



Dbriefs U

Tax research quick guide

Extend your knowledge

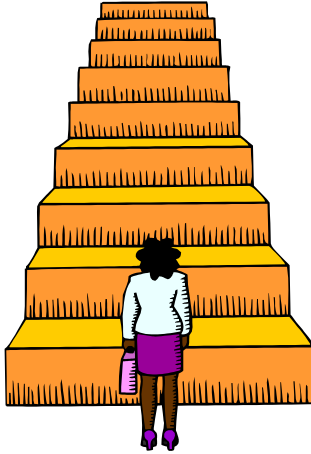
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About this guide

This material was prepared to complement the Dbriefs U webcast *Tax Research – The Foundation Every Tax Professional Builds On*. For questions or more information, visit www.deloitte.com/us/dbriefsu or email dbriefsu@deloitte.com

Steps of Tax Research



Step 1: Determine the critical facts.

Step 2: Determine the issues or questions.

Step 3: Search for and validate the appropriate authority.

Step 4: Analyze and apply the relevant authority.

Step 5: Communicate the results of your research to the internal or external client.

Sources of Judicial and Regulatory Tax Authority

Sources of Judicial and Regulatory Tax Authority	Available Electronically
Action on Decisions (AOD) - A document issued by the National Office litigation functions regarding whether the Service will follow a significant adverse court opinion	IRS – http://www.irs.gov/foia/lists/0,,id=97630,00.html
Chief Counsel Advice (CCA) - CCA materials are written advice or instructions prepared by the Office of Chief Counsel and issued to field or service center employees of the IRS or Office of Chief Counsel. Reference Chief Counsel Advice Training Material for additional information about CCA's. CCA includes Field Service Advice (FSA), technical assistance in the field, service center advice, litigation guideline memorandums, tax litigation bulletins and criminal tax bulletins.	IRS (CCAs) - http://www.irs.gov/foia/lists/0,,id=97705,00.html IRS (CCA Training Material) – http://www.irs.gov/pub/irs-utl/cca_training.pdf Criminal tax, tax litigation bulletins – http://www.irs.gov/foia/lists/0,,id=97720,00.html
Cumulative Bulletin (CB) - The Cumulative Bulletins contain all regulatory and legislative materials publish over a period of time. CB is a semi-annual publication of consolidated weekly Internal Revenue Bulletins.	Available in print and through third party vendors such as: Lexis-Nexis, BNA, and CCH.
Code of Federal Regulations (CFR) - Federal tax regulations that pick from the IRC, by providing the official interpretation of the IRC by the Department of the Treasury.	GPO Access – http://www.gpoaccess.gov/cfr/index.html
Field Service Advice (FSA) - Taxpayer-specific rulings furnished by the IRS National Office in response to requests made by taxpayers and/or Service officials.	IRS - http://www.irs.gov/foia/article/0,,id=103755,00.html
General Council Memorandum (GCM) - General Counsel Memoranda are documents prepared by the Office of the Chief Counsel (CCA documents) that contain the reasons behind the adoption of revenue rulings, private letter rulings, and technical advice memoranda and have important precedent value in determining future tax questions.	IRS – http://www.irs.gov/foia/article/0,,id=103756,00.html
Information Letters - An information letter provides general statements of well-defined law without applying them to a specific set of facts. They are furnished by the IRS National Office in response to requests for general information by taxpayers, by congresspersons on behalf of constituents, or by congresspersons on their own behalf.	IRS – http://www.irs.gov/foia/lists/0,,id=97728,00.html
Internal Revenue Bulletins (IRB) - The authoritative instrument of the IRS for announcing all substantive ruling necessary to promote a uniform application of tax law.	IRS – http://www.irs.gov/irb/ Available in print and through third party vendors such as: Lexis-Nexis, BNA, and CCH.
Internal Revenue Code (IRC) – Two-volume set containing the Internal Revenue Service's tax code. The IRC is Section 26 of the United States Code.	Cornell Univ. Law School (public access) - http://www.law.cornell.edu/uscode/html/uscode26/usc_sup_01_26.html
News Releases and Fact Sheets – IRS Office of Media Relations-published news releases and fact sheets.	IRS archive – http://www.irs.gov/newsroom/article/0,,id=108500,00.html IRS recent releases – Available from link above. Click <i>News Releases</i> in left menu.

