extent of boot received**
- **If property is transferred subject to indebtedness, then gain is recognized only to the extent that debt relief exceeds basis**
- **Character of gain is the same as if the property transferred was disposed of in a taxable transaction**
- **Loss is not recognized**

3. Basis of Stock Received by Transferor

**Adjusted basis of property contributed
PLUS gain recognized by transferor upon transfer
LESS FMV of boot received
LESS liabilities assumed by corporation [treated as cash payment for basis purposes]**

4. Basis of Property Received by Corporation

**Adjusted basis of property contributed
PLUS gain recognized by corporation upon transfer [allocated by FMV of the properties]**

NOTE: Basis of built-in loss property cannot exceed the FMV of the property

§721 TRANSACTIONS – TOM’S THE EASY WAY

1. Is §721 applicable?

Transfer of property or money in exchange for a partnership interest.

2. Consequences to Partner

- **Gain or loss is not recognized**
- **Capital account, in general, is FMV of contributed property**

3. Basis of Partnership Interest

Adjusted basis of property

PLUS money contributed

LESS cash received (including indebtedness assumed by partners with transfer of property)

PLUS share of partnership liabilities

3. Consequences to Partnership

- **Gain or loss is not recognized**
- **Basis of contributed property is the partner’s adjusted basis**

4. Built-In Gain Property

If built-in gain property is transferred to a partnership, and within 7 years either (a) the contributing partner receives a distribution of other property or (b) the built-in gain property is distributed to another partner, then the contributing partner must recognize the built-in gain upon its transfer.

§1031 COMPUTATIONS – TOM’S THE EASY WAY

1. Compute the *amount realized* in the exchange.

FMV of property received	\$475,000
PLUS debt relief	\$100,000
PLUS cash/boot received	\$75,000
LESS debt assumed	(\$50,000)
LESS cash/boot paid	<u>\$0</u>

Amount realized \$600,000

2. Compute the *adjusted basis*.

Adjusted basis \$325,000

3. Compute the *gain realized*.

Amount realized	\$600,000
LESS adjusted basis	<u>(\$325,000)</u>

Gain realized \$275,000

4. Compute the *gain recognized*.

Gain is recognized to the extent of boot received.

Cash received	\$75,000
Unlike property received	\$0
Net debt relief	<u>\$50,000</u>

Gain recognized \$125,000

5. Compute the *basis* of the new property received.

FMV of property received	\$475,000
PLUS unrecognized loss	\$0
LESS unrecognized gain	<u>(\$150,000)</u>

Basis \$325,000

§453 COMPUTATIONS – TOM’S THE EASY WAY

1. Compute *gross profit*.

Total amount received
LESS adjusted basis
LESS selling expenses
LESS depreciation recapture
LESS §121 exclusion

2. Compute *contract price*.

Total amount received
LESS liabilities assumed up to the extent of basis

3. Compute *gross profit percentage*.

Gross profit
OVER contract price

4. Compute the *annual payment* for each year of the installment sale.

Amount received
PLUS liabilities assumed in excess of basis

5. Compute the *annual gain*.

Annual payment
TIMES gross profit percentage

6. Compute *basis* in installment obligation under §453B.

Remaining total payments
LESS unrecognized gain

KEY NUMBERS 2025 (AS OF 6/28/25, BEFORE OB3)

- ✓ **§179 Limitation \$1,250,000 (maximum purchases of \$3,130,000; maximum for a business use heavy (6000-14,000 pound) vehicle \$31,300)**
- ✓ **§168(k) Bonus Depreciation Limitation 40%**
- ✓ **Annual Gift Exclusion \$19,000 (H/W Gift Split \$38,000)**
- ✓ **Lifetime Estate Exclusion \$13,990,000**
- ✓ **Non US Citizen Spouse Exclusion \$190,000**
- ✓ **Citizen Spouse Exclusion is unlimited**

DEPRECIATION IRC SECTIONS

§168(i)(1) – class life

§168(b)(1) – applicable depreciation method

§168(b)(1)(B) – which switches to straight line

§168(k)(1) – special allowance for certain property (bonus depreciation)

§179 – election to expense certain depreciable assets

§179(b)(3) – limitation based on business income

QUIZ #1 – PRACTICE & PROCEDURE REVIEW
1 minute for each question; 25 minutes total

- 1. TP receives a §6212 Notice of Deficiency and thereafter timely files with the Court a petition for redetermination of the proposed deficiency. Before the case is calendared for trial, TP pays to the IRS the amount of the proposed deficiency in the §6212 Notice of Deficiency. The payment by TP deprives the Court of jurisdiction with respect to TP's petition. True or False?**

- 2. The Court has jurisdiction to determine that TP overpaid income tax in the year properly before the Court based on a §6212 notice of deficiency determining a deficiency of income tax. True or False?**

- 3. The Court has jurisdiction to review a determination by the IRS that individual A, who provides services to B, constitutes an employee of B for federal employment tax and income tax withholding purposes if B timely files a petition with the Court in response to a worker classification determination by the IRS that properly was sent to B. True or False?**

- 4. The IRS issues to TP a §6212 notice of deficiency with respect to one taxable year. The notice determines an income tax deficiency and also an addition to tax pursuant to §6651. TP petitions the Tax Court to dispute the deficiency amount and the addition to tax. The Tax Court does not have jurisdiction as to the addition to tax. True or False?**

- 5. Does the Tax Court have exclusive jurisdiction to review IRS denial of interest abatement claims under §6404?**

- 6. Does the Tax Court have jurisdiction to apply the doctrine of equitable recoupment cases before the Tax Court? State Yes or No.**

7. The IRS issued one §6212 notice of deficiency asserting a deficiency of income tax in each of the 2017 and 2018 taxable years of TP. Such a notice for multiple years is a proper notice for purposes of Tax Court jurisdiction as to each of the two years. True or False?
8. A §6212 notice of deficiency, mailed by either registered or certified mail to TP's § 6212 last known address, is valid even though the notice never is received or is returned to the IRS unclaimed. True or False?
9. A reply pleading is required of the petitioner with respect to the IRS answer in all circumstances. True or False?
10. Does equitable tolling apply to a petition filed with respect to a deficiency case? Yes or No.
11. The Tax Court Rules allow for a judgment on the pleadings as to fewer than all issues in a case. True or False?
12. TP and Spouse file a joint return in 2017. TP and Spouse were divorced in 2018. In 2019, the Commissioner sends a separate notice of deficiency with regard to the 2017 taxable year. The §6212 notice of deficiency as to TP was mailed to TP's address. The §6212 notice of deficiency as to Spouse was mailed to Spouse's address. Can TP and Spouse file a joint petition in the Tax Court? State Yes or No.
13. Is the time limitation of §6015(e)(1)(A)(ii) jurisdictional with respect to the Court?

14. Is the IRS is required to file an Answer in response to a properly filed Court petition that is subject to the Small Tax Case Rules? State Yes or No.
15. The IRS sent to TP a notice of deficiency asserting that TP is liable (for TP's taxable year subject to the Notice) for the accuracy-related penalty under §6662(a). TP alleged no error in the petition with respect to the §6662 determination. The Commissioner filed with the Court a motion to dismiss for failure to state a claim upon which relief can be granted. Even though TP did not assert error as to the §6662 amount, must the IRS produce, for purposes of the motion to dismiss, evidence with respect to the §6662(a) amount? State YES or NO.
16. TP petitioned the Court under §6015(e)(1) to review the IRS final determination denying TP relief from joint liability under §6015. TP now moves the Court to allow TP to withdraw the petition and to dismiss the case. How should the Tax Court rule? State GRANT or DENY.
17. TP petitioned the Court with respect to a §6212 notice of deficiency. TP now moves the Court to allow TP to withdraw the petition and to dismiss the case. How should the Tax Court rule? State GRANT or DENY.
18. Formal discovery may begin how many days after joinder of issue?
19. Formal discovery must end how many days prior to calendar call?
20. What is the maximum amount of interrogatories one party may serve upon another in a Tax Court proceeding?

21. Describe the doctrine of equitable recoupment, including the principal requirements for its application. Also state whether the Court has authority to apply the doctrine of equitable recoupment.

22. Describe the circumstances under which the Court has jurisdiction to review a jeopardy assessment made by the IRS.

23. In each of the following situations, TP requested an administrative collection due process 'CDP' hearing, received an unfavorable decision in that hearing, and timely petitioned the Court to review that decision. State the standard of review the Court will apply in each of the situations.

a. The issue in the case involves TP's challenge to the underlying liability.

b. The issue in the case is whether the IRS improperly rejected TP's offer in compromise.

24. Properly computed, the last day for filing TP's petition with the Court was May 1, year 2. However, the notice of deficiency incorrectly stated that the last day for filing was May 5, year 2. TP filed her petition on May 3, year 2. State whether the petition was timely filed.

QUIZ #2 – JULY FEDERAL TAX REVIEW
1 minute for each question; 20 minutes total

- 1. What is the percentage depreciation for 5-year property in year 1?**

- 2. What is the percentage depreciation for 7-year property in year 2?**

- 3. What is the 2025 §168(k) percentage?**

- 4. Stock with a basis of \$3,000 is given to Leslie at a time when its FMV is \$5,000. Leslie subsequently sells the stock for \$6,000. What is Leslie's basis for the sale?**

- 5. If a donor pays gift tax on a transfer, does it generally INCREASE or DECREASE the recipient's basis in the property?**

- 6. If married and filing a joint return, the maximum §121 exclusion is what amount?**

- 7. The estate alternate valuation date is how long after the date of death?**

8. TP acquires a principal residence in 2019. What is the applicable limit for deductible mortgage acquisition indebtedness?
9. In 2025, in an installment sale, TP's annual payment is \$10,000 and the gross profit percentage is 40%. What gain does TP recognize?
10. In 2025, in an installment sale, TP sells unimproved real property for \$600,000 with an adjusted basis of \$400,000. What is the contract price?
11. In 2025, in an installment sale, TP sells unimproved real property for \$600,000 with an adjusted basis of \$400,000. What is the gross profit?
12. In 2025, TP buys a \$1 million residence for \$700,000 cash and assumes an existing \$300,000 mortgage. What is TP's basis in the residence?
13. In 2025, TP exchanges a land parcel (\$300,000 FMV, \$200,000 adjusted basis) for another land parcel (\$290,000 FMV) plus \$10,000 cash. What is TP's gain realized?
14. In 2025, TP exchanges a land parcel (\$300,000 FMV, \$200,000 adjusted basis) for another land parcel (\$290,000 FMV) plus \$10,000 cash. What is TP's gain recognized?

15. In 2025, TP exchanges a land parcel (\$300,000 FMV, \$200,000 adjusted basis) for another land parcel (\$290,000 FMV) plus \$10,000 cash. What is TP's basis in the land received?
16. In 2025, TP places 5-year property in service with a \$100,000 cost. What is the §168(k) depreciation amount?
17. In 2025, TP places 5-year property in service with a \$100,000 cost. What is the §168(a) depreciation amount assuming §168(k) depreciation was claimed?
18. If a TP properly files a gift tax return with no significant omissions, what is the statute of limitations for that return?
19. TP was divorced in 2022 and paid \$20,000 in alimony to their ex-spouse in 2025. How much of the alimony can TP deduct?
20. If TP actively participates in real estate, what is the maximum real estate passive loss that may be allowed, assuming no passive income in the same tax year?

FEDERAL TAX - QUESTIONS IN CLASS

2021/S-11(a) In 2000, Corporation was created with a capitalization of 1,000 shares of voting common stock, 1,000 shares of nonvoting common, and 1,000 shares of voting preferred. Each share of stock has equal value and each share of voting stock has an equal voting right. The preferred stock was issued at the time of creation of Corporation, and the preferred stock is not §306 stock. The stock has been owned since the 2000 creation of Corporation as described in the attached table. In 2020, Corporation redeems all of the shares owned by B. Assume that at all times after the redemption, B serves as an officer of Corporation. A is unrelated to B and C. C is B's mother.

Attachment:

Shareholder	Voting Common	Nonvoting Common	Voting Preferred
A	200	600	700
B	300	100	300
C	500	300	0
Total	1000	1000	1000

(a) (3 minutes) Explain whether the redemption of all of B's shares qualifies for exchange treatment under §302(b)(3).

(b) (4 minutes) Explain whether the redemption of all of B's shares qualifies for exchange treatment under §302(b)(2).

FEDERAL TAX - TOPIC REVIEW

Depreciation

1 (2 minutes) On January 1, 2025, TP purchased, for \$1,800,000 cash, and placed in service new machinery exclusively for use in TP's business activity. The equipment is purchased from the manufacturer, who is unrelated to TP. This is the only purchase of "Section 179 property" made by TP during 2025. The equipment has a §168(i)(1) class life of six (6) years. TP expects to use the equipment for nine (9) years, and TP estimates that the equipment will have a salvage value of \$10,000 at the end of the period of use. Assume that the property qualifies under §168(b)(1) and ignore §168(b)(1)(B). State the maximum amount of the §179 deduction allowable in 2025 ignoring §179(b)(3). Assume current year law applies.

2 (2 minutes) Same facts as 1. State the amount of §168(k)(1) depreciation allowable in 2025, assuming the maximum §179 deduction in 2025 from your answer to 1.

3 (3 minutes) Same facts as 1. State the amount of §168(a) depreciation allowable in 2025, (1) assuming the maximum §179 deduction in 2025 from your answer to 2. Assume the taxpayer elected 0% for purposes of §168(k)(1).

4 (2 minutes) Same facts as 1. State the amount of §168(a) depreciation allowable in 2026, assuming the maximum §179 deduction in 2025 from your answer to 2. Assume the taxpayer elected 0% for purposes of §168(k)(1).

5 (2 minutes) On February 15, 2025, TP purchases for \$900,000 cash a new machine exclusively for use in TP's business activity. The equipment has a §168(i)(1) class life of ten years. TP expects to use the equipment for sixteen years and estimates that the equipment will have a salvage value of \$11,000 at the end of the sixteen-year period of use. State the amount of the §168 deduction allowable in 2025 (ignoring §168(f), (g), (j), (k), (l), (m), (n), and §179 for purposes of this Question).

6 (2 minutes) On February 15, 2025, TP purchases for \$700,000 cash a new widget making machine exclusively for use in TP's business activity of making widgets. The equipment has a §168(i)(1) class life of five years. TP expects to use the equipment for six years and estimates that the equipment will have a salvage value of \$10,000 at the end of the six-year period of use. State the amount of the §168 deduction allowable in 2025 (ignoring §168(f), (g), (j), (k), and (l) and §179 for purposes of this Question)

Gifts

1 (1 minute) Is a transfer made "in the ordinary course of business" or "for a full and adequate consideration in money or money's worth" a taxable gift? State YES or NO.

2 (2 minutes) Describe the statute of limitation applicable to the gift tax with respect to a lifetime gift by TP.

3 (1 minute) During year 1, TP receives as a gift from a dear friend non-depreciable real property. On the date of the gift, the property has a fair market value of \$110,000 and an adjusted basis to the friend of \$130,000. The friend paid a gift tax of \$1,000 with respect to the transfer to TP. State the amount of gross income to TP in year 1 with respect to the gift of the real property.

4 (2 minutes) Same facts as 3. State the amount of TP's adjusted basis in the real property if TP sells the property in year 4 for \$135,000.

5 (1 minute) TP received as a gift from TP's grandmother real property with a fair market value of \$175,000 and an adjusted basis to the grandmother of \$100,000. The grandmother paid a federal gift tax of \$20,000 with respect to the transfer to TP. State the amount of gross income to TP

6 (1 minute) Same facts as Question 5. State the amount of TP's adjusted basis in the real property.

7 (1 minute) Describe what constitutes a §102 gift for federal income tax purposes.

8 (5 minutes) Discuss the nature and amount of gifts that a taxpayer may make free of federal gift tax during 20A0 assuming that the taxpayer made no gift transfers prior to 20A0 (use current year law).

Marriage and Divorce including Innocent Spouse

TCJA Alert! For new divorce agreements AFTER 12/31/18 no alimony paid deduction will be allowed, so alimony received will no longer be includible in income. Alimony recapture is not taught for the 2025 exam cycle since it will not apply.

1 (1 minute) TP and Spouse decide to divorce and initiate a divorce proceeding. During the pendency of the divorce proceeding, TP receives from Spouse monthly support amounts (1) in cash and (2) via electronic transfers from Spouse's bank account to TP's bank account. Discuss whether such support amounts qualify as §71 alimony if all other §71 requirements are satisfied.

2 (6 minutes) TP and Spouse were married in 20A5. They separated in 20B1 and were divorced in early 20B2. Pursuant to the terms of the divorce settlement agreement, which the divorce court approved and adopted as its order, TP is required to:

Transfer real property to Spouse. TP makes the transfer during 20B2 and, on the date of the transfer, the real property has a fair market value of \$670,000 and an adjusted basis to TP of \$485,000.

Make the following spousal support payments in cash to Spouse:

(1) \$120,000 in 20B2

(2) \$130,000 in 20B3

(3) \$90,000 per year after 20B3 until the death or remarriage of Spouse.

The divorce settlement agreement and the court order are silent as to the tax consequences of the various payments. TP makes all required payments. (Assume this is pre-TCJA change)

(2 minutes) Describe the tax consequences in 20B2 to TP and Spouse associated with the transfer of the real property.

