

# A Primer on Virginia and Federal Tax Research Sources



by David H. Mason

Benjamin Franklin wrote to Jean Baptiste Le Roy in 1789, “In this world, nothing can be said to be certain, except death and taxes.” For many researchers facing a tax question, there may be a great deal of uncertainty and death might sound like as much fun. Although the prospect of performing tax research may seem daunting, the process really isn’t all that intimidating. Tax research is relatively simple and in many ways is the same as research in any other area of the law. Researchers may find more looseleaf services, more administrative pronouncements and more current awareness materials than in many other areas of the law, but the basic primary and secondary sources are much the same. The large number of looseleaf services, current awareness materials and administrative pronouncements may make the research process easier.

## Statutory and Legislative History Research

The power of Congress to collect taxes on income was created by the Sixteenth Amendment ratified in 1913, making taxes an even greater certainty than in Ben

Franklin’s day. The good news is that even with the most earth scorching statutory and legislative history research, there are only 90 years for researchers to cover. More good news is that the current version of the Internal Revenue Code was enacted in 1986. For most practical purposes, tax statutory and legislative history research seldom goes back farther than 1986.

### The Code

Federal tax legislation is codified in Title 26 of the *U.S. Code*. Annotated versions appear in the two unofficial commercial versions of the *U.S. Code*, the *United States Code Service (U.S.C.S.*, published by LexisNexis) and the *United States Code Annotated (U.S.C.A.*, published by West). The Research Institute of America (RIA) and Commerce Clearing House (CCH) publish relatively inexpensive semi-annual paperback versions of the Internal Revenue Code. These additions are used most frequently by tax practitioners. The

Internal Revenue Code can also be found on WESTLAW at FTX-USCA and on LEXIS at FEDTAX; IRCODE. The Internal Revenue Code is available on the Internet at sites linking to the *U.S. Code*, such as Cornell’s Web site, where Title 26 can be found at [www4.law.cornell.edu/uscode/26/](http://www4.law.cornell.edu/uscode/26/).

### Legislative History

Legislative history research can be as painful as having wisdom teeth removed. Although researchers can use traditional sources of legislative history such as *United States Code Congressional and Administrative News*, legislative history research for tax is made remarkably simple by one resource, *Tax Management Primary Sources*. It is comprised of five series—each covering a different time period. Within each series, materials helpful in determining legislative intent are arranged by code section. Typical materials in *Primary Sources* include excerpts from House and Senate reports, conference reports, presidential documents and Treasury studies. The coverage of the five series is as follows: Series I, 1969–1975; Series II, 1976–1977; Series III, 1978–1980; Series IV, 1981–1986 and Series V,

1987–present. *Primary Sources* can fill most tax legislative history needs. For those rare instances where legislative history is needed beyond the coverage of *Primary Sources*, *Seidman's Legislative History of the Federal Income and Excess Profit Tax Laws, 1953-1939* and *Seidman's Legislative History of Federal Income Tax Laws, 1938 -1861* are useful. Tax legislative history can also be found on LEXIS at FEDTAX; LEGIS and on WESTLAW in the LH database.

### Regulations

IRS regulations are in Title 26 of the *Code of Federal Regulations*. The IRS issues temporary and final regulations as Treasury Decisions. Each Treasury Decision is numbered. The number relates to the order in which the Treasury Decision was issued and has no relevance to the *Code* section to which it applies. Proposed regulations are not issued as a Treasury Decision, but as a Notice of Proposed Rulemaking. Final regulations, as Treasury Decisions, are published in the *Internal Revenue Bulletin* and *Cumulative Bulletin*, in looseleaf services and in current awareness materials such as *Tax Analysts Highlights and Documents* and the *Daily Tax Report*. IRS regulations are also available on WESTLAW at FTX-TD, FTX-REG and FTX-CFR and on LEXIS at FEDTAX;REGS.

### Court Decisions

Five courts have jurisdiction over disputes between taxpayers and the IRS. Federal tax cases are tried in either the United States Tax Court, the United States District Court or the United States Court of Federal Claims. Tax cases can be appealed to the United States Court of Appeals and to the United States Supreme Court.

#### United States Tax Court

The United States Tax Court is the main court for trying tax disputes. Because tax

court judges specialize in tax, the tax court is a better forum for trying more technical tax issues. Taxpayers appearing before the tax court are not required to pay the disputed tax before the case is tried, but they are required to pay interest on the disputed tax if they lose. Jury trials are not available in the tax court. The tax court issues regular and memorandum decisions. Regular decisions involve unusual or new points of law. Memorandum decisions deal with established points of law and interpretation of fact situations.

The *Tax Court of the United States Reports* (1942–1969) and the *Reports of the United States Tax Court* (1970–present) are the official reporters for the United States Tax Court for regular decisions. There is no official reporter for memorandum decisions. The *Tax Court Reporter* (CCH) reprints both regular and memorandum decisions.

