

Do the following decisions have the same precedential value: (1) Tax Court regular decisions, (2) Tax Court memo decisions (3) decisions under the small cases procedure of the Tax Court? Why? Which of the following sources do you think would be most beneficial for your client: (1) Tax Court regular decisions, (2) Tax Court memo decisions, (3) decisions under the small cases procedure of the Tax Court, or (4) Fifth Circuit Court of Appeals?

The tax court regular decisions, tax court memo decisions and the small cases procedures of the tax court do not have the same precedent. The first time the tax court makes a decision on a legal tax issue is a tax court regular decision and the memo decision is a decision/ruling that is different than the original decision because of different facts presented. Both of these decisions carry the same authoritative weight. These two types of cases are usually for large amounts and have to be presented by a tax representative/lawyer. Whereas, small case procedures are regarding matters for less than \$50,000 and can be filed by the tax payer and the tax payer usually represents him or herself. These decisions cannot be appealed. Whereas, regular tax decisions and memo tax decisions can be appealed as far as the Supreme Court if need be. These two types of decisions also normally involve more than one tax payer. Small case decisions do not have any precedential value which means another case presented will not be followed again in the same court or a higher court and they are not published. Whereas, regular decisions and memo decision are normally adhered to by the same court and possibly other courts if a similar issue comes before the judges. For instance, a case regarding the deductibility of a gain on land that has been donated to charity which was originally purchased for investment purposes the issue was stated in a lower tax court, and regular decision was made then this same court is presented with a similar issue the court must adhere to its previous ruling and decide in the same manner as previously.

Because all courts must follow the decisions of the Supreme Court or the decisions of the court in which their rulings are appealed a beneficial source would be the Fifth Circuit Court of Appeals if the issue at hand was heard in a lower court and appealed at the higher court and if the client lives within the district the prior ruling was made (in the question above the 5th district). If the issue was only debated in a lower court then the tax court regular or memo decisions would be the source to go to. The small cases procedure would most likely be a last resort because these cases are not appealed they are final and it has no precedential value which means it does not have to be followed by any court not even the one in which it was decided. This is because it was not decided by a judge but a board or set of special commissioners.

Second Response

There are two types of decisions that the U.S. Tax Court issues. They are known as regular and memorandum. Regular decisions are known as issues that previously have not been considered. A regular decision is usually considered a stronger authority compared to a memorandum decision. An acquiescence or non-acquiescence is only issued by the IRS for regular decisions. When a judge considers that a case is mainly involved with the application of an explanation of the facts, then a memorandum decision is issued. Both should be considered when

issues related to the problem at hand are addressed in both regular and memo decisions.

In a small case division, if the disputed deficiency amount includes claimed overpayments that do not exceed \$50,000, then upon approval of the tax court a taxpayer may be heard in front of a small case division. The purpose of a small case division is for taxpayers to receive an opinion on a case with a minimum amount of delay, formality, and cost; but since its cases cannot be appealed, the decisions cannot be used as precedents in other courts and are not published. Before a decision becomes finalized, the Tax Court might discontinue a small claims hearing and carry over the case for trial to the regular Tax Court. This may happen when essential law issues get apparent only after a small claim proceeding has begun.

The most beneficial decision for a client would depend on many different things. It would depend on the case whether there was a decision made on it before, as well as the residency of client or business. The fifth circuit court of appeals might be appealing to an individual who has a case that has not been decided on in the past. The circuit courts are bound by the Supreme Court decisions as well as their own prior decisions. If there is no decision made on a case, then the Circuit Courts would have no precedent they have to follow. The Tax Court is required to rule consistently with court decisions for the circuit where the taxpayer resides or does business.