3 (2 minutes) TP owns unencumbered real property with an adjusted basis of \$25,000. TP sells the property to Spouse on September 15 of the current year when the fair market value of the property is \$21,000. Spouse pays cash of \$21,000. On December 18 of the current year, Spouse sells the real property to a third party for its then fair market value of \$23,000 (in cash). Briefly discuss the tax consequences to Spouse with respect to the December sale to the third party.

4 (8 minutes) TP and Spouse filed a joint return, but they did not pay the tax shown as due on the return. Discuss the types of, and requirements for, the relief potentially available to TP pursuant to §6015.

Real Estate and Passive Activities

1 (4 minutes) TP is a full-time employee of Employer as a sales representative for Employer's paper products. TP also owns an apartment building, the apartment units of which TP rents as residences to tenants. During the time TP is not acting as an employee of Employer, TP serves as the manager of the apartment building by being responsible for renting, accounting, maintenance, repairs, etc. TP does not employ any other person to assist in the management of the apartment building.

Describe how §469 might apply to TP regarding any loss realized with respect to TP's apartment building.

2 (6 minutes) In 20A8, TP purchased unimproved real property. To acquire the property, TP (1) paid \$300,000 cash at the closing, (2) took the property subject to a preexisting first mortgage debt secured by the property in the principal amount of \$800,000 (for which TP was not personally liable), and (3) executed a second mortgage indebtedness (for which TP was personally liable to the seller in the principal amount of \$100,000).

In 20B2, TP received an offer from Buyer to buy the real property, and TP accepted the offer. Buyer (1) paid \$750,000 cash, (2) took subject to the first mortgage debt in the principal amount of \$650,000 (it had been paid down from \$800,000 to \$650,000), and (3) assumed the second mortgage debt in the principal amount of \$50,000.

What was TP's adjusted basis in the property at the time of acquisition in 20A8?

Quantify TP's amount realized and any gain or loss realized upon the sale of the property to Buyer in 20B2.

3 (6 minutes) In 20A5, TP purchased unimproved real property. To acquire the property, TP (1) paid \$500,000 cash at the closing, (2) took the property subject to a preexisting first mortgage debt secured by the property in the principal amount of \$400,000 (for which TP was not personally liable), and (3) executed a second mortgage indebtedness (for which TP was personally liable) to the seller in the principal amount of \$100,000. In 20A6, TP borrowed \$200,000 from a bank, in return for which TP executed a nonrecourse note (no personal liability to TP) in the principal amount of \$200,000 and a third mortgage on the real property to secure the \$200,000 debt. The \$200,000 proceeds of the loan were used to build a structure on this property. In 20A8, TP received an offer from Buyer to buy the real property, and TP accepted the offer. Buyer (1) paid \$1,000,000 cash, (2) took subject to the first mortgage debt in the principal amount of \$300,000 (it had been paid down from \$400,000 to \$300,000), (3) assumed the second mortgage debt in the principal amount of \$90,000, and (4) took subject to the third mortgage debt in the principal amount of \$150,000 (it had been paid down from \$200,000 to \$150,000).

(a) What was TP's adjusted basis in the property at the time of acquisition in 20A5?

(b) Describe the federal income tax consequences of the 20A6 borrowing and third mortgage transaction.

(c) Quantify TP's amount realized and any gain or loss realized upon the sale of the property to Buyer in 20A8.

4 (6 minutes) TP purchased unimproved real property in year 1 with a fair market value of \$260,000 by paying cash of \$100,000 and assuming a pre-existing liability of the seller to a bank (secured by a mortgage on the real property) in the principal amount of \$160,000. On December 31, year 8, when TP's basis in the property was \$260,000 and its fair market value was \$400,000, TP sold the property to Buyer according to the following terms: 1. Buyer paid TP \$75,000 cash at the closing, 2. Buyer assumed the mortgage indebtedness on the property, the principal amount of which at the time of TP's sale was \$50,000, and 3. Buyer executed a promissory note payable to TP in the total principal amount of \$275,000. A principal payment of \$55,000 was due on the anniversary date of the sale in each of the five years following the year of sale. The promissory note required the payment of interest at 5% compounded annually, and the note had a fair market value of \$275,000. TP received the required \$55,000 payment of principal on the note in year 9, and on January 1, year 10, TP transferred the note (entitled to four additional principal payments of \$55,000) to TP's child as a gift. The fair market value of the note on January 1, year 10, was \$220,000.

(a) (3 minutes) Quantify and discuss the year 8 tax consequences to TP according to §453.

(b) (2 minutes) Quantify and discuss the year 9 tax consequences to TP according to §453.

(c) (1 minute) Quantify and discuss the year 10 tax consequences to TP according to §453B.

5 (6 minutes) On December 31, year 1, TP owned unencumbered unimproved real property with an adjusted basis of \$150,000 and a fair market value of \$400,000. On December 31, year 1, TP sold the property to Buyer according to the following terms:

Buyer paid TP \$200,000 cash at the closing.

Buyer executed a promissory note payable to TP in the total principal amount of \$200,000. A principal payment of \$40,000 was due on the anniversary date of the sale in each of the five years following the year of sale. The promissory note required the payment of interest at 5% compounded annually, and the note had a fair market value of \$200,000.

TP received the required \$40,000 payment of principal on the note in year 2, and on January 1, year 3, TP transferred the note (entitled to four additional principal payments of \$40,000 each) to TP's child as a gift. The fair market value of the note on January 1, year 3, was \$160,000.

(a) (3 minutes) Quantify and discuss the year 1 tax consequences to TP according to §453.
(see below for calculation and 2 suggested answers)

(b) (2 minutes) Quantify and discuss the year 2 tax consequences to TP according to §453.
(see below for calculation and 2 suggested answers)

(c) (1 minute) Quantify and discuss the year 3 tax consequences to TP according to §453B.
(see below for calculation and 2 suggested answers)

6 (6 minutes) On December 31, Year 1, TP owned unencumbered unimproved real property with an adjusted basis of \$300,000 and a fair market value of \$750,000. On December 31, Year 1, TP sold the property to Buyer according to the following terms:

1. Buyer paid TP \$430,000 cash at the closing.

2. Buyer executed a promissory note payable to TP in the total principal amount of \$320,000. A principal payment of \$80,000 was due on the anniversary date of the sale in each of the four years following the year of sale. The promissory note required the payment of interest at 6% compounded annually, and the note had a fair market value of \$320,000.

TP received the required \$80,000 payment of principal on the note in Year 2, and on January 1, Year 3, TP transferred the note (entitled to three additional principal payments of \$80,000

each) to TP's child as a gift. The fair market value of the note on January 1, Year 3, was \$240,000.

a) (3 minutes) Quantify and discuss the Year 1 tax consequences to TP according to §453.

b) (2 minutes) Quantify and discuss the Year 2 tax consequences to TP according to §453.

c) (1 minute) Quantify and discuss the Year 3 tax consequences to TP according to §453B.

7 (4 minutes) On June 15, 20B0, TP owned Blackacre, unimproved real property. Blackacre is encumbered by a first mortgage debt in the amount of \$550,000. On June 15, 20B0, TP sold Blackacre to Buyer (an unrelated person). Buyer (1) pays \$300,000 cash to TP, (2) assumes the \$550,000 first mortgage indebtedness, and (3) issues to TP a promissory obligation. The obligation is a nonnegotiable promissory note of Buyer in the principal amount of \$150,000. The principal of Buyer's note is due in the amount of \$30,000 (plus interest) on December 31 of each of years 20B0 through and including 20B4. All payments are made when due. TP's adjusted basis in Blackacre on June 15, 20B0, was \$325,000. State the amount of TP's gross profit pursuant to §453 with respect to the sale on June 15, 20B0.

8 (1 minute) Same facts as Question 7. State the amount of TP's total contract price pursuant to §453.

9 (1 minute) Same facts as Question 7. State the amount of payments to TP in the year of sale pursuant to §453.

10 (1 minute) Same facts as Question 7. State the amount of TP's §453B(b) adjusted basis in the installment obligation as of January 1, 20C1.

11 (3 minutes) TP purchased a principal residence on January 1 of the current year at a cost of \$1,800,000. TP paid \$200,000 down and obtained a purchase money first mortgage loan (secured by the residence) from a bank in the principal amount of \$1,600,000. As of January 1, state the total principal amount of the first mortgage indebtedness as to which interest is deductible, assuming that TP is married, files a joint return with Spouse, and neither TP nor Spouse owns another residence). On June 1 of the current year, TP has reduced the principal amount of the first mortgage debt on the residence to \$1,500,000. The fair market value of the residence on June 1 is \$2,100,000. On June 1, TP borrows \$500,000 from a bank, and the debt is secured by a second mortgage on the residence. TP expends \$300,000 of the second

mortgage loan proceeds to add a game room to the residence, and the other \$200,000 to purchase a boat used for recreation. Discuss the amount, if any, as of June 1, of the principal amount of the second mortgage loan as to which interest is deductible.)

12 (2 minutes) Explain generally (without discussing the technical operation of any particular Internal Revenue Code provision/s) (1) what the nonrecognition provisions of the Internal Revenue Code are designed to accomplish and (2) how they operate.

13 (2 minutes) TP's salary as an employee is \$200,000 per year, and TP receives \$10,000 of interest income from investment property (a portfolio of corporate debt instruments). TP is a limited partner in Partnership 123 (interests in which are not traded on an established securities market and are not readily traded on a secondary market or the substantial equivalent thereof) that owns and leases tanker ships, and TP's distributive share of the partnership loss for the current taxable year is \$50,000. Discuss and quantify the amount of the distributive share of the Partnership 123 loss that TP will be allowed to deduct (assuming that TP has a sufficient amount of adjusted basis in the partnership interest).

14 (3 minutes) In 2010, TP and Spouse purchased for \$400,000 (paid in cash) a residence as TP's and Spouse's principal residence. TP and Spouse own and occupy the property as their principal residence until they sell the property on October 1, 2025, for \$950,000. Neither TP nor Spouse has ever owned another residence. Explain the amount of the gain recognized with respect to the sale of the residence in 2025 if TP and Spouse file a joint return for 2025.

15 (2 minutes) TP owns Blackacre (unimproved property). TP held Blackacre as an investment for over five years. On June 1, 2022, TP sold Blackacre to his sister, B, for \$100,000. At the time of the sale, the gross fair market value of Blackacre was \$100,000 and TP's adjusted basis in Blackacre was \$120,000. Blackacre was not encumbered. On December 1, 2025, B sold Blackacre to an unrelated party for \$150,000 which was its gross fair market value on the date of that sale.

a. Quantify the amount of gain or loss recognized by B on the December 1 sale.

b. Same facts except that B sold Blackacre for \$60,000 (which was its gross fair market value for the purposes of this question). Quantify the gain or loss recognized by B on the December 1 sale.

16 (16 minutes) TP and B agree to exchange unimproved real properties that are encumbered by mortgage debts. Both properties were held for investment. In the exchange transaction, TP's mortgage debts are assumed by B, and B's mortgage debts are assumed by TP. B will also pay TP \$10,000 cash as part of the exchange. The gross fair market value of B's property is \$300,000. B's adjusted basis is \$90,000. The property is encumbered by a \$90,000 mortgage debt leaving net equity in the property of \$210,000. The gross fair market value of TP's property is \$240,000. TP's adjusted basis in the property is \$140,000. The property is encumbered by a \$20,000 mortgage debt leaving net equity in the property of \$220,000. Provide the following tax consequences of the exchange:

Gain or loss recognized by TP.

TP's basis in TP's acquired property.

Gain or loss recognized by B. B's basis in B's acquired property.

Estates and Trusts

1 (3 minutes) Explain the concept of "portability" with respect to the federal estate tax "unified" or "applicable" credit of a married decedent.

2 (2 minutes) TP died on March 8, Year 2. On April 11, Year 2, the estate of TP filed a Form 4868, Application for Automatic Extension of Time to File U.S. Individual Income Tax Return, with respect to TP's Federal income tax for Year 1. On May 1, Year 2, a Form 1040, U.S. Individual Income Tax Return, for Year 1 was filed for TP reflecting an overpayment of \$X.

On December 13, Year 2, the estate filed a Form 706, United States Estate (and Generation Skipping Transfer) Tax Return. The Year 1 Federal income tax refund due TP was not included in the value of the gross estate. On April 15, Year 3, a Form 1040 for Year 2 was filed for TP reflecting an overpayment of \$Y.

Discuss whether amounts \$X and \$Y are properly includible in TP's gross estate for federal estate tax purposes.

FEDERAL TAX COMPUTATIONS REVIEW

Depreciation (Based on 2016 S-13 through S-16)

On January 1, 2025, TP purchased, for \$2,000,000 cash, and placed in service new machinery exclusively for use in TP's business activity. The equipment is purchased from the manufacturer, who is unrelated to TP. This is the only purchase of Section 179 property made by TP during 2025. The equipment has a §168(i)(1) class life of six (6) years. TP expects to use the equipment for nine (9) years, and TP estimates that the equipment will have a salvage value of \$550,000 at the end of the period of use. Assume the property qualifies under §168(b)(1) and ignore §168(b)(1)(B).

(a) State the maximum amount of the §179 deduction allowable in 2025, ignoring §179(b)(3) and §179(b)(6).

(b) State the amount of §168(k) depreciation allowable in 2025.

(c) State the amount of §168(a) depreciation allowable in 2025, assuming the maximum §179 deduction in 2025 from (a) and ignoring §168(k).

(d) State the amount of §168(a) depreciation allowable in 2026, assuming the maximum §179 deduction in 2025 from (a) and ignoring §168(k).

Corporation Distributions (Based on 2016 S-29)

The taxable year is 2025, during which Ponderosa Corp., a calendar year taxpayer, has §316 current earnings and profits from operations of \$300,000. As of December 31, 2024, Ponderosa Corp. had §316 accumulated earnings and profits of \$300,000. The stock of Ponderosa Corp. is owned equally by B, Inc. ("B"), a corporation, and TP, an individual. TP's adjusted basis in TP's 2,000 shares of stock of Ponderosa Corp. is \$100,000. B's adjusted basis in its 2,000 shares of stock of Ponderosa Corp. is \$350,000.

On December 31, 2025, Ponderosa Corp. makes the following non-liquidating distributions that are characterized as dividends for state law purposes:

Distributee Shareholder	Property Received	Fair Market Value	Adjusted Basis to Ponderosa Corp.
TP	Cash	\$300,000	\$300,000
TP	Inventory	\$300,000	\$350,000
B	Cash	\$400,000	\$400,000
B	Wagon Corp. Stock	\$200,000	\$50,000

(a) Discuss and quantify the gain and loss recognition consequences to Ponderosa Corp. that result from the 2025 distributions.

(b) Determine the §301 consequences to TP of the 2025 distributions from Ponderosa Corp. and determine TP's adjusted basis in the inventory and Ponderosa Corp. stock.

(c) Determine the §301 consequences to B of the 2025 distributions from Ponderosa Corp. and determine B's adjusted basis in the stock of Wagon Corp. and Ponderosa Corp.

Corporation Formation (Based on 2012 S-19)

On January 1, 2025, D, E, and F organize DEF Corporation (which is not and will not be an "investment company" under §351(e)). The following transfers were made to the corporation:

Transferor	Property	FMV	Adjusted Basis to Transferor
D	Cash	\$100,000	\$200,000
E	Equipment	\$110,000	\$0
F	Unimproved real property	\$120,000	\$80,000

E's equipment had been purchased in 2021 for use in E's trade or business at a cost of \$300,000, and because of depreciation, the adjusted basis had been reduced to \$0 on January

1, 2025. The unimproved real property had been held by F as an investment since F's acquisition of the property in 2014.

In exchange for the contributions of D, E, and F, the corporation issues common stock: 100 shares to D, 100 to E, and 100 shares to F. The fair market value of the stock is \$1,000 per share; the common stock is the only class of stock authorized and outstanding. In addition to the 100 shares of stock, E receives \$10,000 in cash and F receives from DEF Corporation \$10,000 of cash, and a 1-year note from DEF Corporation in the amount of \$10,000 at 6% interest. The DEF note has a fair market value equal to the face amount of the note.

(a) Determine E's gain realized, E's gain recognized, and the character of any gain recognized by E.

(b) Determine F's gain realized, F's gain recognized, and the character of any gain recognized by F.

(c) Determine F's adjusted basis in the DEF Corporation stock received.

(d) Determine the amount of gain recognized by DEF Corporation.

(e) Determine the adjusted basis of DEF Corporation in the real property received from F.

- (f) Determine the adjusted basis of DEF Corporation in the equipment received from E.

Installment Sale (Based on 2016 S-3)

On December 31, Year 1, TP owned unimproved real property with an adjusted basis of \$400,000 and a fair market value of \$800,000 encumbered by a mortgage of \$200,000 that was originally incurred to buy the property. On December 31, Year 1, TP sold the property to Buyer according to the following terms:

1. Buyer paid TP \$200,000 cash at the closing.
2. Buyer executed a promissory note payable to TP in the total principal amount of \$400,000. A principal payment of \$100,000 was due on the anniversary date of the sale in each of the four years following the year of sale. The promissory note required the payment of interest at 3% compounded annually, and the note had a fair market value of \$600,000.
3. Buyer assumed the \$200,000 mortgage.

TP received the required \$100,000 payment of principal on the note in Year 2, and on January 1, Year 3, TP transferred the note (entitled to three additional principal payments of \$100,000 each) to TP's child as a gift. The fair market value of the note on January 1, Year 3, was \$300,000.