The tax court's Web site at [www.ustaxcourt.gov](http://www.ustaxcourt.gov) includes regular and memorandum decisions, beginning January 1, 1999 and summary opinions, beginning January 1, 2001. Docket information is available for cases filed on or after May 1, 1986. Regular and memorandum Tax Court decisions are available on WESTLAW at FTX-TCT. On LEXIS regular decisions are available at FEDTAX; TC and memorandum decisions are available at FEDTAX;TCM.

From 1926 to 1942, the tax court was known as the Board of Tax Appeals. The Board of Tax Appeals also issued both regular and memorandum decisions. The official reporter for the Board of Tax Appeals was the *Reports of the United States Board of Tax Appeals*. Both regular and memorandum decisions of the Board of Tax Appeals are available on WESTLAW at FTX-TCT and on LEXIS at FEDTAX;BTA.

#### U. S. District Courts and Court of Federal Claims

Along with all other disputes governed by the United States Code, the U. S. District Court hears tax disputes and it is the only court where the taxpayer may request a jury trial. The disputed tax must be paid in advance and suit is brought as a suit for refund. Tax cases can also be filed in the Court of Federal Claims. As with the district court, the taxpayer must pay the tax in advance. Unlike the district court, the taxpayer has no right to a jury.

Standard research tools such as the *Federal Digest* can be used to locate tax decisions, but using a looseleaf service such as the *Standard Federal Tax Reporter* or the *United States Tax Report* is usually more effective. Tax cases from all federal courts can be found on WESTLAW at FTX-CASES and on LEXIS at FEDTAX;CASES.

### Internal Revenue Service Materials

The mission of the IRS is to “. . . provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities and by applying the tax law with integrity and fairness to all.” The Internal Revenue Service issues a number of documents and pronouncements interpreting and implementing the Internal Revenue Code. Some are published officially by the IRS in the weekly *Internal Revenue Bulletin* and reprinted annually in the *Cumulative Bulletin*. Others are not officially published, have no precedential value and are available only in unofficial sources such as looseleaf services and online services. Materials published in the *Internal Revenue Bulletin* and the *Cumulative Bulletin* from 1996 forward are available on the IRS Web site at [www.irs.gov](http://www.irs.gov). The following is an overview of the some of the most common forms of guidance issued by the IRS.

### Revenue Rulings

Revenue Rulings are official declarations stating the views of the IRS on how the tax law applies to a specific fact situation and have precedential value for taxpayers with similar fact situations. Revenue Rulings are numbered chronologically: Rev. Rul. 2003-10 is the tenth Revenue Ruling issued in 2003. The pre-2000 format for a Revenue Ruling cite is Rev. Rul. 99-10. Revenue Rulings are published in the *Internal Revenue Bulletin*, the *Internal Revenue Cumulative Bulletin*, looseleaf services and current awareness periodicals such as the *Daily Tax Report* and *Tax Analysts' Highlights and Documents*. Revenue Rulings are also available on WESTLAW at FTX-RR and on LEXIS at FEDTAX; CB.

### Revenue Procedures

Revenue Procedures are statements made by the IRS concerning internal practices and procedures that affect the rights or duties of taxpayers and they may also be issued to publish information that should be public knowledge. While a Revenue Ruling states an IRS position, a Revenue Procedure is more instructional in nature. Revenue Procedures are numbered in the same way as Revenue Rulings. Rev. Proc. 2003-15 is the fifteenth Revenue Procedure issued in 2003. Revenue Procedures are also published in the *Internal Revenue Bulletin*, the *Internal Revenue Cumulative Bulletin*, looseleaf services and current awareness materials. Revenue Procedures can be found on WESTLAW at FTX-RP and on LEXIS at FEDTAX; CB.

### Private Letter Rulings

A Private Letter Ruling (PLR) is a written statement issued to a single taxpayer interpreting and applying the tax laws to that taxpayer's specific fact situation. The ruling applies only to the taxpayer who is the subject of the Private Letter Ruling. Private

Letter Rulings are similar to Revenue Rulings, but have no precedential value pursuant to 26 USC 6110(k)(c). They are not officially published and are heavily redacted and they are private. The name of the taxpayer and other identifying information does not appear. Letter Rulings are available on the IRS Web site beginning with 1999. They are also available on WESTLAW at FTX-PLR and on LEXIS at FEDTAX; PLR.

### Technical Advice Memorandum

Technical Advice Memoranda (TAMs) are guidance documents provided by the Office of the chief counsel to a district director or area director. They are drafted in response to questions or requests for guidance that develop during a proceeding. A TAM typically responds to a procedural or technical issue arising during the examination of a taxpayer's return or claim for refund. A TAM addresses issues that are covered in previously published authority such as a regulation, Revenue Ruling or other precedent. A TAM has no precedential value pursuant to 26 USC 6110(k)(C) and like a PLR, is heavily redacted so that the taxpayer cannot be identified. Technical Advice Memoranda are available on WESTLAW at FTX-TAM and on LEXIS at FEDTAX;PLR.