Sources of Judicial and Regulatory Tax Authority (Cont.)

<p>Notice – A public announcement containing guidance on a pending regulation. A notice can also serve as a preview of guidance that may not be published in the immediate future.</p>	<p>IRS – http://www.irs.gov/formspubs/lists/0,,id=97819,00.html</p> <p>Regulations.gov- http://www.regulations.gov/search/index.jsp</p>
<p>Opinion of the Attorney General (Op. A.G.) – Documents the Attorney General has directed the Office of Legal Counsel to publish for the convenience of the executive, legislative, and judicial branches of the government, and of the professional bar and the general public.</p>	<p>Office of Legal Counsel – http://www.usdoj.gov/olc/opinions.htm</p>
<p>Private Letter Rulings (PLR) - A private letter ruling is a written statement issued to a taxpayer that interprets and applies tax laws to their specific facts/circumstances. PLR's are usually initiated at the request of the taxpayer and are binding for both the taxpayer and the IRS (assuming that the proposed transaction was accurately detailed). Notably, a PLR is not precedent setting for either the IRS or other taxpayers.</p>	<p>IRS – http://www.irs.gov/govt/tribes/article/0,,id=154944,00.html</p>
<p>Regulations (REGs) - Regulations are issued by the IRS and Treasury, published in the Federal Register, and intended to either A) provide guidance on new legislation, or B) address issues that arise in the current tax code (US). A final regulation or temporary regulation is released as a TD (treasury decision).</p>	<p>GPO – http://www.access.gpo.gov/cgi-bin/cfrassemble.cgi?title=200726</p> <p>Regulations.gov http://www.regulations.gov</p>
<p>Revenue Procedure (Rev. Proc.) - Published in the Internal Revenue Bulletin, revenue procedures set forth the procedures taxpayers and other members of the public must or should follow to comply with the tax laws, such as procedures for filing returns, withholding taxes, calculating certain expenses, entering into agreements with the IRS, etc.</p>	<p>IRS > Internal Revenue Bulletin – http://www.irs.gov/irb/ Can be found using search function on IRS website.</p> <p>Also available through third party vendors such as: Lexis-Nexis, BNA, and CCH.</p>
<p>Revenue Ruling (Rev. Rul.) - Published in the Internal Revenue Bulletin, a revenue ruling is an official interpretation by the IRS of the Internal Revenue Code and related statutes. In essence, a revenue ruling is a statement by the IRS concluding how a law is applied given a specific set of facts. A revenue ruling is the “what,” i.e. taxpayers may deduct certain automobile expenses, and a revenue procedure is the “how”, method for computing/deducting said expenses.</p>	<p>IRS > Internal Revenue Bulletin - http://www.irs.gov/irb/ Can be found using search function on IRS website.</p> <p>Also available through third party vendors such as: Lexis-Nexis, BNA, and CCH.</p>
<p>Technical Advice Memorandum (TAM) - Written memoranda furnished by the National Office of the IRS upon request of a district director or chief appeals officer pursuant to annual review procedures.</p>	<p>IRS – http://www.irs.gov/foia/lists/0,,id=97705,00.html</p>
<p>Treasury Decisions (TD) – General decisions which originate from the Department of Treasury or the Federal Register on specific IRS issues.</p>	<p>Regulations.gov – http://www.regulations.gov/search/index.jsp</p>
<p>U.S. Tax Courts (USTC) – Decisions handed down by the United States Tax Court</p>	<p>Tax Court – http://www.ustaxcourt.gov</p>

Commonly Used Electronic Tax Research Resources

Commercial Tax Publishers:

LexisNexis	www.lexisnexis.com
Bureau of National Affairs (BNA)	www.bna.com
CCH	www.cch.com
RIA	ria.thomson.com
Tax Analysts	www.taxanalysts.com
Westlaw	web2.westlaw.com

Legislative Resources and Taxwriting Committees:

House Ways and Means Committee	waysandmeans.house.gov
Senate Finance Committee	www.senate.gov/~finance/
Joint Committee on Taxation	www.house.gov/jct/
Library of Congress (Thomas)	thomas.loc.gov/