- (a) Quantify and discuss the Year 1 tax consequences to TP according to §453.

- (b) Quantify and discuss the Year 2 tax consequences to TP according to §453.

- (c) Quantify and discuss the Year 3 tax consequences to TP according to §453B.

(d) If TP is a C corporation, quantify the effect on TP's earnings and profits in year 1 on account of the sale of Blackacre.

Property Sale (Based on 2018 S-15)

In 2016, TP, who is unmarried, purchased a principal residence. To acquire the property, TP (1) paid \$200,000 cash at the closing (2) assumed a preexisting first mortgage debt secured by the property in the principal amount of \$100,000 (for which TP became personally liable), and (3) executed a second mortgage indebtedness (for which TP was personally liable) to the seller in the principal amount of \$400,000.

In 2025, TP received an offer from Buyer to buy the principal residence, and TP accepted the offer. Buyer (1) paid \$500,000 cash, (2) took subject to the first mortgage debt in the principal amount of \$75,000 (TP had paid down the principal amount from \$100,000 to \$75,000), and (3) assumed the second mortgage debt in the principal amount of \$350,000 (TP had paid down the principal amount from \$400,000 to \$350,000).

(a) Quantify TP's adjusted basis in the residence at the time of acquisition in 2016.

(b) Quantify TP's amount realized and any gain or loss recognized upon the sale of the property to Buyer in 2025.

§1031 Exchange (Based on 2021 S-10)

TP and B exchange unimproved real properties that are encumbered by mortgage debts. In the exchange transaction, TP's mortgage debts are assumed by B, and B's mortgage debts are assumed by TP. The gross fair market value of B's property is \$200,000, its adjusted basis is \$140,000, and it is encumbered by a \$60,000 mortgage debt leaving a net equity of \$140,000. The gross fair market value of TP's property is \$210,000, its adjusted basis is \$150,000, and it is encumbered by a \$70,000 mortgage debt leaving a net equity of \$140,000. Discuss and quantify the § 1031 consequences to TP (not B).

FEDERAL TAX – CONCEPT REVIEW 1

- 1) What is true about bonus depreciation? Mark all that apply
 - a) It is optional and taxpayers can elect out
 - b) It is 40% in 2025
 - c) It is taken before §179 is applied
 - d) It is available before the asset is placed in service
- 2) What is true about class life? Mark all that apply
 - a) Class life is always clearly stated in a Tax Court exam question
 - b) The most commonly tested MACRS info is for 5 year and 7-year property
 - c) Property that is 10 years or more but less than 20 is considered 10-year property
 - d) Property that is 10 years or more but less than 16 is considered 10-year property
- 3) What is true about §179? Mark all that apply
 - a) The 2025 limit is \$1,100,000
 - b) Qualified property does not need to be placed in service in the tax year the §179 is claimed
 - c) The 2025 limit is \$1,250,000
 - d) Qualified property, new or used, must be used in an actively conducted trade or business
- 4) What is true about gifts? Mark all that apply
 - a) The current annual exemption is \$18,000
 - b) The holding period of the donee tacks onto the donor's holding period
 - c) The annual exclusion is only allowed for the present value of gifts.
 - d) The current annual exemption is \$20,000
- 5) What is true about the sale of gift property? Mark all that apply
 - a) If the FMV is equal to or greater than basis on the date of the gift, use the basis when calculating a gain
 - b) If a gift is sold for more than its FMV on the date of the gift, but less than the donor's basis, there is no gain or loss on the transaction
 - c) If the FMV of the gift on the date of the gift is less than the donor's basis, use the FMV for calculating a loss
 - d) Gift tax paid by a donor increases the property's basis in the same ratio as the net appreciation to the value of the gift after accounting for the annual gift exclusion
- 6) What is true about transfers between spouses? Mark all that apply
 - a) They are treated as tax-free exchanges unless subject to an exception
 - b) Under §1041 a transfer is considered related to the end of a marriage if it occurs not more than 6 years after the date the marriage ends and it is made under a divorce or separation instrument
 - c) Under §1041 a transfer is considered incident to a divorce if it occurs within five years after the date the marriage ends, or it is related to the end of the marriage
 - d) The buyer spouse takes a carryover basis even when paying FMV for business property from a sole proprietor spouse

- 7) What is true about alimony under §71? Mark all that apply
- a) It must be paid voluntarily
 - b) It must be paid under a decree of divorce or legal separation agreement or decree of support
 - c) It must be paid in cash and cannot include property settlements
 - d) It generally cannot be paid between parties who are living in the same household
- 8) What is true about calculating gain or loss on the sale of real estate? Mark all that apply
- a) Adjusted basis is the sum of cash acquisition cost, improvements, less depreciation allowed or allowable
 - b) Selling price, or amount realized, includes debt assumed plus cash paid by the buyer
 - c) Realized gain on the sale equals amount realized less adjusted basis
 - d) Realized gain is the same thing as recognized gain
- 9) What is true about §1031 exchanges? Mark all that apply
- a) Under TCJA §1031 only applies to real property
 - b) The property traded must have been held in the taxpayer's trade or business or for investment, and must be traded for property held for productive use in business or investment
 - c) The property traded can include personal property
 - d) If the taxpayer receives money in addition to the property in the exchange, that is taxable boot, and gain is taxable to extent of the money or fair market value of the property received
- 10) What is true about C corporations? Mark all that apply
- a) All C corporations pay 20% tax rate on taxable income
 - b) The C corporation pays tax on its income
 - c) The C corporation shareholder pays tax on income to him or her from the corporation, whether as salary or dividend
 - d) C corporations are allowed to accumulate approximately \$250,000 without paying accumulated earnings tax
- 11) What is true about real estate professional status under §469? Mark all that apply
- a) Real estate pro status must be annually elected by the taxpayer
 - b) To be a real estate pro the TP must perform more than 50% of their personal services in real property trades or businesses in which the TP materially participates and the TP must perform more than 750 hours in those real property trades or services
 - c) The real estate pro can deduct up to \$50,000 in losses against ordinary income
 - d) The real estate pro can rely on post-event guesstimates to prove their 1,000 annual hours
- 12) What is true about installment sales? Mark all that apply
- a) An installment sale exists when the taxpayer receives at least 30% in payments after the year of sale
 - b) The installment sale method can be used to report losses
 - c) A TP can elect out of the installment method by reporting the entire gain in the year of sale
 - d) In an installment sale some or all of the amount received each year is recognized as capital gain and the rest of the payment, if any, is a nontaxable recovery of basis

13) What is true about property valuation for purposes of the estate tax? Mark all that apply

- a) Property includible in an estate is usually valued at its FMV on the date of death
- b) Property includible in an estate is usually valued at the decedent's cost basis
- c) The alternate valuation date, six months after the date of death, can be irrevocably elected only if the estate is a taxable one that will actually pay estate tax, and using the alternate valuation date both reduces the actual tax due and reduces the value of the estate
- d) The alternate valuation date, twelve months after the date of death, can be irrevocably elected only if the estate is a taxable one that will actually pay estate tax, and using the alternate valuation date both reduces the actual tax due and reduces the value of the estate

14) What is true about portability AKA DSUE? Mark all that apply

- a) The DSUE is the lesser of the basic exclusion amount, or the deceased spouse's applicable exclusion amount, minus any amount of that exclusion that was used to avoid estate or gift tax
- b) The decedent can use the DSUE from multiple predeceased spouses
- c) The decedent may use the unused exclusion of his or her 'last spouse to die'
- d) The DSUE is lost if the surviving spouse remarries

LEGAL ETHICS – QUESTIONS IN CLASS

2023/LE-6 (2 points/2 minutes). G, a sole practitioner, has volunteered to attend a Tax Court calendar call program sponsored by a local bar association. G is asked to speak with Kathy Niketas, who filed a Tax Court petition pro se. G quickly determines that Kathy's issues are substantially beyond her capacity to take on in her small practice, but G is willing to give Kathy general advice about the case, share some thoughts on how and where to search for counsel, and stand up before the Judge in requesting a continuance. Can G limit the scope of her representation as described? Briefly explain your answer.

2021 LE-8 (2 minutes) H and Cora Nelson are lifelong friends, so it was only natural that Nelson asked H to represent her when the IRS disallowed expenses claimed on Nelson's tax return for the costs of mountain climbing equipment. Nelson trusts H's judgment and leaves H to handle Nelson's Tax Court case while Nelson fulfills her dream of climbing Mount Kilimanjaro. Anticipating that Nelson might be unreachable for some period of time, H asks Nelson for authorization to settle her case. Nelson says that she would agree without further discussion to a deficiency of no more than \$3,000. After Nelson flies to Tanzania, where she is "off the grid" for several weeks, H receives an offer from IRS counsel to settle the case for substantially less than Nelson's number. Can H agree to settle and sign the stipulation of settled issues? Briefly explain your answer.

2012/LE-6 (3 minutes) Same facts as LE-5 except that, as E is prepping Ludders for her testimony, Ludders reveals to E that she did not actually purchase a computer and that her receipt for a purchase of a computer was fraudulently prepared by a friend who works at the computer store. Ludders indicates that she intends to testify that she purchased the computer. May E disclose to the court that Ludders did not purchase the computer? Briefly explain your answer.

2023/LE-1 (3 points/3 minutes). A prepared Kelly Hansen's Form 1040, including related forms and schedules, for 2019. Kelly thought she had provided A with all of the tax

documents that she had received or collected. Correspondence from the IRS, however, indicated that Kelly's return omitted a substantial distribution from her retirement account. A notice of deficiency was issued reflecting a deficiency resulting from the missing amount and a section 6662 accuracy-related penalty. Kelly promptly paid the tax deficiency, and A prepared a Tax Court petition asserting that Kelly's reliance on A to prepare her return satisfied the reasonable cause and good faith defense to the penalty. Can A represent Kelly in the Tax Court proceeding? Briefly explain your answer.

2023/LE-3 (3 points/3 minutes). C represented business owner Jerome Bacchus for many years. C has had no relationship with Jerome's ex-wife, Patricia, who has never been involved in Jerome's business and who earned no income during the marriage. When Jerome and Patricia got divorced, C assisted Jerome in gathering legal documents pertaining to the business for Jerome to provide to his divorce lawyer. At the time, Jerome confided in C that he had a substantial amount of cash in a safe deposit box. C, therefore, suspected that some of the couple's joint income tax returns may not have been accurate, but C never discussed these concerns with Jerome. Jerome and Patricia recently received a notice of deficiency for a joint return that they had filed prior to their divorce. Can C represent the couple in a Tax Court proceeding? Briefly explain your answer

2018 LE-7 (3 minutes) F's firm regularly provides tax counsel to Celia Ross, the chief executive of a successful company that Ross founded several years ago. F designed a tax strategy meant to generate liquidity for Ross without triggering a taxable event. The strategy involved using stock as collateral for a nonrecourse loan. F's firm prepared the documentation for the transaction and also prepared Ross's tax returns for years affected by the transaction. The IRS subsequently audited Ross and asserted that the loan was actually a sale, resulting in the realization of gain and disallowance of interest expense deductions. Ross received a notice of deficiency. Can F represent Ross in the Tax Court proceeding with respect to the deficiency, assuming that there would be no need to call F as a witness? Briefly explain your answer.

2021 LE-3 (2 minutes) C, a sole practitioner, has represented Ruben Emmy since the commencement of Emmy's Tax Court proceeding, through trial. Emmy has failed to pay C's bills on a timely basis; by the time the trial ended, Emmy owed C \$40,000 for work C had already completed and billed. Anticipating that preparing a post-trial brief would entail a substantial amount of C's time for which C might not be compensated, C notified Emmy in a letter sent by certified mail that C quit and would neither prepare the brief nor continue to represent Emmy. C's letter, which was respectful in tone and explained C's position in some detail, requested that Emmy indicate his consent to the withdrawal by signing and returning the letter to C. Has C's representation of Emmy ended? Briefly explain your answer. What additional action, if any, must C take to withdraw?

2021 LE-7 (2 minutes) On April 25, 2020, when Randal Austin filed his federal income tax return for 2019, Austin's Social Security card contained the following legend: "Not Valid for Employment." A Social Security card without the legend was issued to him in November 2020. Austin subsequently received a notice of deficiency disallowing the earned income credit (EIC) claimed on his 2019 return. G, an attorney, explained that Internal Revenue Code §32(m) requires a Social Security Number valid for employment to be issued on or before the due date for filing a return in order to receive the EIC and because Austin did not have such a number when his 2019 return was due, his credit was denied. Both G and Austin believe that the law is unfair. G, however, believes that the IRS applied the law correctly in Austin's case. Can G file a petition in Tax Court challenging the deficiency on the basis that the law is unfair?

2023/LE-8 (2 points/2 minutes). After filing a Collection Due Process Tax Court petition two days after the deadline, Patrick Murtaza hired K to represent him in the proceeding. Patrick told K that he had mailed the petition before the filing deadline, but the discovery of white powder in his local post office had forced an immediate closure of the building for several days and Patrick's petition was stuck inside. K explained these facts in a Response to Respondent's Motion to Dismiss for Lack of Jurisdiction, which was denied. Celebrating together, Patrick told K that his story was a lie; he had filed the petition late because he had forgotten about the deadline. May K reveal that her Response contained and relied upon misstatements of fact? What action, if any, should K take? Briefly explain your answer.

2023/LE-2 (3 points/3 minutes). Sharon Wisniewski has asked B to represent her in a Tax Court proceeding involving a charitable contribution deduction for a conservation easement donation. B understands that the notice of deficiency is based on Sharon's failure to comply with certain requirements set forth in regulations under I.R.C. § 170. B plans to argue that the regulations are invalid, as was decided by the Eleventh Circuit Court of Appeals, which is the Circuit Court to which Sharon's Tax Court case would be appealable. Can B rely solely on the Eleventh Circuit case, or must B's submission also discuss precedent from the Sixth Circuit Court of Appeals, which has taken a position at odds with the Eleventh Circuit? Briefly explain your answer.

2021 LE-9 (3 minutes) J represents Ruth Freeman, a resident of New York City, in a Tax Court proceeding. The Second Circuit Court of Appeals, which has jurisdiction with respect to Tax Court cases appealed by New York residents, has not ruled on the issue in Freeman's case. Other Circuit Courts of Appeals have weighed in on the issue, however. Their opinions directly support Freeman's arguments. Two months after J submits a post-trial brief in Freeman's case, the Second Circuit Court of Appeals issues a decision that is not directly on point but arguably is adverse to the other Circuit Courts' views and to a position taken in the brief. Is J required to notify the Tax Court of the decision? Briefly explain your answer. Does your answer depend on whether Freeman's proceeding is a small ("S") case, which is not appealable?

2023/LE-5 (3 points/3 minutes). E is a partner in the law firm of Moe, Larry & Curly. Several years ago, E represented Homescape, Inc. in an employment dispute with Adam Juniper. The matter was settled by the parties, and Adam then started his own unrelated business. Homescape is no longer a client of E or his firm. Adam recently asked E's law partner, F, to represent Adam in a Tax Court proceeding pertaining to expenses reported on the Schedule C for Adam's business. Can F accept the representation? Explain your answer.

2023/LE-4 (3 points/3 minutes). Divorced couple Denis and Ilana Karina have chosen to be represented by separate counsel in a Tax Court proceeding involving their (pre-divorce) joint income tax return. D represents Ilana, who insists that D seek information about the couple's expenses directly from Denis, who paid all of the couple's bills during their marriage. Denis calls D at Ilana's request to discuss the case. Is it proper for D to accept Denis's phone call? What advice would you give to D? Briefly explain your answer.

2023/LE-9 (3 points/3 minutes). L agreed to represent Sandra Rumena in a Tax Court proceeding. L drafted and filed Sandra's petition. Sandra, however, did not pay even the first installment of L's fees, which she had agreed to pay L for L's services, did not return L's emails and phone calls, and failed to respond to a certified letter that L sent to her. L therefore assumed that Sandra was no longer interested in representation and did not respond to communications from IRS Counsel and the Court. Is it proper for the Court to reprimand L? Briefly explain your answer.