### General Counsel Memoranda

General Counsel Memoranda or GCMs are issued by the office of the chief general counsel of the IRS in connection with the review of other proposed IRS issuances or pronouncements. A GCM explains the authority and rationale behind a Revenue Ruling, Letter Ruling or Technical Advice Memorandum. GCMs have no precedential authority, but are useful in determining the intent behind IRS positions. General Counsel Memoranda are available on WESTLAW at FTX-GCM and on LEXIS at FEDTAX; GCM.

## Looseleaf Services

Few areas of the law have as much looseleaf coverage as tax practice. The most comprehensive are the *Standard Federal Tax Reporter* (CCH), the *United States Tax Reporter* (RIA) and the *Federal Tax Coordinator 2d* (RIA). The granddaddy of all looseleaf services is Commerce Clearing House's *Standard Federal Tax Reporter*, first published in 1913. It was the first looseleaf service and remains one of the most popular tax publications. The Research Institute of America has a comparable service, the *United States Tax Reporter*. These services are alike and somewhat similar to annotated codes. They are arranged by code sections and include references to cases, regulations, revenue rulings and procedures, letter rulings and other IRS pronouncements. They also include explanations and analyses.

The *Federal Tax Coordinator 2d*, published by the Research Institute of America, is another popular tax looseleaf service. It is arranged by subject matter instead of by code section and covers income, estate, gift and excise taxes

*Tax Management Portfolios*, published by the Bureau of National Affairs (BNA), are popular with tax practitioners. *Tax Management Portfolios* are divided into four topics: U.S. income, estates gift and trusts, foreign income and multistate. There are several hundred *Tax Management Portfolios* providing detailed analyses of fairly narrow topics in tax law. Each portfolio includes sample forms, planning documents and references to other sources. *Tax Management Portfolios* are available on LEXIS at FEDTAX;TMPORT.

## State Tax Sources

Both Commerce Clearing House and the Research Institute of America have state

tax reporters for each state. State tax reporters from both CCH and RIA are available as electronic products. The CCH state tax reporters are available in print to those who have established subscriptions, but not to new subscribers. Both the CCH and RIA state tax reporters share features such as primary source materials including statutes, regulations, administrative rulings and releases, court decisions and attorney general opinions. They also include detailed explanations and analyses. Coverage includes all aspects of state taxation including personal and corporate income, sales and use, property, gross receipts, estate and gift, motor fuels and tobacco and alcoholic beverage.

The Virginia Department of Taxation's Web site at [www.tax.state.va.us](http://www.tax.state.va.us) offers a Tax Policy Library that contains resources useful to Virginia's tax researchers. The Tax Policy Library includes the Virginia tax code, regulations, legislative summaries, tax commissioner rulings and tax bulletins, with substantial depth of coverage. The tax bulletins database dates back to 1979.

The Web site offers several search options. A researcher can search by number, using a code section, an administrative code section, a tax bulletin number, a public document number for legislative summaries, or a tax commissioner's ruling number. A "quick search" option allows a researcher to use a word or two to search the entire Web site. The final search option is the "advanced search," which uses the same search engine researchers have become accustomed to using when searching the Virginia General Assembly's Web site.

In addition to the three general search options, a researcher can search by document type, such as by "Legislative Summaries" or "Tax Bulletins;" by tax type, such as "Aircraft Sales and Use Tax" or "Writ Taxes;" or by topic, such as "Accounting Periods and Methods" or

"Withholding of Tax." Other states have comparable information available on the Web sites for their departments of taxation.

## Tax Forms and Publications

If there is one thing that the IRS has done to make the lives of all taxpayers easier, it is making tax forms and publications available on its Web site. Forms and publications can be found at [www.irs.gov/formspubs/index.html](http://www.irs.gov/formspubs/index.html). IRS publications are also available on WESTLAW at FTX-IRSPUBS and FTX-IRSPUBS-OLD, which include retired publications back to 1984 and on LEXIS at FEDTAX;TNT PUB. Most state tax forms are also available on the Internet. Virginia tax forms can be found at [www.tax.state.va.us](http://www.tax.state.va.us).

## Statistical Information

The IRS Web site at [www.irs.gov](http://www.irs.gov) has a wealth of statistical information in the Tax Stats section relating to collections, refunds, number of returns filed, and criminal enforcement activities. There are approximately 30 years of data. Among the statistics are the projected gross tax collections for fiscal year 2003 and the number of IRS employees. The projected gross tax collections for fiscal year 2003 is estimated at \$2,305,560,000 and some loose change and there are approximately 100,000 IRS employees to make that happen. That's a level of tax certainty that even Mr. Franklin could not have imagined. ☺

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