Agencies:

U.S. Department of Treasury	www.ustreas.gov/
Internal Revenue Service (IRS)	www.irs.gov/
Congressional Budget Office (CBO)	www.cbo.gov/
Office of Management and Budget (OMB)	www.whitehouse.gov/omb/
General Accounting Office (GAO)	www.gao.gov/
Government Printing Office (GPO)	www.gpo.gov/

Regulations:

Federal Register	www.gpoaccess.gov/fr/index.html
Code of Federal Regulations	www.gpoaccess.gov/cfr/index.html

Courts and Judicial Resources:

Supreme Court	www.supremecourtus.gov
Tax Court	www.ustaxcourt.gov
First Circuit	pacer.ca1.uscourts.gov/opinions/main.php
Second Circuit	www.ca2.uscourts.gov/
Third Circuit	www.ca3.uscourts.gov/
Fourth Circuit	www.ca4.uscourts.gov/
Fifth Circuit	www.ca5.uscourts.gov
Sixth Circuit	pacer.ca6.uscourts.gov/opinions/main.php
Seventh Circuit	www.ca7.uscourts.gov
Eighth Circuit	www.ca8.uscourts.gov/case/case.htm
Ninth Circuit	www.ca9.uscourts.gov/
Tenth Circuit	www.kscourts.org/ca10
Eleventh Circuit	www.ca11.uscourts.gov/
D.C. Circuit	www.cadc.uscourts.gov
Federal Circuit	www.fedcir.gov
Ct of Federal Claims	www.uscfc.uscourts.gov/
Federal Courts Finder (Emory)	www.law.emory.edu/index.php?id=2997/
Legal Information Institute (Cornell)	supct.law.cornell.edu/supct/

Commonly Used Electronic Tax Research Resources (Cont.)

Miscellaneous:

Multistate Tax Commission www.mtc.gov

Professional Resources

Professional Associations:

ABA (Tax Section) www.abanet.org/tax/pubs/ttl
AICPA www.aicpa.org
NY Bar (Tax Section) www.nysba.org
Tax Council www.thetaxcouncil.org

Think Tanks:

American Enterprise Inst. www.aei.org
Brookings Institution www.brookings.edu
Carnegie Council www.cceia.org
The Cato Institute www.cato.org
Committee for Economic Development www.ced.org

Economic Policy Institute www.epinet.org
The Heritage Foundation www.heritage.org
Hoover Institution www-hoover.stanford.edu
National Taxpayers Union www.ntu.org/main
Progressive Policy Institute www.ppionline.org
RAND Corporation www.rand.org
Tax Foundation taxfoundation.org
Tax Policy Center taxpolicycenter.org
Urban Institute www.urban.org

Boolean Search Techniques

Terms and Connectors

- AND → searches for two search words simultaneously
- OR → looks for either term and is particularly effective when searching for synonyms or related words
- W/N → locates search terms within a certain number (N) of words of each other, [e.g., W/2].
- * → holds the place of one character
- ! → holds the place of an infinite number of characters at the end of the word's root
- w/s – within sentence
- w/p – within paragraph
- w/n – within *n* words
- and – both words or phrases anywhere in document
- or – either word or phrase anywhere in document
- ! – retrieves all suffixes of the root word
- not w/s – not in same sentence
- not w/n – not within *n* words
- w/seg – within the same segment
- at least *n*(search term) – term appears at least *n* times within a document

Sample Citation Formats

Statutory, Regulatory, Legislative

Code: I.R.C. § 302(a)(2)(C).

Regs: Treas. Reg. § 1.302-1(a)(2)(C)

Revenue Ruling: Rev. Rul. 2006-78

Revenue Procedure: Rev. Proc. 2002-12

Letter Ruling/TAM: PLR 199943574 / TAM 199943574

Gen Counsel Memo: GCM 54245 (May 1, 2006)

House Rpt: H.R. Rep. No. 73-704 (1934).

Senate Rpt: S. Rep. No. 109-21 (2006)

Conference Report: H.R. Rep. No. 99-841, pt. 2, at 139 (1986) (Conf. Rep).