LEGAL ETHICS – CONCEPT REVIEW

1) What is true about counsel and conflicts of interest? Mark all that apply

- a) If the representation of one client is not adverse to another, there is a conflict of interest
- b) If the representation of one client will be directly adverse to another, there is a conflict of interest
- c) If there is a significant risk that representing one or more clients will be materially limited by the attorney's responsibilities to another client, a former client, or a third person or by a personal interest of the attorney, there is a conflict of interest
- d) If there is no significant risk that representing one or more clients will be materially limited by the attorney's responsibilities to another client, a former client, or a third person or by a personal interest of the attorney, there is a conflict of interest

2) What is true about counsel and the duties to a former client? Mark all that apply

- a) A former client is protected only for the first 2 years after the engagement ends
- b) A former client is entitled to nearly the same protections afforded a current client
- c) An attorney who represented a client cannot represent any other client in the same or substantially related matter if that person's interests are materially adverse to the former client's interest unless the former client gives informed written consent
- d) A former client has no protection once the engagement ends

3) What is true about counsel and imputation of conflicts of interest generally? Mark all that apply

- a) While attorneys are associated in a firm, none can knowingly represent client when any one practicing alone would be prohibited from doing so
- b) Attorneys are vicariously bound by the obligation of loyalty owed by each attorney with whom the attorney is associated
- c) When a practitioner terminates an association with the firm, the firm is not prohibited from representing a person with interests that are materially adverse to those of a client represented by the formerly associated attorney unless the matter is the same or substantially related, and any attorney remaining in the firm has protected, material information
- d) Attorneys are only disqualified when the attorney involved has actual knowledge of protected information

- 4) What is true about the duty to a prospective client? Mark all that apply
- a) Any person who discusses the possibility of forming a client-attorney relationship is a prospective client
 - b) There is no duty to a prospective client unless there is a paid engagement
 - c) The duty to a prospective client expires if the attorney is not engaged within 30 days
 - d) Prospective clients are protected by conflict of interest and imputation rules even if the attorney is never engaged to represent
- 5) What is true about the attorney's duty to the Court? Mark all that apply
- a) The attorney must not knowingly misrepresent the law to the Court
 - b) The attorney can argue how the law should be interpreted and applied
 - c) The attorney cannot knowingly make a false statement or fail to correct a false statement of material fact or law previously made by the attorney to the Court, and must disclose adverse legal authority in the controlling jurisdiction
 - d) The attorney can offer false evidence as long as the Court won't find out
- 6) What is true about the attorney's duty to opposing counsel? Mark all that apply
- a) If the attorney did not create opposing counsel's misapprehension, there is no duty to correct it
 - b) Attorneys must speak the truth about a matter once he or she decides to speak about that matter
 - c) Attorneys cannot make frivolous discovery requests or try to block efforts to comply with legally proper discovery requests made by the opposing party
 - d) The attorney must disclose relevant authority in any jurisdiction
- 7) What is true about conflicts of interest among current clients? Mark all that apply
- a) An attorney may represent W in a divorce proceeding at the same time he is representing H in another, unrelated matter
 - b) Before waiving any conflict of interest an attorney must make the client aware of all relevant facts before his or her consent can be obtained, including giving adequate advice about the risks and other implications of the apparently conflict of interest
 - c) Representing both sides in litigation is permissible as long as everyone is aware of the conflict and gives written, informed consent
 - d) Attorneys must never withdraw from a current representation to accept a new client

8) What is true about representing a client if the attorney leaves a firm? Mark all that apply

- a) The attorney can accept a representation that is materially adverse to a client of the firm from which the attorney departed if he or she acquired information relating to the client's representation that is material to the new representation**
- b) The attorney cannot accept a representation that is materially adverse to a client of the firm from which the attorney departed if he or she acquired information relating to the client's representation that is material to the new representation**
- c) A member of the firm from which another attorney left is not prohibited from accepting a representation materially adverse to a client of the departed attorney unless the subject matter is substantially related to that in which the departed attorney acted, and any attorney still in the firm has material information related to the matter**
- d) Imputation rules are designed to protect the attorney**

9) What is true about the Tax Court small case process? Mark all that apply

- a) The amount is generally \$50,000 but may be by year (income tax) or by event (CDP)**
- b) Taxpayer may pay down the deficiency to less than \$50,000 and will be refunded whatever amount is paid down if they win**
- c) Not all cases can be docketed as S cases; if will be held as a regular case if the issue is important or has common issues with other pending cases**
- d) S cases are held with relaxed rules of evidence and informal proceedings as much as possible**

LEGAL ETHICS – TOPIC REVIEW

LE-1A (2 minute/s) Adam devised a transaction designed to save federal income taxes and convinced Nora Lester to enter into the transaction. Adam also prepared all the documentation for the transaction. Lester subsequently was audited and received a notice of deficiency in tax with respect to this transaction, which she intends to contest in Tax Court. Can Adam represent Lester in this proceeding? Briefly explain your answer.

Answers for class review:

- a) Yes, as promoter, Adam can represent with Lester's informed consent.
- b) No, Adam cannot represent because he is going to be a witness.
- c) No, as promoter, Adam is forever barred from representing Lester.
- d) Yes, as promoter Adam can represent if Adam believes he is capable of the representation.

LE-1B (2 minute/s) Adam located the properties that were used to carry out the transaction. If Adam is likely to be called as a potential witness in the deficiency litigation, can Adam represent Lester if he obtains a waiver from Lester? Briefly explain your answer.

Answers for class review:

- a) Yes, as a witness, Adam can represent with Lester's informed consent.
- b) No, Adam cannot represent because he is going to be a witness.
- c) No, as promoter, Adam is forever barred from representing Lester.
- d) Yes, as a witness Adam can represent if Adam believes he is capable of the representation.

LE-2 (2 minute/s) Betty represents Tran Nguyen in a Tax Court proceeding that would be appealed to the Ninth Circuit. After submitting the brief on behalf of Nguyen, Betty discovers a decision of the Fifth Circuit that is directly contrary to her client's position in this matter. The government's brief fails to mention the case. What action, if any, must Betty take and why?

Answers for class review:

- a) Betty must tell opposing counsel about the case in the Fifth Circuit.
- b) Betty is obligated to tell opposing counsel only about cases adjacent to the Ninth Circuit.
- c) Betty can tell opposing counsel about the case if she wants to be nice about it.
- d) Betty is under no obligation to reveal case because it is in a different circuit.

LE-3 (2 minute/s) Doug represents Marvin Sears in a Tax Court proceeding involving deficiencies with respect to his sole proprietorship. As part of the pre-trial process, the government lawyer offers a settlement. Doug is surprised by the settlement offer and has never discussed with Sears the possibility of settling the case. Doug believes the government's offer should be accepted but Sears is out of the country on vacation. Can Doug agree to and sign the stipulation of settled issues? Briefly explain your answer.

Answers for class review:

- a) Yes, if Doug feels as if the amount represents a good settlement.
- b) No, Marvin hasn't agreed to any settlement parameters so Doug must talk with Marvin before agreeing to the settlement.
- c) Yes, Marvin trusts his counsel to do the right thing.
- d) No, settlements are never encouraged before trial.

LE-4 (2 minute/s) Edward represents George Johnson in a Tax Court proceeding involving deficiencies with respect to his sole proprietorship. Among the items at issue are depreciation and interest deductions for Johnson's new Mercedes S Class. Edward drafted the petition, which stated the Mercedes had been used 100% for business. During a pretrial conversation Edward learns that the Mercedes is actually used by Johnson's wife, who does not work in the business. Johnson drives an old Toyota Corolla about 25% for the business. What action, if any, should Edward take? Briefly explain your answer.

Answers for class review:

- a) Edward must immediately inform the Court.**
- b) Edward should inform Johnson that he can no longer represent him in this matter.**
- c) Edward should inform Johnson that he must correct the false statement, or else Edward will have to inform the Court that there are false statements in the petition.**
- d) Edward's duty is to his client and he must vigorously represent Edward.**

ALL EXAM TOPICS (JULY 2025) REVIEW – ANSWERS

Using Slido App

Open questions – 20 minutes

1 (2 minutes) As applied to Tax Court cases, distinguish the phrase "burden of proof" from the phrase "standard of proof." Do not discuss in this answer which party has the "burden of proof."

2 (3 minutes) Describe how §7502 timely-mailing-is-timely-filing rule works for domestic mail.

3 (2 minutes) Phil Goens has received a notice of deficiency with respect to his 2015 federal income tax return on which he claimed to have no gross income and no income tax liability. Goens is a self-employed van driver, who advertises his hauling services on various websites and apps. He received several Forms 1099-MISC from corporate customers who used his services on multiple occasions during 2015. Goens would like to engage A, a lawyer, to represent him in a Tax Court proceeding with respect to the deficiency. Goens claims that the Internal Revenue Code is not binding law outside the District of Columbia, that he is not a "United States person" or an "individual" or "taxpayer" subject to income tax liability, and that he is a citizen of California rather than the United States. Can A file a petition in Tax Court challenging the deficiency on the basis of Goens's claims? Briefly explain your answer.

4 (4 minute/s) Define and distinguish, for federal income tax purposes, the following doctrines: (1) "constructive receipt" and (2) "cash equivalence."

5 (3 minutes) Explain generally (without discussing the technical operation of any particular Internal Revenue Code provision/s) (1) what the nonrecognition provisions of the Internal Revenue Code are designed to accomplish and (2) how they operate.

6 (6 minutes) Assume that Ed (E) is still on the witness stand. TP's attorney approaches E and shows him a document titled "Exhibit 2." When asked by TP if he recognizes the document, E responds, "Yes I do. It is a document—a yearly earnings statement—that I routinely and contemporaneously prepare and maintain in our company's files. It is a document that reflects the annual earnings in a particular year for our employees. This particular document, Exhibit 2, reflects TP's yearly earnings for the June 2011 (sic)." Based upon this testimony TP seeks to admit the yearly earnings document into evidence. If the IRS objects how should the court rule and why?

Using Slido App

Closed questions – 20 minutes

7 (2 minutes) Discuss the meaning of the phrase "last known address" with respect to a §6212 statutory notice of deficiency.

- a) Last known address is the last address used on an individual's tax return.
- b) Last known address is the last one used on an individual's tax return unless the taxpayer gives clear, usually written notification of a new address to IRS.
- c) As long as a notice of deficiency is mailed to the taxpayer's last known address, it is valid even if the taxpayer never receives it.
- d) Taxpayers can have more than one last known address at a time.

8 (3 minutes) TP is physically present in the United States at all relevant times. On July 6, 2020, the IRS mailed to TP, to an address in the United States, a §6212 notice of deficiency (bearing the date of July 6, 2020), regarding TP's 2017 income tax liability. The notice of deficiency states that the last day on which a Tax Court petition may be filed is October 2, 2020. TP received the notice on July 11, 2020. What is the last day on which TP timely can file a petition with the Court? The attached 2020 calendar may be of use to you.

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
July				1	2	3	4
	5	6	7	8	9	10	11
	12	13	14	15	16	17	18
	19	20	21	22	23	24	25
	26	27	28	29	30	31	
August							1
	2	3	4	5	6	7	8
	9	10	11	12	13	14	15
	16	17	18	19	20	21	22
	23	24	25	26	27	28	29
	30	31					
September			1	2	3	4	5
	6	7	8	9	10	11	12
	13	14	15	16	17	18	19
	20	21	22	23	24	25	26
	27	28	29	30			
October					1	2	3
	4	5	6	7	8	9	10
	11	12	13	14	15	16	17
	18	19	20	21	22	23	24
	25	26	27	28	29	30	31

Holidays in the District of Columbia during the months in the table above are: (1) Friday, July 3, 2020; Monday, September 7, 2020; and Monday, October 12, 2020.

- a) 10/6/20
- b) 10/9/20
- c) 10/2/20
- d) 10/5/20

9 (3 minutes) The IRS asks W on cross-examination the following question: "You just testified a moment ago that you were present during a deposition of Sherrill [in an unrelated case] and that Sherrill testified that Sherrill was TP's federal income tax preparer. What did Sherrill say during Sherrill's deposition with regard to the preparation of TP's 2019 tax return?" TP objects, arguing that, if Sherrill is allowed to testify, Sherrill's testimony would violate the best evidence rule. How should the Court rule on the objection?

- a) Overruled, a witness's personal knowledge is the best evidence to present.
- b) Sustained, the best evidence means the deposition transcript must be used.
- c) Overruled, Sherrill may testify about her memory. The best evidence applies to documents, not personal knowledge.
- d) Sustained, the best evidence rule prevents testimony from another case being used in this case.

10 (3 minutes) The IRS asks W on cross-examination the following question: "I want to direct your attention to 2015 when you were in college at Penn State University. Is it true that you were accused of plagiarism?" TP objects. How should the Court rule on the objection?

- a) Sustained, only a misdemeanor conviction can be used to impeach the witness.
- b) Sustained, unless the IRS has extrinsic proof of the plagiarism claim, this question is improper cross examination
- c) Overruled, prior bad acts can be inquired about in cross examination even if no conviction resulted.
- d) Overruled, prior bad acts can be inquired about in cross examination only if a conviction resulted that was less than 10 years ago. This is an accusation, not a conviction.

11 (4 minutes) In 2015, TP purchased unimproved real property. To acquire the property, TP (1) paid \$50,000 cash at the closing, (2) assumed a preexisting first mortgage debt secured by the property in the principal amount of \$600,000 (for which TP became personally liable), and (3) executed a second mortgage indebtedness (for which TP was personally liable) to the seller in the principal amount of \$100,000.

In 2023, TP received an offer from Buyer to purchase the real property, and TP accepted the offer. Buyer (1) paid \$500,000 cash, (2) took subject to the first mortgage debt in the principal amount of \$200,000 (TP had paid down the principal amount of the debt from \$600,000 to \$200,000), and (3) assumed the second mortgage debt in the principal amount of \$100,000.

Quantify TP's amount realized and any gain or loss realized upon the sale of the property to Buyer in 2023.

- a) Amount realized \$750,000; \$0 gain recognized
- b) Amount realized \$800,000; \$50,000 gain recognized
- c) Amount realized \$850,000; \$75,000 gain recognized
- d) Amount realized \$900,000; \$100,000 gain recognized

12 (3 minutes) Briefly describe the circumstances under which a transfer or transfers to a corporation in exchange for stock of such corporation will be entitled to nonrecognition treatment.

- a) Person or persons must exchange property for stock, and immediately thereafter have control of 50% or more total shares and voting power.
- b) Person or persons must exchange property for stock, and immediately thereafter have control of 60% or more total shares and voting power.
- c) Person or persons must exchange property for stock, and immediately thereafter have control of 75% or more total shares and voting power.
- d) Person or persons must exchange property for stock, and immediately thereafter have control of 80% or more total shares and voting power.

13 (3 minutes, ½ minute each) State the amount that constitutes gross income to TP (without any further explanation) of each of the following items received during 2025 (answer each part below separately).

- a) \$1,000,000 cash received as the winner of the Einstein Prize in Physics awarded by the Einstein Institute. Immediately upon receipt of the payment, TP made a gift of the \$1,000,000 to TP's child.

- a) \$0
- b) \$1,000,000

- b) \$60,000 as a partial payment of the proceeds of a life insurance policy in the face amount of \$500,000 on TP's father who died during the year. Pursuant to the terms of the policy, TP (as beneficiary of the policy) elected to receive a \$60,000 payment in each year for TP's life. TP's life expectancy is 10 years when the payments commence in 2025.

- a) \$0
- b) \$10,000
- c) \$60,000

c) \$5,000 cash found in 2025 in a desk purchased in 2025 at a garage sale. The desk was purchased for \$500 but is actually worth \$15,000 because it is an antique.

- a) \$0
- b) \$5,000
- c) \$15,000

d) On January 1, 2025, TP was injured when the faulty air bags in TP's automobile deployed. TP suffered (1) physical injury to TP's body and (2) emotional distress associated with the physical injuries. TP is awarded a court judgment against the auto manufacturer, and the judgment is paid on December 1, 2025. The damages paid to TP pursuant to the judgment were as follows: (1) \$70,000 compensatory damages for physical injury to the body of TP, (2) \$250,000 punitive damages for physical injury to the body of TP, and (3) \$50,000 compensatory damages for the emotional distress incurred on account of the physical injuries sustained. State the amount of gross income with respect to the \$70,000 compensatory damages for the physical injury to the body.

- a) \$70,000
- b) \$250,000
- c) \$50,000

e) Same facts as d) above. State the amount of gross income with respect to the \$250,000 punitive damages for the physical injury to the body.

- a) \$70,000
- b) \$250,000
- c) \$50,000
- d) \$0

f) Same facts as d) above. State the amount of gross income with respect to the \$50,000 compensatory damages for the emotional distress.

- a) \$70,000
- b) \$250,000
- c) \$50,000

14 (2 minutes) A represents Martha Ballard in a Tax Court proceeding. A has filed a petition and undertaken discovery. The trial is scheduled to begin in two weeks. A has a signed agreement with Ballard that requires Ballard to pay A's fees on a monthly basis, but Ballard has failed to do so for the previous four months. A sends Ballard a letter informing her that A will no longer represent her in the Tax Court proceeding and that A will not appear at the trial. Has A successfully withdrawn from the representation of Ballard? If not, what other steps, if any, must A undertake?

- a) Yes, of course all the attorneys, including the judge, understand and want to see that you get paid
- b) No, A must file a motion with the Court for approval to withdraw and notify opposing counsel. The Court may deny the motion.

15 (2 minutes) E recently attended a Tax Court calendar call as a volunteer (pro bono) attorney and met with a married couple, Rafael and Doris Sandoval. During a brief consultation, E learned that Rafael was, and for several years had been, unemployed and that Doris worked as a public school teacher. The couple has no assets. Based on his assessment of the issues in the case and the couple's financial status, E determined that Rafael should concede the deficiency in full and pursue collection alternatives, while Doris should raise an innocent spouse defense. If Rafael and Doris agree to pursue the approach suggested by E, can E represent both Rafael and Doris — Rafael in conceding the deficiency in Tax Court and then pursuing collection alternatives, and Doris in amending her petition to raise an innocent spouse defense? Briefly explain your answer.

a) Yes, the assertion of possible innocent spouse issues creates a possible adverse position between the taxpayers, but the conflict is easily waived.

b) Yes, E feels certain that E can represent both parties adequately and should be allowed to do proceed.
innocent spouse defense creates materially adverse positions between the taxpayers.

c) This conflict of interest may be waived by informed written consent of both parties, but is still not an ideal.

