Research and Rescue: online aid for tax practitioners

Presented on behalf of NAEA by
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Circular 230 § 10.22
Diligence as to accuracy

(a) In general. A practitioner must exercise due diligence —

(1) In preparing or assisting in the preparation of, approving, and filing tax returns, documents, affidavits, and other papers relating to Internal Revenue Service matters;
Circular 230 § 10.22
Diligence as to accuracy

(2) In determining the correctness of oral or written representations made by the practitioner to the Department of the Treasury; and

(3) In determining the correctness of oral or written representations made by the practitioner to clients with reference to any matter administered by the Internal Revenue Service.
IRS expects you to follow “best practice”

Establish the facts, determine which facts are relevant, evaluate reasonableness of any assumptions or representations,

Relate the applicable law (including potentially applicable judicial doctrines) to the relevant facts, and
IRS expects you to follow “best practice”

Once you establish the facts and relate the applicable law:

- Arrive at a conclusion supported by the law and the facts.
- Advise the client regarding the importance of the conclusions reached.
That’s all well & good but...

Where do you find “applicable law?”

Where do you find “authority?”
What are Authorities?

While the code is the law, it is rare that a question is straightforward enough to be answered directly from it. That’s why regulatory and administrative resources are essential.

The key to drawing conclusions......is understanding the significance of the documents you evaluate.
The primary authority for any tax position is the Internal Revenue Code.

– Various judicial and administrative resources interpret the IRC, but each carries a different degree of authority.

“Commentary and Analysis” are not authority. IRS publications and forms are not authority.
Authority for Purposes of Penalty Avoidance
Reg. Sec. 1.6662-4(d)(iii)

the IRC and other statutory provisions;
temporary, proposed & final regulations;
revenue rulings and revenue procedures;
tax treaties and regulations and other
official explanations of the treaties;
Authority for Purposes of Penalty Avoidance
Reg. Sec. 1.6662-4(d)(iii)

Congressional intent per committee reports;
letter rulings and technical advice memoranda;
actions on decisions and general counsel memoranda;
Authority for Purposes of Penalty Avoidance
Reg. Sec. 1.6662-4(d)(iii)

information or press releases, notices, announcements and any other similar docs published in the Internal Revenue Bulletin (when indicated as such); and
general explanations of tax legislation prepared by the Joint Committee on Taxation (the Blue Book).
More on Authority

Primary Sources

- Internal Revenue Code
- Interpretations

Administrative

- Regulations
- Revenue Rulings
- Revenue Procedures
- Letter Rulings
- Announcements & Notices
- AOD, GCMs, and more

Judicial

- Tax Court
- District Courts
- Claims Courts
- Appeals Courts
- Supreme Court
Links to Authority

Find Tax Code, Regulations and Official Guidance:
– on IRS website at Tax Professional tab

Find Tax Court cases:
– http://www.ustaxcourt.gov

Find other court cases:
– http://www.findlaw.com/casecode
The vast majority of documents you find on the IRS website do not constitute “authority.”

They do help you get pointed in the direction of finding a path toward “a reasonable basis” or “substantial authority” for positions you take on tax returns or advice for clients.
Site Map vs. Search Box
Basic Tools for Tax Professionals

Information You Need to File Returns for Your Clients

Your Responsibilities As A Tax Professional

Campus Responsibilities and Operations
Basic Tools for Tax Professionals

Representing Your Client Before the IRS After Returns Have Been Filed

IRS Collection Tools and Your Clients’ Rights

Frequently Used Telephone Numbers for Practitioners
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