Judicial

Tax Court Memo:

- Smith v. Comm’r, T.C. Memo 1996-50 or
- Smith v. Comm’r, 54 TCM 432 (1996)

Tax Court

- Smith v. Comm’r, 43 T.C. 121 (1996)

District Court

- Smith v. United States, 32 F. Supp 2d 343 (E.D. Pa 2005)

Claims Court

- Smith v. United States, 159 Ct. Cl. 343 (2005)

Federal Circuit

- Smith v. United States, 323 F.3d 323 (3rd Cir. 2005)

Supreme Court

Smith v. Comm’r, 454 U.S. 543 (1999)

Best Practices for Communicating Research Results

- Critical that all correspondence be written clearly and concisely
 - Use an easy to read format – use indentations, bullets, and numbering and listing of items, if appropriate. Use spaces between your paragraphs and some type of highlight (underline, caps, bold, etc.) to show where each section (Facts, Issue, etc.) begins.
 - Proper Grammar, Spelling, & Punctuation are important
 - Don't use extra words – keep your writing simple and on topic
- Citations to controlling tax authority should be appropriately referenced in the document and all citations should follow proper citation format
- Issues to be addressed and scope of our work must be very specifically discussed in the communication
- If you have multiple issues, clearly identify where one stops and another starts
- Be sure to address all relevant authorities in the analysis section. It is best to put these into your own words rather than quote or copy them. If you find no cases or regs on an issue, be sure to state this in your memo, otherwise it appears as though you did not complete your research.
- Do not ignore an authority when it is or seems opposite to your conclusion. You should state why you have determined that it does not apply to the situation at hand.
- Consider the consequences of a IRC section applying or not applying to a situation (e.g. if you concluded that §351 does not apply to the situation, what are the tax consequences?)
- Watch for “domino” effects – when one issue interacts with a second and the second interacts with a third, etc.
- Anticipate questions that the client might have about the situation and address them.
- Be sure to discuss enough of each relevant case and IRS ruling so the reader can determine that the case is on point to your issue and why it is included in the memo. However, don't go into more than you need.
- Sometimes in performing tax research you will find out something that you did not think was originally important about your facts or your issue – be sure that your facts and/or issue cover this item.
 - For example, in researching whether your client's hot tub is a deductible medical expense, you find some cases that held that the costs of a lavish pool were not a deductible medical expense. After finding the line of cases on “lavish” expenditures, you now know that the cost of the hot tub is important. Failure to discuss this fact would make your memo incomplete.
- Cases should be discussed using the past tense since they occurred in the past.
 - Incorrect – “In Revenue Ruling 73-173, the IRS states that ...”
 - Correct – “In Revenue Ruling 73-173, the IRS stated that ...”
- The text in the various tax services (such as RIA and CCH) is written by the editors of these publishing companies and is not primary authority. Therefore, do not cite to the edited text of a tax service. Instead, use it for background information to help you better understand a topic and to find primary authority.
- Quotes should be used rarely. Instead, put the passage into your own words. When a reader/reviewer sees sentences in quotes that could have been better explained in the writer's own words, it might lead the reader to believe that the writer did not fully understand the original passage so decided to quote it verbatim.

Common Tax Memorandum Mistakes

- ✓ Failure to obtain a thorough understanding of the facts of the case.
- ✓ Failure to clearly identify the tax issues and show how those issues are related to the client's situation and objective.
- ✓ Failure to conduct adequate tax research to identify the law applicable to the tax issues faced by the client.
- ✓ Failure to validate authority to insure the law is still binding (e.g., Shepardizing).
- ✓ Failure to apply the tax law to the client's situation and provide conclusions that are accurate and helpful.
- ✓ Failure to show in the memo that the conclusions are based on the tax laws that has been identified.
- ✓ Use of faulty terminology:
 - IRS Code
 - Court issued regulations
 - Congress issued regulations
- ✓ Failure to go beyond simply providing bad news. i.e., "the plan won't work." Instead, provide suggestions on possible alternative approaches that should be considered because they may provide better tax results.
- ✓ Failure to proofread the memo, resulting in:
 - Misspelled words
 - Poor sentence structure (including sentences that are too long)
 - Grammatical mistakes.



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