TAX COURT CASES AS EXAM QUESTIONS

Remember ... they test on their own cases and are most likely to test on regular opinions (noted as __ TC __) or memorandum decisions (noted as TC Memorandum). This is not a law bar exam, and you will not be expected to cite the full case or use a formal IRAC method that looks at the issue, rule, application or conclusion. There simply is not enough time to do so on the exam; you won't want to spend too much time doing something that will not add points to your exam and may keep you from completing another section.

These studies are helpful as they may enable you to look at a fact pattern and understand what the issue is and how to apply the rules.

For Traditional students, there is a webinar on how Reading a Case that was recorded 1/4/25.

WEBINARS/VIDEOS

Available Content

- ✓ 2023 Webinar - Form §1031
- ✓ Evidence - Recorded June 2025
- ✓ §351 & §721 Exchange Overview – Recorded 2/8/25
- ✓ Reading A Case - Recorded 1/4/25
- ✓ A Look at the 2023 Exam - Recorded 12/7/24
- ✓ Getting Started - 2025 Exam Cycle - Recorded 11/1/24
- ✓ Learning Styles Webinar - Recorded 11/12/22
- ✓ Jurisdiction Webinar - Recorded 11/12/22

SELECTED SUPREME COURT AND TAX COURT CASES

A few Supreme Court tax cases are presented along with selected Tax Court TC Opinion and TC Memorandum cases from August 2023 through June 30, 2025. Some of these are likely to appear on the 2025 exam, and others are designed to illustrate important points for your studies.

Selected Supreme Court Cases

When there is a tax-related Supreme Court case, it is highly likely to be tested on the exam.

Comm. v. Zuch

In *Zuch* (2025), the petitioner had a pending collection due process (CDP) hearing case in which they challenged their liability for the amount. The IRS offset a refund from a different year and fully paid the year at issue in the CDP case. The Supreme Court held that the CDP hearing was now moot since the liability had been fully paid and was not subject to levy action; the taxpayers could not continue challenging the liability.

Moore v. U.S.

In *Moore* (2024), the Supreme Court held that the §965 mandatory repatriation tax was constitutional, holding that Congress can tax either the entity or its owners on the undistributed income realized by that entity. Since the foreign corporation realized the income taxed by §965, the majority said the realization question did not have to be answered, and it did not get to the realization question.

Connelly v. U.S.

In *Connelly* (2024), the Supreme Court unanimously held that a corporation's obligation to redeem a deceased shareholder's shares, funded by life insurance proceeds, does not reduce the corporation's value for estate tax purposes. This means the life insurance proceeds are included in the company's value, potentially increasing the estate tax owed.

U.S. v. Boechler

In *Boechler* (2022), the 30-day petition filing deadline for a CDP hearing is subject to equitable tolling 'in appropriate cases'; it is not jurisdictional. While this case occurred in 2022, its effects still reverberate through the Tax Court, so it is essential to know it.

Selected Tax Court Cases, Organized by Topic

5th Amendment

How does the 5th amendment apply to the Tax Court? *Raju Mukhi* (162 TC 8 (4/8/24)) is a CDP case, which wouldn't generally be a TC Opinion case in 2024, but petitioner claimed the settlement office violated petitioner's right to due process under the Fifth Amendment. Petitioner had approximately \$11 million of foreign reporting penalties under §§6038(b) and 6677.

The Fifth Amendment challenge is not a challenge to his underlying tax liability and the Tax Court found there was no violation under §6320 and §6330. Under the 2023 *Farhy* decision, the IRS cannot impose penalties under §6038(b).

NOTE: CDP has been tested previously, so spend a few minutes looking through this case to understand the general procedural issues. There are 2 standards that possibly apply to CDP in the Tax Court: abuse of discretion, or de novo. Know when each applies.

§6015

Is a taxpayer eligible for §6015 relief for an erroneous refund suit? In *Catherine Larosa* (162 TC 2 (7/17/24)) petitioner and her husband received an erroneous refund of statutory interest from IRS. Respondent then prevailed in an erroneous refund suit and attempted to collect the liability. Petitioner-W filed for §6015(f) relief, which was denied. She then filed a petition challenging the denial, and respondent moved to dismiss for lack of jurisdiction.

The Tax Court found that it has jurisdiction to hear the case because filing a timely petition under §6015(f) confers jurisdiction regardless of the merits of the underlying claim for relief. That said, the Court denied the claim because the erroneous refund that consisted only of interest does not give rise to an unpaid tax or a deficiency, and §6015(f) is available only for unpaid taxes or deficiencies.

NOTE: This is a possible jurisdiction question for the next exam. To confer jurisdiction to the Tax Court for §6015 the taxpayer must file a request for relief with the IRS and then file a timely petition with the Tax Court if the IRS denies that relief.

§6751(b)

How does §6751(b) work with a 15 day Letter 692 that proposed deficiencies and penalties under §6662(a) and (b)(2)? In *Wolfgang Frederick Kraske* (161 TC 7 (10/26/23)) petitioner's 2011 and 2012 tax returns were examined by a tax compliance officer (TCO) who issued a 15-

day letter on 6/2/14. Taxpayer filed an appeal to Letter 692 on 7/16/14, which was not received until 7/24/14; supervisory approval for the penalties was obtained on 7/21/14. Petitioner was unable to reach a settlement with appeals, and on 7/28/15 respondent issued a notice of deficiency that included the penalties for both years.

Following the *Golsen* rule (which follows *Laidlaw's Harley Davidson Sales, Inc* in the 9th circuit), supervisory approval was required before assessment of the penalty, or if earlier, before the relevant supervisor loses discretion whether to approve the penalty assessment. §6751(b) approval was timely because it was given before the taxpayer's appeal was received, even though he had mailed the appeal 5 days before the supervisor's signature was obtained.

Is a penalty assessed through Combined Annual Wage Reporting (CAWR) computer program subject to the §6751(b)(1) supervisory approval requirement? In *Piper Trucking & Leasing, LLC* (161 TC 3 (9/14/23)) respondent assessed a §6721(e) penalty for petitioner's failure to file Forms W-2, Wage and Tax Statement, with the Social Security Administration. The assessment occurred without human intervention or supervisory approval. The penalty was 'automatically calculated through electronic means' and no supervisory approval is required.

Capital v. Ordinary Loss

What is required to make a deduction ordinary rather than a capital loss? In *AbbVie Inc. and Subsidiaries* (164 TC 10 (6/17/25)) petitioners paid a \$1.6 billion "break fee" to a foreign public limited company to facilitate work toward a proposed combination. After Treasury released guidance (Notice 2014-52) that was adverse to the tax treatment of the proposed combination, petitioner's board scuttled the plan. On its 2014 tax return, petitioner deducted the fee as an ordinary deduction. Respondent disallowed it under §1234A(1), that it should be treated as a capital loss instead.

Under §162 taxpayers may generally deduct all ordinary and necessary business expenses paid or incurred during the taxable year. Also, as a general rule, taxpayers may deduct any unreimbursed losses sustained during the taxable year under §165(a), which allows a deduction for costs related to abandoned capital transactions. An exception for ordinary losses allows the same favorable outcomes that are available for ordinary and necessary business expenses.

Under §1234A 4 requirements must be met. There must be a gain or loss, that is attributable to the cancellation (lapse, expiration or other termination) of a right or obligation. The terminated right or obligation must be with respect to property. Finally, the property underpinning the terminated right or obligation must currently be (or would be) a capital asset in the hands of the taxpayer.

The Tax Court found that the rights and obligations under the agreement were fundamentally in the nature of services; there was no right or obligation with respect to property within the meaning of the code, so §1234A failed.

NOTE: if you're interested, there is a discussion about tax straddles that begins on page 12; these allow a taxpayer to elect the treatment of certain losses. Due to that concern, Congress enacted §1234A in 1981.

Charitable Contributions

A syndicated conservation easement case with a “painfully familiar” fact pattern ... In *Ranch Springs, LLC, Ranch Springs Investors LLC, Tax Matters Partner* (164 TC 6 (3/31/25)) petitioner claimed a charitable contribution related to a conservation easement on rural land that was zoned A-1 Agricultural (which permitted agricultural and light residential use only). The land was purchased for \$6,500 an acre, but an appraisal valued the land at more than \$236,000 per acre asserting that its highest and best use was limestone mining, which gave the LLC a deduction of more than \$25 million. Not surprisingly, respondent audited the return and disallowed the deduction, and asserted penalties. The Tax Court decided that the income method used by the petitioner's experts, which equated raw land with a “hypothetical limestone business” was erroneous. Petitioners were hit with a 40% gross valuation misstatement penalty because the claimed value of the easement exceeded the correct value by 7,694%.

Mining was not a legally permissible use, so it was not the property's highest and best use.

NOTE: it's not going your way when the judge uses terms like “outrageous overstatement” and “wholly untethered from reality” to describe your methods. The opinion is fairly long, and I wouldn't spend a lot of time on it unless you want to for some reason. This topic has been tested with some frequency so be familiar with what is required for a conservation easement charitable contribution deduction and the associated penalties for failure to do the transaction correctly, including using a supportable value.

Another conservation easement, this time over the exterior of a building in registered historic district in Columbia, SC In *Capitol Places II Owner, LLC, Historic Preservation Fund 2014 LLC, a Partner Other Than the Tax matters Partner* (164 TC 1 (1/2/25)) petitioner failed to establish the building was a “certified historic structure” as required in §170(h)(4) because the building was not listed in the National Register of Historic Places (they tried to get it listed, but remodeling had cost the building important “character-defining features”) and the Secretary of the Interior had not issued a certification of historic significance to the Secretary of the Treasury. Further, the easement deed did not demonstrate a valid conservation purpose under §170(h). The \$23,900,000 charitable contribution was denied.

The case is TC Opinion because it was an opportunity to analyze the requirements of this conservation purpose (“certified historic structure”); any building listed in the National Register constitutes a “certified historic structure.” Petitioner tried to broadly define what it meant to

be listed to make their transaction work, but in fact their building was not so listed, it was merely located in a registered historic district.

The second definition is any building located in a registered historic district and certified by the Secretary of the Interior to the Secretary as being of historic significance to the district. There is a specific process and written application and form to obtain that certification. The petitioner did not take those steps.

What is a qualified appraisal? Charitable contributions for donated art to the Metropolitan Museum of Art in NY fell apart because appraisals were not qualified appraisals done by a qualified appraiser in *WR Art Partnership, LP, Lonicera LLC, Tax Matters Partner* (TC Memo 2025-30 (4/9/25)). A qualified appraisal is done by an individual who “earned an appraisal designation from a recognized professional appraiser organization or has otherwise met minimum education and experience requirements set forth in the regulations prescribed by the Secretary.” § 170(f)(11)(E)(ii)(I). The individual must “regularly perform [] appraisals for which the individual receives compensation” and must meet “such other requirements as may be prescribed by the Secretary in regulations or other guidance.” § 170(f)(11)(E)(ii)(II) and (III). The individual must “demonstrate [] verifiable education and experience in valuing the type of property subject to the appraisal.” § 170(f)(11)(E)(iii)(I).

Collateral Estoppel

Collateral estoppel in the Tax Court ... In *Thomas Miller* (TC Memo 2025-41 (5/5/25)), petitioner entered into a plea agreement admitting to willfully committing an affirmative act to evade or defeat a tax due for 2014 (he owes for 2012-2017) and admitted to additional facts relevant to his 2013 return. Respondent filed a Motion for Partial Summary Judgment contending that petitioner is liable for §6651(f) additions to tax on the grounds of collateral estoppel given the plea agreement. Petitioner failed to file the tax returns; respondent determined the amounts due and filed a notice of deficiency. Through the other plea action, petitioner paid restitution of \$143,456 for 2013 and 2014, which he claims should be reflected in the respondent’s notice of deficiency.

§6651(f) applies to a fraudulent failure to file and increases the §6651(a)(1) penalty to 15% (from 5%) not to exceed 75%. There are 2 elements of fraud: 1) the existence of an underpayment and 2) fraudulent intent with respect to at least part of the underpayment. Respondent relies on petitioner’s criminal conviction under §7201 to establish that some portion of the underpayment was due to fraud, and argues that petitioner is estopped from denying he filed a fraudulent federal tax return.

Remember that collateral estoppel precludes relitigating any issues of fact or law that was actually litigated and necessarily determined by a valid and final judgment. §7201 requires the essence of some deficiency and requires proof of specific intent to defraud so it meets the tests at play in §6651(f).

As to restitution; in criminal tax cases the IRS is considered the victim that restitution is paid to. The IRS will credit restitution payments that the taxpayer makes against his civil tax liability, but the IRS must separately determine and assess the civil tax liability before it can do so. The purpose of the IRS actions in the Court now are to determine the civil tax liabilities for the years at issue, which will ensure petitioner's restitution payments re properly applied against the liabilities.

Collection Due Process

Is the 30 day period to request a CDP hearing under §6320(a)(3)(B) fixed, or should it be equitably tolled? In *Organic Cannabis Foundation, LLC* (161 TC 4 (9/27/23)) petitioner filed a petition for a year that was not included in the notice of determination because the request for the CDP hearing was not timely.

The 30 day period is subject to equitable tolling where the circumstances warrant it; Appeals has authority under §6320 to hold hearings when the taxpayer files a request after the 30-day period, and the Treasury regulations do not preclude application of the doctrine of equitable tolling to the 30-day period.

NOTE: This is a reviewed opinion, with concurring and dissenting (in part) opinions, which makes it likely to be tested.

Are FBAR penalties subject to the requirements of §§6320 and 6330? *Stephen C Jenner and Judy A Jenner* (162 TC 7 (10/22/24)) had FBAR penalties assessed against them for an alleged failure to timely file foreign bank account reports relating to 2005-2009. They were informed that funds would be withheld against their monthly Social Security benefits to satisfy their debts and they requested a CDP hearing. That request was denied by respondent because FBAR penalties are not taxes and therefore do not qualify for CDP. Petitioners filed a petition alleging they were denied their CDP rights.

FBAR penalties are authorized and imposed by Title 31, Money and Finance. Each US person is required to keep records and file reports when they make a transaction or maintain a relation for any person with a foreign financial agency using Financial Crimes Network (FinCEN) Form 114, Report of Foreign Bank and financial Accounts (FBAR).

A necessary component of any determination made relative to §6330 is that it relates to an unpaid tax.

Despite petitioner's arguments that they DID receive a notice of determination that granted them CDP hearing rights, the Tax Court ruled it did not have jurisdiction because FBAR penalties are not taxes. They are not imposed under Title 26, which is specifically mentioned in §6201(a).

NOTE: I wouldn't spend a lot of time understanding Title 31 because that won't be tested, but the question of whether a FBAR penalties are jurisdictional in a CDP hearing in this fashion could easily appear on the exam as a jurisdiction question.

Declaratory Judgment

How does a declaratory judgment voluntary dismissal work in Tax Court petitions? *Students and Academics for Free Expression, Speech and Political Action in Campus Education, Inc* (162 TC 9 (11/26/24)) filed an application for a determination that it qualified as a §501(c)(3) organization, and respondent didn't act within 270 days. Petitioner filed a petition under §7428 for declaratory judgment, and both petitioner and respondent subsequent filed a Joint Motion to Dismiss Case Without Prejudice. SAFE SPACE (petitioner) submitted Form 1023, *Application for Recognition of Exemption ...*, on 6/13/23, and as of 3/18/24 the IRS had not acted on it. On 5/3/24 the parties filed the Motion indicating that the application to IRS was incomplete and thus not processed; the intent is for petitioner to "perfect" the application to complete a full and complete administrative record.

Most of the Court's cases are deficiency cases under §6213 where dismissal, except for lack of jurisdiction, requires generally that the Court sustains the Commissioner's determination. In other cases, such as the one at hand, the Court allows a petition to be voluntarily dismissed or withdrawn. These are consistent with Rule 41(a) of the Federal Rules of Civil Procedure, which the Court can give weight to when its own Rules provide no governing procedure.

The parties agree the case is properly before the Court, but there is not a limited statutory period for filing a petition, and both parties agreed to the motion. Since neither side is prejudiced by the withdrawal, the motion was granted.

Does the Tax Court have discretion to grant motions for voluntary dismissal in nondeficiency cases filed under §7476? In *Joseph E Abe, DDS, Inc* petitioner established a retirement plan for its employees in 1982, which was terminated in 2019. It was selected for audit, originally for 2018 and 2019, but later extended to include 2012 through 2017. Based on that audit, respondent issued a determination letter revoking the plan's qualifications. Petitioner petitioned the Court under §7476 seeking a declaratory judgment. Respondent filed an answer, petitioner moved to dismiss, and respondent did not object to the motion to dismiss.

When the Court grants a motion to dismiss, unless the dismissal is for lack of jurisdiction, §7459 requires the Court to sustain the Commissioner's determination. Taxpayers are not allowed to withdraw a petition in a deficiency redetermination case, but in nondeficiency cases the Court has previously granted taxpayers' motions to dismiss or withdraw petitions. There is no Tax Court rule on motions for voluntary dismissal, so the Court looks to the Federal Rules of Civil Procedure, which permits plaintiffs to voluntarily dismiss a civil action without a court order at the Court's discretion (FRCP 41(a)(2)).

Here respondent does not object to granting petitioner's motion, and the statutory period for refiling a petition has expired; the Court allowed the Motion to Dismiss.

