

FEDERAL TAX PRACTICE AND PROCEDURE

FINAL EXAM

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PART ONE: Multiple choice (33.3 points)

**Please circle the correct letter next to the correct answer. There is only one answer per question.**

1. Which office of the Internal Revenue Service develops the policies of the Internal Revenue Service:
  - a. The Field Office
  - b. The District Office
  - c. The Federal Office
  - d. The National Office.
  
2. The function of the Office of Chief Counsel is to:
  - a. Defend all actions in United States Tax Court
  - b. Prepare Regulations and Treasury Decisions
  - c. Issue Rulings by corporate tax and individual tax divisions
  - d. Participate with the United States Department of Justice – Tax Division in all courts other than United States Tax Court
  - e. All of the above.
  
3. The Internal Revenue Service will accept the following from a representative before permitting a representative to act on behalf of the taxpayer:
  - a. a duly authorized and complete Form 8821 “Tax Information Authorization”
  - b. a duly authorized and complete Form 2848 “Power of Attorney and Declaration of Representative”
  - c. a duly authorized and complete Form 56 “Notice Concerning Fiduciary Relationship”
  - d. Any of the above
  - e. None of the above.
  
4. If a client tells her attorney that they have been concealing income from the Internal Revenue Service for years and never report certain income on their return the attorney must:
  - a. Immediately inform the Internal Revenue Service of the client’s omissions.
  - b. Advise the client promptly of their obligations under law and of their omissions
  - c. File for a protective order with the United States Tax Court
  - d. File for a protective order with the United States District Court in the District where the returns should have been filed.

5. The Examination Division of the Internal Revenue Service audits returns using all but the following program (which one is not one of their audit programs):
  - a. Unallowable Items Program
  - b. Correspondence Examination
  - c. Office Audit
  - d. Field Examination
  - e. Research Audit
  
6. During the course of an examination of a taxpayer residing in Pennsylvania at the time of the examination but who resided in Delaware at the time the tax returns at issue were filed, the Internal Revenue Service issues a summons to a third party residing in New Hampshire and the third party fails to comply with the summons. Where can the Internal Revenue Service enforce the summons?
  - a. New Hampshire
  - b. Pennsylvania
  - c. Delaware
  - d. All of the above.
  
7. After an audit has been conducted and the case is “unagreed”, and the taxpayer receives a letter from the Internal Revenue Service informing the taxpayer that he or she has thirty days to respond to the letter, the taxpayer may:
  - a. appeal administratively within the Internal Revenue Service
  - b. pay the disputed tax and sue for refund in district court
  - c. immediately file a petition in United States Tax Court
  - d. (a) and (c) above
  - e. (a) and (b) above.
  
8. If a taxpayer fails to respond to a Notice of Deficiency Letter within the applicable time period, the Internal Revenue Service may:
  - a. File a Petition in the United States Tax Court
  - b. Assess the deficiency and begin collection procedures
  - c. File a Claim in United States District Court
  - d. Send a thirty (30) day letter.
  
9. The Internal Revenue Service has assessed a deficiency against the taxpayer and wants to begin collection of the tax. The Internal Revenue Service must:
  - a. Wait ninety days before taking any collection action against the taxpayer
  - b. Send the taxpayer a notice and demand for unpaid taxes within sixty (60) days before taking any collection action.
  - c. Send a Notice of Deficiency to the taxpayer
  - d. Begin the examination process.

10. A federal tax lien remains on the taxpayer's property for what length of time:
- a. The earlier of the tax being paid or 25 years.
  - b. The earlier of the tax being paid or 7 years
  - c. The earlier of the tax being paid or 10 years
  - d. It continues as a liability against the taxpayer until the tax is paid.



4. What are the potential outcomes of an audit?

5. What conditions must exist before a jeopardy assessment may be issued?

6. When a practitioner signs a return as preparer, explain the standard used as to positions taken on a tax return.

7. Under what circumstances will the Internal Revenue Service abate interest and underpayment penalties.

8. Explain when the statute of limitations begins to run in the following circumstances:  
**(6.6 points)**

- a. Taxpayer fails to file a return and the Internal Revenue Service prepares the return.
- b. The Taxpayer fails to file a return and the Internal Revenue Service does not prepare a return.
- c. Taxpayer files a return after receiving a three (3) month extension of time to file.
- d. Taxpayer files a return on the due date with no extensions.
- e. Taxpayer files a return on the due date with no extensions but omits thirty percent (30%) of gross income on the return.
- f. Taxpayer files a return on the due date of the return but overstates the deductions by thirty percent (30%).

9. List the types of information in the possession of the Internal Revenue Service which are available to a taxpayer who has been audited and is attempting to prepare a case for United States District Court. (Do not discuss the exemptions which are irrelevant to the preparation of a case in USDC).

**ESSAYS (33.3 points)**

1. **Please note that this question has two parts.** Explain when the burden of proof under Section 7491 shifts from the taxpayer to the Internal Revenue Service in a court proceeding arising out of an examination once the taxpayer introduces “credible evidence” on any factual issue relevant to ascertaining the taxpayer’s liability for income tax. Also explain the importance or impact this shifting will have on taxpayers.

2. It is today's date. Taxpayer/Client comes to your office and hands you a Notice of Deficiency Letter from the Internal Revenue Service dated April 2, 2000 claiming that Taxpayer owes \$20,000 in Federal Income Tax. Taxpayer is a small business person who is the sole shareholder of an "S" Corporation and therefore she reports all of her income from her business on her individual income tax return. The Notice of Deficiency is related to income from her business for the taxable year ending December 31, 1997. Taxpayer's S Corporation reports its income on a calendar year basis. What will you advise the taxpayer concerning her options.