Dependent Issues

Noncustodial mother claimed the kids as specified in their separation and divorce agreement. The kids lived with their father full time. She lost in *Melissa Correll* (TC Memo 2025-31 (4/9/25))

Deadlines for Petition Filing

Petition filing deadline for deficiency cases is jurisdictional. In *Tiffany Lashun Sanders* (161 TC 8, 11/2/23) petitioner filed the petition three days after the 90-day period as extended under §7503 and respondent moved to dismiss for lack of jurisdiction. Appeal lies in the Fourth Circuit, which has not yet issued a precedential published opinion as to whether the 90-day deadline in §6213(a) is jurisdictional.

So yes, it's jurisdictional, and the petition is late, and was dismissed.

NOTE: We'll likely see this occur in all circuits (excepts those where decisions have been made) as the Tax Court continues to hold that the 90 day means 90 days for deficiency cases. The Tax Court affirmed *Hallmark Research Collective*.

Is the 90-day period to petition a case for an employment tax determination under §7436 jurisdictional? Part 2 In *Belagio Fine Jewelry, Inc* (162 TC 11 (6/25/24)) petitioner mailed the petition four days before expiration of the 90-day period to file, but used a non-approved private delivery service (they used Federal Express Saver). The petition was mailed on 11/18/21, but was not received until 11/23/21, one day late. If taxpayer doesn't use an approved delivery service, they cannot use the §7502 timely mailing is timely filing (so called post box rule). Respondent filed a motion to dismiss for lack of jurisdiction. Petitioner objected, arguing that the 90-day deadline is a claim-processing rule. The Court found that the 90-day deadline was not jurisdictional, but reserved judgment on whether the 90-day deadline is subject to equitable tolling.

The Tax Court has jurisdiction over employment tax only if it is related to an employee classification issue. Here petitioner didn't file quarterly employment tax returns for 2016 and 2017. Following an audit respondent determined that petitioner had an employee during that time.

NOTE: Be familiar with the rules under §7436 because this is asked on the exam occasionally. There is no general grant of jurisdiction related to employment tax, but if it comes in with an employee classification case, the Court can also determine the appropriate amount of payroll taxes.

Is the 90-day period to petition a case for an employment tax determination under §7436 jurisdictional?- Part 1 In *Belagio Fine Jewelry, Inc* (164 TC 7 (4/15/25)) petitioner's counsel used FedEx Express Saver four days before expiration of the 90 day deadline to file for redetermination of an employment tax determination under §7436. The attorney says he would have used FedEx Priority Overnight, but his staff chose the other service. The Tax Court previously held that the 90 day deadline to file for redetermination was a nonjurisdictional claim processing rule (*Belagio Fine Jewelry, Inc* (162 TC 243, 250-60 (2024) – see above)), but the court reserved judgment on the question of whether the deadline was subject to equitable tolling until the question was presented in the proper motion.

Petitioner did not file quarterly employment tax returns during 2016 and 2017; following an audit, respondent issued a notice of employment tax determination that petitioner had an employee during the relevant period. Respondent determined employment tax deficiencies plus additional to tax for failure to timely file and timely pay, and penalties for failure to make deposit of taxes. The last day to file a petition was 11/22/21; the petition was mailed on 11/18/21, and arrived at the Tax Court on 11/23/21.

The court found that the deadline is subject to equitable tolling (very few petitions are filed annual for redetermination of employment status, so this does not increase the administrative burden on the Tax Court), but that the circumstances surrounding this particular late filed petition do not warrant equitable tolling. Petitioner did not follow up with its attorney to ensure the attorney timely filed the petition, and there were no extraordinary circumstances outside of its control that prevented it from filing on time. The client bears the risk of his attorney's negligence, and simple negligence on an attorney's behalf does not warrant equitable tolling. Indeed, failure to properly mail a petition is "garden variety negligence."

NOTE: this is a possible exam topic. It's a fairly short opinion and worth your time for the employee classification/employment tax discussion and how equitable tolling applies.

Is the deadline for filing a petition in response to a Notice of Determination for a denial of innocent spouse relief jurisdictional? In *Paul Andrew Frutiger* (162 TC 5 (3/11/24)) petitioner filed an untimely petition and argued that the deadline is not jurisdictional. Respondent sent separate notices of determination to Paul Frutiger and his former wife; she filed a timely petition within 90 days but his petition was filed 92 days. The Court consolidated their cases.

Petitioner acknowledged that his petition was untimely but argued that the Tax Court should hear his case on equitable grounds (the argument was supported by The Center for Taxpayers Rights).

The Tax Court found that the 90-day filing deadline of §6015(e)(1)(A) was jurisdictional.

NOTE: The Tax Court has to evaluate the issue of whether the deadline is jurisdictional or equitable following the supreme Court decision in *Boechler, P.C.* (142 S. Ct 1493 (2022)) where it held that the petition to review a collection due process determination was subject to equitable tolling.

How does the Tax Court evaluate equitable tolling in a CDP case? In *Debra Reed and Timothy Reed* (TC Memo 2025-4 (1/16/25)) petitioners filed the Tax Court petition more than four years after the notice of determination (the 30 day filing period expired 5/28/19 and the petition was filed 6/26/23). They made multiple statements that “might elucidate their delay to filing the Petition outside the 30-day deadline” and alleged longstanding IRS accounting errors stemming from W’s identity theft issues in 2012 and the failure of the IRS to credit garnished amounts against taxes owed. None of their documents indicate any impairments or special circumstances between April 2019 and June 2023.

The Tax Court has the authority to consider a late-filed petition where the Commissioner raised the issue of timeliness as long as the taxpayer shows an entitlement to equitable tolling. That means the taxpayer must establish they pursued their rights “diligently and that extraordinary circumstances outside their control prevented them from filing on time.” Petitioners failed to do that here (although the identity theft, with different facts, might have established a causal link to clear “the high bar” needed to establish equitable tolling).

Brief discussion of equitable tolling ... In *Herbert J Stokey* (TC Memo 2025-44 (5/12/25)) equitable tolling did not apply. He had a little more time because of NY snowstorms, but he was still too late (he said he got the notice of determination, but provided no discussion as to why he received it late). The taxpayer lives in the Third Circuit; under *Golsen*, the *Culp* case is binding Third Circuit precedent, so the Tax Court follows that ruling, which stated that the notice of deficiency deadline is subject to equitable tolling.

Does equitable tolling apply when the refund is barred by statute? In *Paul V. Applegarth* (TC Memo 2024-107 (12/10/24)), petitioner made multiple payments towards his 2014 and 2015 tax year liabilities. Each return was extended to October 15 of the relevant year, and all payments were made on or before the extended filing deadlines. The 2014 return was filed 6/24/19; on 11/21/19 the IRS mailed the Notice of Deficiency for that year. An unsigned 2015 Form 1040 was sent to IRS counsel in March 2022.

The respondent issued separate notices of deficiencies for the 2014 and 2015 tax years (these were consolidated for trial after taxpayer filed separate petitions claiming overpayments for each year). The Tax Court has jurisdiction to determine the amount of tax and the amount of overpayments at issue.

Petitioner did not dispute that the refunds were time barred if the statutory provisions were not subject to equitable tolling.

The interplay between code sections can be a little confusing and you may want to spend time looking at the timing of events when you read this discussion. There is a normal 3-year statute of limitations, which was clearly not met, but petitioner argued that equitable tolling applied.

In *Boechler* the Supreme Court held that equitable tolling applies to the 30-day period for a person to appeal a CDP determination. That does not apply to payments made and the 2014 refund is barred.

For 2015 there is an issue about whether the unsigned return is even a valid tax return (remember the *Beard* test?); the Tax Court found that it was not valid because it was unsigned and it was not submitted to the IRS (only to counsel).

NOTE: This is a possible exam issued because equitable tolling continues to be pushed by some who believe it applies in situations that the Tax Court has yet to agree to.

How does the mandatory 60-day extension of certain tax-related deadlines by reason of a federally declared disaster apply to Tax Court petitions? *Mohamed K Abdo and Fardowsa J Farah* (162 TC 7 (4/2/24)) received a notice of deficiency dated December 2, 2019 with a last date for filing of March 2, 2020. That day was not a Saturday, Sunday, or legal holiday in the District of Columbia. Petitioners mailed the petition on March 17, 2020. On March 31, 2020 the President issued a major disaster declaration to Ohio (where they resided) under the Stafford Act related to the COVID-19 pandemic; the declaration identified the disaster conditions as “beginning on January 20, 2020, and continuing.”

Respondent filed a Motion to Dismiss for Lack of Jurisdiction on the grounds the petition was not timely filed; petitioners argued that §7508A(d) provides a mandatory 60-day extension of certain tax-related deadlines. Final regulations were issued on this code section on June 11, 2021. The parties argued as to how these regulations applied to the facts at hand, but the Court ruled that there is an “unambiguously self-executing postponement period for the filing of a petition with the Court for a redetermination of a deficiency” in §7058A(d), that part of the Treasury regulation was invalid as it applied, and that petitioners were entitled to an automatic extension of time to file the petition. In other words, the Tax Court had jurisdiction because the petition was timely filed.

NOTE: This is a possible jurisdiction exam question. It was an opinion case because it was the first time the Tax Court has interpreted this code section

What happens when a filing location is inaccessible on the date the petition is due? In *Madiodio Sall* (161 TC 13 (11/30/23)) the deadline to file the petition fell on Thanksgiving Day (11/24/23), a federal holiday. The notice of deficiency stated that the last date to file the petition was Friday 11/25/22, the day after Thanksgiving. The Court was administratively closed on that day, although the electronic filing system was operational and accessible at all relevant times. Petitioner mailed the petition on Monday 11/28/22, and it was received by the

Court on Thursday 12/1/22, within 14 days after the Court reopened following the Thanksgiving holiday. Respondent moved to dismiss for lack of jurisdiction because the petition was filed late.

If the filing location is inaccessible on the date a petition is due, the period for filing a petition is tolled for the number of days within the period of inaccessibility, plus 14 days under §7451(b). That statute applies to extend the deadline when there is a full-day closure of the courthouse where the clerk's office is located.

NOTE: This is the court's first opportunity to apply §7451(b) which was added in the Infrastructure Investment and Jobs Act in 2021. Consider it a likely exam question.

Of interest, respondent indicated that petitioner's representative (not counsel of record) did not oppose granting of the respondent's Motion to Dismiss for Lack of Prosecution, so the Court did not order a response from petitioner.

Estates and Trusts

How does a qualified terminable interest property (QTIP) impact gift tax filings in estate planning? *Bruce E McDougall, Donor, Et Al* (163 TC 5 (9/17/24)) and *Peter F McDougall, Donor, Et Al and Linda M Lewis, Donor* mentions the *Anenberg** case that I previously chose not to write a synopsis on because it felt as if it was too complicated an issue for an exam question. However, since this case refers to *Anenberg* and "the qualified terminable interest property (QTIP) regime," and our knowledge that the Tax Court frequently does test on gifts, estates and trusts, I'll try to distill the facts into something useful for your understanding.

FACTS: Upon D's death in 2011 the residuary of her estate passed to a Residuary Trust to which her husband (S) their 2 children (C1 and C2) had remainder interests. S, as trustee, elected to treat this as qualified terminable interest property (QTIP). Her estate was valued at nearly \$60 million at her death. S received the net income at least annually

In 2016, when the value of the assets had more than doubled, those parties entered into an agreement to commute the Residuary Trust and to distribute all assets to S. The parties agreed that the assets could be more effectively used if Bruce held them outright. He promptly sold some of the assets to other trusts established for C1 and C2 (and their children) in exchange for promissory notes.

S, C1 and C2 separately filed Form 709 for 2016, reporting no gift tax because the transactions resulted in offsetting reciprocal gifts. Respondent audited and disagreed with their approach and issued Notices of Deficiency. Petitions were filed.

You can refer to the discussion in *Anenberg* on the marital deduction available for estate tax purposes, the QTIP regime, and the QTIP regime's interaction with the gift tax rules as it was not repeated in this case. I'll summarize a few points here:

- 1) Upon death of a citizen or resident of the US, §2001(a) imposes tax on the taxable estate transferred to the decedent's heirs.
- 2) For years spouses were treated as a single economic unit for estate and gift tax purposes – when one spouse dies, assets passing to the surviving spouse are generally not subject to estate tax because their value may be deducted from the decedent's gross estate via the marital deduction (§2056(a)).
- 3) A qualified terminable interest property (QTIP) regime allows taxpayers to bequeath temporary interests to spouses while still taking advantage of the marital deduction. QTIP rules allow the estate of the decedent who gives a qualifying lifetime property interest to a surviving spouse, often while leaving the remainder interest to the decedent's children, to take the marital deduction for the full value of the QTIP. For those purposes the rules create a "legal fiction" under which the surviving spouse is treated as receiving all of the QTIP which they actually only receive a lifetime income interest. (§2056(b)(7))
- 4) To be QTIP
 - a. The property must pass from the decedent
 - b. The surviving spouse must have qualifying income interest for life in the property
 - c. The executor of the estate of the first spouse to die must make an affirmative election to designate the property as QTIP (§2056(b)(7)(B))

LAW: §2519 provides that any disposition of QTIP interest is treated as a transfer of all interests in the QTIP interest other than the qualifying income interest. But the transfer alone is not sufficient to create a gift tax liability. Under §2501 gift tax applies on the transfer of property by gift during the calendar year.

DECISION: The children received a remainder interest when their mother died that was includible in their estate. They gifted those interests to their father without receiving anything in return. Those are "quintessential gratuitous transfers" therefore subject to gift tax under §2501 and §2511.

The Court was not persuaded by petitioner's arguments that Bruce, Linda and Peter made reciprocal gifts that offset each other. Linda and Peter never received anything of value from Bruce because they already had the remainder rights in the Residuary Trust.

**Estate of Sally J Anenberg, Donor, Deceased, Steven B Anenberg, Executor and Special Administrator (162 TC 9 (5/20/24))*

NOTE: There is a fair amount of discussion on the QTIP Fiction that existed in the *Anenberg* case, but the facts here are different. The children did own something of value in the Residuary Trust.

The decision is reviewed, which typically makes it more likely to appear on an exam. The first 17 pages are the opinion, and the remaining 13 are the remarks of Judge Halpern who concurred in the result, but believed in his alternative analysis.

What is QTIP? In *Estate of Martin W Griffin, Deceased, Christopher Griffin, Executor* (TC Memo 2025-47 (5/19/25)), decedent was survived by his spouse. He created a revocable trust 7 years prior to his death, with an amendment the year before he died that created an irrevocable trust that provided a \$2,000,000 distribution to his spouse, to be paid monthly \$9,000 (adjusted for CPI) plus \$300,000 as a living expense reserve to be distributed over 5 years as determined by the trustee.

After decedent's death Form 706 was timely filed on behalf of the estate, but it did not list any property from the estate as Qualified Terminal Interest Property (it listed a specific bequest to the spouse on Schedule M (all non-QTIP)). Respondent sent a notice of deficiency determining that specific bequests should have been included in the estate and that there was a deficiency of more than \$1 million with an accuracy related penalty.

When computing the amount of a taxable estate the value of property passing from the decedent to his or her surviving spouse is generally deductible. Ordinarily a marital deduction is not allowed for a terminable interest property (one that ends on the lapse of time) passing to the surviving spouse. The purpose of this rule is to deny the marital deduction for transfers between spouses if the transfer is structured to avoid estate tax when the surviving spouse dies.

There is an exception to the terminable interest rule for qualified terminable interest property (QTIP) when the spouse has an income interest only with no control over the ultimate disposition of the property (it passes to the beneficiaries designated by the first spouse to die). To qualify: 1) the property must pass from the decedent, 2) the surviving spouse must have qualifying income interest in the property for life, and 3) the executor of the state of the first spouse to die must make an affirmative election to designate the property as QTIP.

Clearly the estate did not make a valid QTIP election for the \$2,000,000, which is a terminable interest, so it is includible in the estate. The \$300,000 bequest was found to qualify for the marital deduction because it will pass to the spouse's estate upon her death under Kentucky law.

NOTE: The exam often tests estate issues, which is why this synopsis is included. It was tested in 2006, so it is not frequently tested. Do that make it more or less likely to appear in 2025??

Filing Status

What happens if the IRS prepares SFRs showing each spouse as MFS and they want to file jointly? In *Gina Jaha, Petitioner, and Bob Anderson, Petitioner* (consolidated case, TC Memo 2025-26 (3/25/25)) petitioners were married at all relevant times, residing in California (a community property state). Petitioners did not timely file Forms 1040 for the years at issue and the IRS eventually prepared substitutes for return (SFRs), then issued a notice of deficiency for each of them. The NOD reflected the IRS determination that each petitioner's filing status was MFS, and income was allocated to the other spouse under CA community property law.

Their CPA prepared Forms 1040 for 2005 and 2006, which were signed by petitioners and indicated a married filing joint status, but they were never received by the IRS. At a later date, their CPA prepared Forms 1040 for 2007-09, which were signed by the petitioners and filed with an employee in the IRS's Office of Appeals, but they were never forwarded for filing with the IRS. Those returns indicated the petitioners wanted to file jointly.

Married taxpayers can elect to file a joint return for a taxable year, although the right to do so may be limited after either spouse has filed a separate return. After filing a separate return, the joint filing status election is generally prohibited if either spouse has timely filed a petition for redetermination of a deficiency. When the return is an SFR filed the IRS, the taxpayer can still elect joint filing status by filing a joint return with his or her spouse before the case is submitted for decision.

A tax return is deemed filed only if it has been submitted in the manner specified by regulation, or if it is at least eventually received by the appropriate person or office. Individual tax returns must generally be filed with an assigned person in the taxpayer's local IRS office or with a designated service center. Submitting a return to an IRS employee who has not been assigned to receive it, such as an Revenue Agent (RA) or respondent's counsel, is generally insufficient. The record failed to establish that petitioners properly elected joint filing status, so each spouse's filing status was determined to be MFS.

NOTE: There is a discussion about community property, but since it is specific to CA and OR (the actual domicile of each spouse), I doubt it will be tested. I think the filing status discussion is interesting. There were also unreported gross receipts where H transferred income to a trust but put that income on the unfiled tax returns; the court considered it an admission that his gross receipts reported on the returns not submitted for filing, but signed by the taxpayer, indicated that the taxpayer received the amounts reported (they later tried to backtrack the amount of income they should report).

Gross Income

Are grant proceeds intended for businesses impacted by the 9/11/01 terrorist attacks excludable from gross income because they were a gift from a government entity, or because it was a contribution to the corporate capital, or maybe a qualified disaster relief payment? In *CF*

was a contribution to the corporate capital, or maybe a qualified disaster relief payment? In *CF Headquarters Corporation* (164 TC 5 (3/4/25)) petitioner, owned by Cantor Fitzgerald, LP, received a \$3,107,500 cash distribution from a State of New York grant program established to aid businesses affected by the World Trade Center attacks. Nearly 70% of its employees were killed on 9/11 in their offices on floors 101 through 105 of the north tower of the World Trade Center.

Petitioner excluded the amount from gross income; respondent issued a notice of deficiency claiming this was part of gross income, and imposing an accuracy related penalty for an underpayment of tax required to be shown on a return due to a substantial understatement of income tax.

Petitioner had several arguments for making the grant not taxable, and failed at all of them. Transfers of property by a government entity to its constituent as government aid from which the governmental entity expects incidental economic benefits is not a gift under §102. The funds were not given with a detached and disinterested generosity, motivated by affection, respect, admiration, charity or the like.

It is also not working capital under §118 because petitioner did not show that the proceeds became part of working capital and the exclusion does not apply to any money or other property transferred in consideration for goods or services rendered. The transferor must intend for the transfer to qualify as a contribution to capital for it to qualify.

They were not qualified disaster relief payments under §139(a) because that section only applies to individuals and not corporations.

Petitioner was not liable for the accuracy related penalty under §6662(a), because there was substantial authority for petitioner's treatment of the grant proceeds.

NOTE: This is a reviewed decision, which makes it more likely to appear on the exam. It could be a gross income question or a discussion on the taxability of gross income from this source.

Hobby Loss

How does the Tax Court determine if writing and research are §183 or are entered into for profit? In *Robert Dean Mazotti and Debra Lea Jones- Mazotti* (TC Memo 2024-75 (7/25/24)) petitioner-W reported "Writer Researcher" activities on Schedule C for the tax years at issue. She has taken training in technical writing, including writing workshops and various community college courses related to writing, journalism, and photographer. She has other on-the-job training as a technical writer for several employers. She claimed business deductions related to these activities since approximately 1996 or 1997 and first turned a profit in 2022.

Her testimony was inconsistent and books presented as an exhibit were only approximately two pages long. The Tax Court was unable to conclude that petitioner-W offered her books for sale in the tax years at issue.

For 2018 her gross income was \$30 from the writer-researcher activities (\$61,523 in expenses) and \$15 in 2019 (with \$63,019 in expenses). There were numerous trips taken for research for books, articles and scavenger hunts she was creating including California, Florida and Hawaii. Members of the family traveled with her during those trips.

The Tax Court found her testimony to be self-serving and lacking in credibility and candor, and that much of her testimony was implausible.

The factors considered to determine whether an activity is engaged in for profit are in the Treasury regulations. The factors are (1) the manner in which the taxpayer carries on the activity; (2) the expertise of the taxpayer or his advisors; (3) the time and effort expended by the taxpayer in carrying on the activity; (4) the expectation that assets used in the activity may appreciate in value; (5) the success of the taxpayer in carrying on other similar or dissimilar activities; (6) the taxpayer's history of income or losses with respect to the activity; (7) the amount of occasional profits, if any, which are earned from the activity; (8) the financial status of the taxpayer; and (9) elements of personal pleasure or recreation. See Treas. Reg. § 1.183-2(b).

No one factor controls and these factors are nonexclusive – the Tax Court looks at all facts and circumstances, and may give more weight to some factors and less to others. Taxpayer bears the burden of proving the activity was engaged in for profit. Petitioner lost and the Tax Court sustained the negligence penalty determinations.

What does the Tax Court evaluate in a hobby loss case? In *Mark Himmel and Deborah Himmel* (TC Memo 2025-35 (4/17/25)), petitioners showed losses on their Arabian horse activity dating back to at least 1993. The IRS disallowed almost \$870,000 in losses for 2004-09 taxable years.

The discussion on §183 starts on page 12. Petitioners were found not to have an actual and honest objective to operate the activity for profit. They were liable for late filing penalties.

NOTE: this is not a frequently tested topic, but it has been tested in the past, so worth your time if you're not familiar with what makes a hobby not for profit and what factors are evaluated by the Tax Court.

IRA

What is required for an IRA rollover within 60 days? What if the petitioner fails to provide required information on non publicly traded assets? In *Estate of James E. Caan, Deceased, Jacaan Administrative Trust, Scott Caan, Trustee, Special Administrator* (161 TC 6 Corrected (10/18/23)) decedent (D) held 2 IRAs with UBS. D and UBS had a custodial agreement. One of

the IRAs held a partnership interest in a hedge fund; the custodial agreement between D and UBS said that it was D's responsibility to provide UBS with the year end FMV every year. When that did not happen for tax year 2015, UBS notified D that it had distributed that interest to him pursuant to the custodial agreement and issued a 1099-R. D claimed such a distribution did not occur and reported this as a nontaxable rollover contribution under §408(d)(3) on his 2015 tax return. When respondent issued a notice of deficiency (for tax on the reported distribution plus accuracy related penalty), D requested that R issue a PLR to waive the 60-day period for a rollover contribution and filed a petition for redetermination of the deficiency. The interest in the hedge fund was liquidated and the cash proceeds were then contributed to the other IRA.

Some of that gets a little complex, but ultimately the hedge fund interest was held to be distributed, taxable at the value of the hedge fund interest at the time of the distribution, and not counted as a rollover.

IRAs can hold assets like cash, bonds and publicly traded securities, and also alternative assets like non-publicly traded partnerships. When they are non-publicly traded, the IRS requires that the IRA's trustee or custodian report the FMV of the alternative asset annually, valued as of 12/31 of the proceeding year. It was D's responsibility to provide that information.

For a rollover to occur, the taxpayer must contribute the exact same property under §408(d)(3)(A)(i), which did not occur here.

Motion for Reconsideration

How does a Motion for Reconsideration work in the Tax Court? In *Alan Hamel and Estate of Suzanne Hamel, Deceased, Alan Hamel, Special Administrator* (TC Memo 2025-19 (2/25/25)), the Tax Court issued its opinion in the case (*Hamel* (TC Memo 2024-62, 6/3/24)) granting respondent's Motion to Dismiss for Lack of Jurisdiction as to Penalties, granting respondent's Motion for Summary Judgment and denying petitioners' Motion for Summary Judgment. Petitioners filed a Motion for Reconsideration of Findings or Opinion Pursuant to Rule 161 on 7/3/24 seeking reconsideration of *Hamel* on the basis of the Supreme Court decision in *Loper Bright Enterprises* (144 S. Ct 2244 (2024)) which overruled *Chevron, U.S.A.* (467 U.S. 837 (1984)).

Generally, reconsideration is inappropriate to allow "tendering [of] new legal theories," at least when the legal theory could have been raised in a prior proceeding, but "an intervening change in the law can warrant the granting of ... a motion to reconsider."

The so-called *Chevron* test was relied on by the Tax Court and other courts for years. It was a two-part test to interpret statutes administered by federal agencies. The first is the question on whether Congress has directly spoken to the precise question at issue – if Congressional intent is clear, that is the end of the matter. But if the court determines that Congress has not directly addressed the precise question at issue, the court does not simply impose its own

construction on the statute, but the court must evaluate whether the agency's answer is based on a permissible construction of the statute.

In *Loper Bright* the Supreme Court has directed lower courts reviewing agency action to "exercise their independent judgment in deciding whether [the] agency has acted within its statutory authority." *Loper Bright* did not call into question prior cases that relied on the *Chevron* framework – in other words, "mere reliance on *Chevron* cannot constitute a 'special justification' for overruling such a holding."

In *Loper Bright* the Supreme Court found that Congress often enacts statutes that authorize an agency "to exercise a degree of discretion." In this case the Tax Court found that after considering *Loper Bright* there was no reason to alter their previous conclusion. The Supreme Court has noted that federal agencies are required to engage in "reasoned decisionmaking," and that courts "should generally defer to and uphold Treasury regulations which implement a congressional mandate in some reasonable manner." Congress expressly delegated rulemaking authority to Treasury to promulgate by regulation the partnership information required under the Code, and Treasury properly did so.

The original case related to partnership items that impacted petitioners individual tax returns for 1996 and 2001 and related penalties. The court had to decide if §6662 penalties were "determined in a prior TEFRA partnership level proceeding" or time barred because the period of limitations expired (petitioners' argument), which required evaluating the wording in Temporary Treasury Regulation § 301.6231(a)(6)-1T(a)(2). The Tax Court found for respondent on this issue. It gets a little confusing and somewhat technical so I wouldn't worry about why the Tax Court made its decision in 2024 – the issue on the 2025 case is that the Supreme Court made a ruling that potentially changed the way the Tax Court should evaluate that temporary regulation.

The court partially granted petitioners' Motion for Reconsideration but after analysis, reaffirmed *Hamel* and granted respondent's Motion to Dismiss for Lack of Jurisdiction as to Penalties.

NOTE: And yes, this is Suzanne Sommers and her husband, Alan Hamel. She died in 2023, after the petition was filed.

Overpayment

What is the Tax Court's responsibility if petitioner raises an overpayment of an unrelated liability in a CDP case? In *Peoplease, LLC* (TC Memo 2025-14 (2/6/25)) petitioner's CDP relates to more than \$11 million in unpaid Form 941 employment taxes for the period ending December 31, 2021. During the CDP hearing petitioner's representative stated that petitioner submitted Form 941-X related to an Employee Retention Tax Credit which, when accepted, would result in a large refund and resolve the liability for the quarter at issue. The Appeals

Officer contacted the IRS unit that was responsible for handling employee retention claims; additional information was requested of petitioner, but none was forthcoming.

In the court proceedings petitioner requested more time for the IRS to process the employee retention credit, but this collection alternative was not raised with Appeals. The Tax Court does not have authority to consider issues not raised before Appeals, nor does it have jurisdiction to determine an overpayment of an unrelated liability. A mere claim of an overpayment is not an available credit and it cannot be taken into account in a CDP hearing to determine whether the underlying tax at issue remains unpaid.

Partnership

What happens when a partnership does not actually have sufficient assets to pay a potential imputed underpayment when they elect into Bipartisan Budget Act (BBA) procedures? In *SN Worthington Holdings LLC f.k.a. Jacobs West St. Clair Acquisition LLC, MM Worthington, Inc. Tax Matters Partner* (162 TC 10 (5/22/24)) petitioner would normally be subject to the TEFRA partnership audit and litigation procedures. Instead they elected into the BBA procedures, which requires indicating that the partnership has sufficient assets to pay the potential underpayment. Respondent determined that election was invalid because it appeared the partnership did not actually have sufficient assets.

The regulations require the partnership to provide a statement that there are sufficient assets, and do not require that the partnership otherwise establish the assets are sufficient. The Court found that the taxpayer complied with all the requirements to make a regulatory election, and that it was valid.

What is the tax impact of net earnings from self-employment on a limited partner? In *Soroban Capital Partners, LP Soroban Capital Partners GP LLC, Tax Matters Partner* (161 TC 12 (11/28/23)) petitioner, a limited partnership subject to TEFRA, made guaranteed payments and distributed ordinary income to its limited partners. Those distributions were excluded from the computation of net earnings from self-employed (NESE).

Under §1402(a)(13) there is a limited partner exception that excludes from NESE “the distributive share of any item of income or loss of a limited partner.” Those distributions are earnings of an investment nature under the code; the determination of how it applies requires an inquiry into the actual function and role of the limited partner to see if they are truly a limited partner, or one in name only.

NESE is a partnership item, so an inquiry into the functions/roles of the limited partner is a factual determination that properly is before a TEFRA proceeding. Here the guaranteed payments were in exchange for providing services to the partnership. The distributive shares of ordinary business income are the issue; the Court must apply a functional analysis test to make this determination to petitioner’s Motion for Summary Judgment is denied.

NOTE: The definition of “limited partner” is not found in §1402(a)(13) – this is discussed in the case starting on page 7.

Passport Certification

Is the determination of whether a tax debt under §7345(a) is erroneous made on the administrative record, or on the new record made at the Tax Court? In *Alberto Garcia, Jr* (164 TC 8 (5/19/25)) petitioner failed to pay more than \$100,000 in liabilities that were assessed between 2007 and 2010. Respondent filed suit in the federal district court to reduce the liabilities to judgment in 2014, and the district court entered a default judgment against petitioner. In 2022 respondent certified petitioner’s “seriously delinquent tax debt” to the Secretary of State, and petitioner’s petition was filed to challenge the certification.

Petitioner alleges he was never served in the district court action and that the debt is no longer enforceable, so respondent’s certification is erroneous.

This is a case of first impression related to old tax liabilities and the Tax Court’s scope of review on passport cases. On what evidence does the Tax Court determine whether the certification is correct? The statute reads that the scope of review is de novo, which means it is not limited to an administrative record but includes evidence introduced at trial.

The debt must be legally enforceable at the time of the Commissioner’s certification, which cannot be true if the collection statute expired. Usually a tax liability must be collected within ten years of assessment. The Commissioner argues that while the debt was assessed more than 10 years before October 2022, the government has at least another 20 years from the date of the district court judgment to collect the debt.

Petitioner disputes that he was served in the district court suit, and thus the judgment entered in that suit is void. That disputed fact means that respondent is not entitled to summary judgment.

NOTE: This is a reviewed decision on a case of first impression, which increases the likelihood it will be tested even though passport cases have yet to be tested on the exam.

Penalties

What is the status of the IRS’s authority to assess §6038(b)(1) penalties? *Raju J Mukhi* (162 TC 8 (11/18/24)) failed to file Forms 5471, *Information Return of U.S. Persons With Respect to Certain Foreign Corporations*, for his 2002 through 2013 tax years, and the IRS assessed penalties under §6038(b)(1). A levy was proposed and respondent filed a lien notice, for which petitioner filed a CDP hearing. After that hearing respondent issued a notice of determination

that in part sustained the collection actions related to the penalties and petitioner filed his petition.

The penalty for not filing Form 5471 is \$10,000 and the IRS assessed \$120,000 total penalties for not timely filing these forms. Petitioner had other criminal issues before the IRS started its examination of petitioner for civil tax penalties.

This issue is currently in flux. In *Farhy* (160 TC 399, 403-13 (2023)) the Tax Court granted summary judgment in petitioner's favor that respondent lacked authority over the penalty, but the US Court of Appeals for the DC Circuit subsequently reversed that decision and determined that penalty is assessable. Any appeals of this decision would presumptively lie in the Eighth Circuit, which has not yet issued a published precedential opinion.

In *Mukhi* (4/8/24) the Tax Court also held that the IRS lacks authority to assess those penalties, and the respondent filed a motion for reconsideration of this decision, which is what the current case is for.

There is a discussion about reconsideration starting on page 4. Reconsideration is warranted when a subsequent court of appeals decision calls into question the foundation of a prior decision.

The Tax Court again ruled that respondent lacks statutory authority to assess the penalty.

NOTE: Typically, the Tax Court doesn't test on foreign issues, but what's interesting about this is the split that is developing among the circuits, which is why it might be tested.

Remember what the *Golsen* rule is and how it applies to a petitioner? What determines how the Tax Court will rule with a taxpayer in the DC Circuit vs a taxpayer in another circuit, where there is no precedential decision overruling the Tax Court?

It appears the Tax Court will not budge from its position that the IRS lacks authority, and the IRS does not accept that position. I predict it will continue to be litigated. Ultimately it may end up before the Supreme Court, or Congress will make a law, to settle the issue.

Petition Elements

Is an online petition properly signed by typewritten name and the petitioner's contact information? In *Robert Donlan, Jr and Kegan Donlan* (164 TC 3 (2/19/25)) petitioners filed a petition using the Court's online petition generator (DAWSON). Petitions so created don't bear handwritten signatures, but show typewritten name(s) and contact information. Respondent

filed a Motion to Dismiss for Lack of Jurisdiction arguing that the court lacked jurisdiction because the petition was not properly signed.

A person's name on a signature block on a paper that the person authorized to be filed electronically constitutes the person's signature under Tax Court Rule 23(a)(3).

NOTE: I wonder why respondent decided to challenge this issue with this petitioner, but clearly it is a possible exam topic and somewhat silly (in my opinion) to expect a handwritten signature on a petition filed electronically. This is a very short opinion (5 pages) and may be worth a quick read for the discussion of how the petition created online are similar and yet different from a Form 2 petition.

Petition Filing Deadline

How does the mandatory 60-day extension of certain tax-related deadlines by reason of a federally declared disaster apply to Tax Court petitions? *Mohamed K Abdo and Fardowsa J Farah* (162 TC 7 (4/2/24)) received a notice of deficiency dated December 2, 2019 with a last date for filing of March 2, 2020. That day was not a Saturday, Sunday, or legal holiday in the District of Columbia. Petitioners mailed the petition on March 17, 2020. On March 31, 2020 the President issued a major disaster declaration to Ohio (where they resided) under the Stafford Act related to the COVID-19 pandemic; the declaration identified the disaster conditions as "beginning on January 20, 2020, and continuing."

Respondent filed a Motion to Dismiss for Lack of Jurisdiction on the grounds the petition was not timely filed; petitioners argued that §7508A(d) provides a mandatory 60-day extension of certain tax-related deadlines. Final regulations were issued on this code section on June 11, 2021. The parties argued as to how these regulations applied to the facts at hand, but the Court ruled that there is an "unambiguously self-executing postponement period for the filing of a petition with the Court for a redetermination of a deficiency" in §7058A(d), that part of the treasury regulation was invalid as it applied, and that petitioners were entitled to an automatic extension of time to file the petition. In other words, the Tax Court had jurisdiction because the petition was timely filed.

NOTE: This is a possible jurisdiction exam question. It was an opinion case because it was the first time the Tax Court has interpreted this code section

Whistleblower

Does an automatic stay related to a bankruptcy filing apply to a whistleblower case filed by the taxpayer? *John F Carter* (163 TC 6 (10/3/24)) filed a whistleblower claim that was denied by respondent. After filing his Tax Court petition for review of that denial, he filed for bankruptcy, and the IRS filed a claim in that case for unpaid tax he owed for pre-petition years. Petitioner argued that an automatic stay applies to this case.

Generally, a bankruptcy filing triggers an automatic stay of Tax Court proceeds that concern a taxpayer's tax liability. Even though there was an amendment to the bankruptcy code statute, the Tax Court sees no reason to change its interpretation of the statute – the automatic stay applies only if the case before them concerns the tax liability of the debtor-taxpayer. In a whistleblower case, the Tax Court's decision doesn't impact the whistleblower's tax liability even if the claim involves the same transaction and facts as his or her tax liability.

Under §7623(b) the Tax Court has jurisdiction to review the IRS's whistleblower award determinations, but does not have jurisdiction to review or determine the target's tax liability.

The Tax Court ruled no automatic stay applied in this case.

How is a whistleblower claim evaluated in the Tax Court when Appeals reverses the deficiencies? In *Bruce Edward Johnson* (TC Memo 2024-94 (10/17/24)) petitioner started his claim by filing Form 211, *Application for Award for Original Information*, alleging that the target repeatedly violated internal revenue laws. The claim was referred to the Tax Exempt and Government Entities Division and proposed adjustments were made as a result of the examination. The RA also confirmed his reliance on whistleblower information to initiate the examination and to calculate the proposed adjustments. Target did not agree with the proposed adjustments and the case was sent to Appeals.

In Appeals the deficiencies were reversed and additional payments identified in the examination resulted in no changes to the amount of tax owed. Respondent issued a denial letter, which resulted in the petition.

In order for a whistleblower award to be paid, respondent must initiate a judicial or administrative action based on information brought to the Secretary's attention by the whistleblower, and the Secretary must collect proceeds, which did not happen here. The Tax Court can only review the denial using the abuse of discretion standard. The administrative record made it clear the petitioner's information did not lead to the collection of any proceeds from which an award could be made.

Is taxpayer entitled to interest on a mandatory whistleblower award when taxpayer challenges the amount of the award? In *Whistleblower 8391-18W* (161 TC 5 (10/16/23)), the mandatory 22% award was determined appropriate, but petitioner contested the award should be 30%, and that the 22% should be paid while petitioner challenged the remaining 8%, and that interest should be paid, and the sequestration reduction should not be applied.

The case is a little difficult to read, but petitioner contacted Criminal Investigation Division in 2005 making allegations against petitioner's employer, and provided two binders of internal documents related to the tax issue. Approximately one month later, petitioner filed an initial Form 211. There were more claims filed as the whistleblower claim moved through the IRS process. In 2014 the audit team completed Form 11369, *Confidential Evaluation Report on*

Claim for Award, respondent used petitioner's information and proceeds were collected as a result of this action. An award of \$18,084,597.47 was proposed (22% of collected proceeds) but required automatic reductions for sequestration applied. The final determination was sent on 4/2/18, and on 5/3/18 the petitioner timely filed the petition with the Tax Court.

End result: to pay a whistleblower award there must be a final determination against the target, the WBO makes a determination of the award and communicates that with the whistleblower in a determination letter, and all appeals of the determination are final, or the whistleblower has executed a consent form agreeing to WBO's determination and waiving the right to appeal. All appeals are not yet final, so there is no present entitlement to a payment of 22% of the proceeds.

There is no support for interest – it is not in the statute.

Omitted TC Opinion Cases

NOT DONE: Are foreign tax credits for taxes paid or accrued by the lower tier of corporations available even if the partners received no distributions? Foreign issues are generally not tested. *Eaton Corporation and Subsidiaries* 164 TC 4 (2/24/25)

NOT DONE: CDP with a constitutional argument related to the Appointments Clause – opinion references petitioner's "root to branch" theory of causation. It's a 41 page opinion and I doubt it will be tested on the exam but read through it if you're interested. *Charlton C Tooke III* (164 TC 2 (1/29/25))

NOT DONE: Relates to dividends from certain foreign corporations received by US corporation, and changes due to TCJA. Typically, foreign issues aren't tested, and this one deals with foreign tax credits in *Varian Medical Systems, Inc and Subsidiaries* (163 TC 4 (8/26/24)). §245A

NOT DONE: A CDP hearing is not a right when the IRS is required to collect an accepted Canadian revenue claim as it would a US tax assessment for which the taxpayer's right to a CDP hearing (among other rights) has lapsed or been exhausted. There was no jurisdiction because the IRS didn't issue a determination letter. *J.E. Ryckman* (163 TC 3 (8/1/24))

NOT DONE: §1042 election/ESOP failure in *Edward Berman and Ellen Berman*, 163 TC 1 (7/16/24)). Related case is *Annie Berman*

NOT DONE: Feels complicated for an exam question but read through it if helpful for your practice, QTIP election on trust, gifts made, sale of shares of stock for promissory notes in *Estate of Sally J Anenberg, Donor, Deceased, Steven B Anenberg, Executor and Special Administrator* (162 TC 9 (5/20/24)) I later changed my mind and incorporated the discussion with McDougall.

NOT DONE: *YA Global Investments, LP fka Cornell Capital Partners, LP, Yorkville Advisors, GP LLC, Tax Matters Partner and YA Global Investments, LP fka Cornell Capital Partners, LP, Yorkville advisors, LLC, Tax Matters Partner* (161 TC 11 (11/15/23)). Feels complicated - 133 page case, a partnership provided funding to portfolio companies in exchange for stock convertible debentures, promissory notes and warrants. Petitioner did not file Form 8804, Annual Return for Partnership Withholding Tax (Section 1446) because it was advised by its accounting firm that it was not engaged in a US trade or business. Petitioner later filed suit against the accounting firm for professional malpractice and negligence. Other consolidated case: *YA Global Investments, LP, Yorkville Advisors GP, LLC, Tax Matters Partner*

NOT DONE: Controlled foreign corporation/foreign source income – generally not tested. *Liberty Global, Inc.*, 161 TC 10 (11/8/23))

NOT DONE: Variable prepaid forward contracts (VPFCs); doesn't feel as though it will be tested. *Estate of Andrew J McKelvey, Deceased, Bradford G. Peters, Executor* (161 TC 9 (11/2/23))

NOT DONE: Constitutional arguments don't hold up well in the Tax Court; in this passport certification case petitioner claimed she was an "alien foreign national" and exempt from taxation all her life but Commissioner didn't object to the dismissal of petitioner's case, which is what happened in *Zola Jane Pugh* (161 TC 2 (8/154/23)).

STUDYING FOR THE TAX COURT EXAM

Presented by Jeffrey Thompson, MA, MBA, EA, USTCP



Jeff Thompson passed the Tax Court exam on his first attempt in 2023; he signed up for our course in July 2023 and passed the November 2023 exam.

During this special session he'll share valuable study tips with you including how to analyze your progress, set goals, and keep yourself accountable.

STUDYING FOR THE TAX COURT EXAM

10 Tips from the Website

1. Include prior exams in your study materials.
2. Practice making your answers concise.
3. Work with material in different ways! Read, write, hear, and say the information as you study.
4. Use different memory techniques (mnemonics, flash cards, rote memorization, etc....) to help drill key facts into your brain.
5. Be ready for an online exam! Practice typing if necessary.
6. Use study groups if they're helpful to you.
7. Check the Tax Court opinions and read them. It's important to understand important rulings in the exam cycle.
8. Attend a live or remote trial session if possible.
9. Test-taking strategies and time management are critical! Have a plan for exam day!
10. Take one or more prior exams under timed constraints.

8 Tips from the Lecture

1. It's okay to feel a little stressed. It's the hardest test you'll likely ever take in your life; if you weren't a little stressed that would be a bad thing.
2. Remember to ASK: analyze your progress, set goals, keep yourself accountable.
3. You can analyze your progress by determining what level of understanding you are for each topic.
 - Level 1 (no understanding or familiarity) means that you should probably start with the May and July lectures on the topic. Familiarize yourself with the key aspects of the topic and start to build that foundation.
 - Level 2 (some understanding) means that you can start to build on what you already know and identify the issues in your understanding. Are you forgetting key parts of calculations? Confusing code sections? Having trouble remembering all aspects of a specific topic? Go back, study, and then reassess.
 - Level 3 (close to mastery) means that you can talk confidently about the topic. You are likely where you need to be to pass related questions on the exam and can focus on other topics.
4. Make sure that your goals are SMART (specific, measurable, attainable, realistic, time-bound).
5. Create methods of tracking your progress and assessing your growth. Some sample ideas are provided later.

6. **Keep yourself accountable! Remember your reason for taking the test, whether it's higher billable hours, proving your high school bully wrong, or making your lawyer friends jealous.**
7. **Take breaks when necessary but remember that time is limited.**
8. **Be willing to make some sacrifices so that this is the last time you need to take the test and work with the people in your life so that they can support you.**

18 Study Tools (Pick and Choose What Works for You)

1. **Create flashcards with key terms and quiz yourself**
2. **Practice calculations with different numbers**
3. **Take past exams and check your answers against the suggested answers in the text**
4. **Read all the primary sources (Selected IRC Sections, Model Rules, Rules of Practice and Procedure, Federal Rules of Evidence)**
5. **Work in a study group to keep yourself accountable**
6. **Review recorded lectures for material that you're still struggling with**
7. **Write things down multiple times in a notebook (or on a mirror with dry-erase marker)**
8. **Teach what you're learning to other people (including your fellow students)**
9. **Read through the materials provided in this course cover to cover. We usually don't cover every practice quiz during the lectures, so you'll have plenty of quizzes left to take.**
10. **Create mnemonics for lists that are difficult to memorize (or use the ones provided in the class)**
11. **Discuss with other students how they've studied certain things and borrow techniques that have worked for them.**
12. **Use external resources (with caution) for example finding lectures on specific FREs that you are still struggling with on YouTube**
13. **Read Tax Court cases and try to determine how the Court will rule based on the facts presented.**
14. **Rote memorization. Just repeat certain things out loud so they start to sink into your head.**
15. **As you interact with the material, think about how it might be helpful to someone you know. (For example, when working through hearsay, think about your current clients and what information you could present to the court as evidence). Make things interesting!**
16. **Take small breaks during the day to fit in brief study moments or quizzes. (For example, take the dogs on a walk and try to recall all of the requirements of an S corporation election).**

17. Give yourself plenty of time to familiarize yourself with the material before the exam.
You shouldn't be learning new material in October.
18. Create a plan that integrates the above techniques and be flexible when you identify issues in that plan.

And remember, "You can do it!"

Studying for the US Tax Court Exam

A Quick Guide to Analyzing Your Progress, Setting Goals, and Keeping Yourself Accountable

Quick Warning

Don't let this stress you out! The purpose of this hour is to give you tools to make studying easier, not to give you another thing to have to worry about.

We're going to help you keep track of your study progress so that you can make the most of your limited time.

What do you need to ASK Yourself?

- Analyzing Progress
- Setting Goals
- Keeping Yourself Accountable

Analyzing Your Progress

- Level 1 – I'm not familiar with this material (I have no idea what they're talking about).
- Level 2 – I somewhat understand this material (I'm a little shaky on the facts).
- Level 3 – I have reasonable mastery over this material (I can talk your ear off).

You can't solve a problem if you don't know you have a problem

- Identify what level you're at with the material.
- Determine the best course of action to fill in your gaps of knowledge
- Reassess in a week or two to see how close you are
- Repeat as necessary

Level 1 – We all start somewhere

- Do you remember the first time you looked at a Form 1040 or W-2?
- What's a topic that you once struggled with but now understand?
- No one knows everything (but you can learn what you need to pass the exam)

LEVEL 2 – Close to the finish line

- Three reasons why you can get a question wrong:
 1. You didn't understand the call of the question.
 2. You don't understand the material necessary to answer the question.
 3. You ran out of time.
 4. (A grader makes a mistake when scoring your response)

Level 3 – You're ready

How much do you know about the following topics?

- Hearsay
- §6015
- Joinder of Issue
- Conflict of Interest

Setting Goals

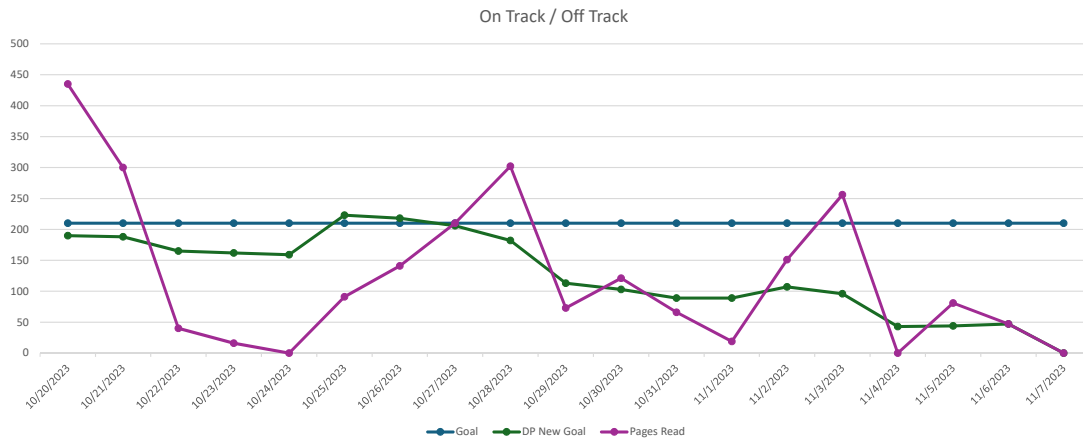
- Are your goals SMART? (Specific, Measurable, Attainable, Realistic, Time-Bound)
 - I want to understand evidence better.
 - I really need to read the rules of practice and procedure.
 - I should take some of the practice tests.
 - I'll take a look at some of the course materials.

Name of Text	Last Page	Current Page	Total	Pages Read
Rules of Pract	350	350	0	287
FRE Casebook	319	319	0	318
Model Rules c	166	166	0	165
Practice and P	128	128	0	124
Federal Tax	168	168	0	114
Evidence Pt 1	54	54	0	30
Evidence Pt 2	75	75	0	74

Legal Ethics	96	96	0	62
Practice and Procedure	338	338	0	210
Federal Tax	341	341	0	58
Evidence	190	190	0	115
May 2023 Handout	83	83	0	82
May 2023 Answers	83	83	0	82
July 2023 Handout	100	100	0	99
July 2023 Answers	100	100	0	99
October 2023 Handout	216	216	0	215
October 2023 Answers	216	216	0	215

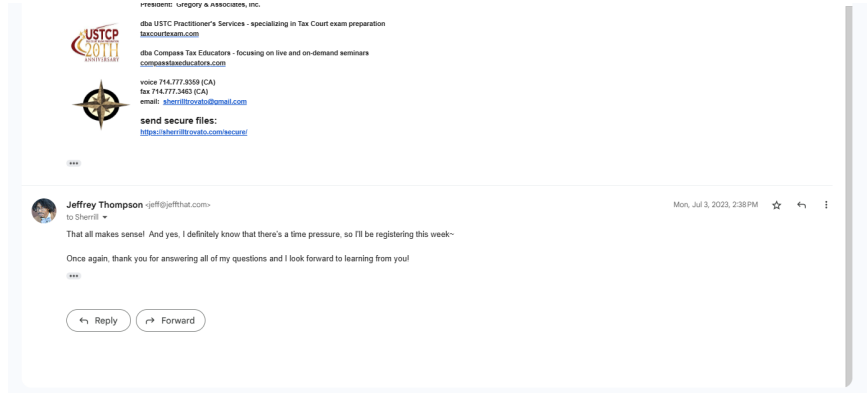
Setting Goals

Setting Goals



Keeping Yourself Accountable

- Why are you doing this?
- When do you need to take a break? When should you be working harder?
- How much time can you spend daily? Weekly?
- Who can you loop in to keep you honest with yourself and support you over the next few months?



You can do it!