EA Exam

Preparatory Program

For 2026-2027 Testing Cycle

Part 3

Representation

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This study guide is designed for exam candidates who will take their exams in the July 1, 2026 to February 28, 2027 testing cycle.

This book covers tax year 2025.
"Current tax year" refers to calendar year 2025.

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Introduction

Congratulations on taking the first step toward becoming an Enrolled Agent, one of the most respected professional tax designations in the United States.

Enrolled Agents (EAs) are licensed by the Internal Revenue Service after passing a comprehensive examination that tests competency in federal tax law. Once enrolled, EAs have unlimited representation rights before all levels and offices of the IRS. This means you may represent taxpayers in audits, appeals, collections matters, and other proceedings — the same representation authority granted to CPAs and attorneys.

The Enrolled Agent exam consists of three parts covering the taxation of individuals, taxation of businesses, and representation, practice, and procedures. Each part is administered separately and may be taken in any order.

This study guide series is designed to prepare you thoroughly and efficiently for each part of the EA exam. The material reflects the structure, format, and subject matter tested by the IRS and is organized to build both technical knowledge and exam confidence.

EA Exam Structure

The Enrolled Agent (EA) exam consists of three separate parts. Candidates may take the parts in any order.

- **Part 1 – Individuals**
- **Part 2 – Business**
- **Part 3 – Representation**

Each part contains 100 multiple-choice questions. Some questions are experimental and are not scored. You will not know which questions are scored and which are not.

You will have 3.5 hours to complete each exam part. Scores are reported on a scaled range from 40 to 130, with a passing score of 105. The exam is not graded on a curve.

Candidates who do not pass receive diagnostic feedback identifying areas for additional study. Each exam part may be retaken during the active testing window, subject to IRS limitations.

2026-2027 Testing Location Update

The IRS has announced that beginning with the 2026–2027 testing cycle, the EA exam will be administered by PSI, Inc., replacing Prometric.

As of the publication date of this textbook, detailed operational guidance from PSI has not yet been released. Information regarding scheduling systems, testing logistics, candidate portals, and procedural requirements is forthcoming.

The HOCK International digital textbook will be updated once official guidance becomes available to ensure candidates have accurate and current information.

Additional Study Resources

The HOCK study guides are designed to cover the major areas of federal taxation that enrolled agents commonly encounter in practice and that are tested on the EA exam. The material is structured to keep your studying focused and efficient while helping you build a strong working understanding of tax law.

While these guides are comprehensive, strong candidates also take time to become comfortable reading IRS source material. Reviewing official IRS publications reinforces key concepts, clarifies common exceptions, and helps you develop confidence applying the rules the way the IRS explains them.

In addition to this study guide, we strongly recommend reviewing:

- **Publication 17, Your Federal Income Tax** (particularly helpful for Part 1 – Individuals)
- **Circular 230, Regulations Governing Practice before the Internal Revenue Service** (essential for Part 3 – Representation, Practice, and Procedures)

Circular 230 is especially important because it outlines the professional standards and responsibilities that govern enrolled agents.

Becoming comfortable with these materials not only strengthens your exam preparation, but also prepares you for real-world practice.

Preparing for Success

The EA exam is designed to ensure enrolled agents are well-prepared to represent taxpayers before the IRS. Success comes from consistent study, clear understanding of core concepts, and the ability to apply tax rules accurately.

As you move through the units, focus on understanding how and why the rules work. Strong conceptual understanding will help you answer exam questions more confidently than memorization alone.

With steady preparation and a structured plan, passing the EA exam is absolutely achievable.

We are honored to be part of your journey.

Applying for Enrollment

Once you have passed all three parts of the EA exam, you can apply to become an enrolled agent. The process includes an IRS review of your tax compliance history. Failure to file or pay personal income taxes in a timely manner can be grounds for denial of enrollment.

The IRS Return Preparer Office will review the circumstances of each case and make determinations on an individual basis. You may not practice as an EA until the IRS approves your application and issues you an enrollment card, a process that takes up to 60 days or more.

Successfully passing the EA exam can open the door to a rewarding and respected professional career. While the exam requires focused preparation and commitment, HOCK International's comprehensive EA Review provides the structure, clarity, and practice you need to succeed.

We wish you every success on your journey to becoming an Enrolled Agent.

Essential Tax Law Updates for Representation

Important Legislation for the 2025 Tax Year:

The One Big Beautiful Bill Act (OBBBA) Enacted on July 4, 2025, introduces several updates to the tax code effective for the 2025 tax year. Key provisions include:

- **TCJA Permanence:** OBBBA makes permanent many individual tax provisions of the Tax Cuts and Jobs Act (TCJA) that were scheduled to expire, including the increased standard deduction and the elimination of personal exemptions.
- **Additional Deductions:** For 2025 through 2028, the OBBBA introduces new deductions for:
  - **Qualified Tip Income** (up to $25,000),
  - **Qualified Overtime Pay** (up to $12,500 for single filers/$25,000 for MFJ),
  - **Car Loan Interest** (up to $10,000), and
  - **Enhanced Senior Deduction** ($6,000/$12,000 for MFJ).
- **Energy Credit Terminations:** OBBBA accelerates the expiration of several credits, including terminating credits for new and previously owned clean vehicles acquired after September 30, 2025.
- **New: Trump Accounts (Pilot Program):** The OBBBA establishes "Trump Accounts," a new tax-advantaged investment account for children. For eligible children born after December 31, 2024, and before January 1, 2029, the federal government will make a one-time $1,000 contribution to the account. Parents, guardians, and employers may contribute up to $5,000 annually (indexed for inflation starting in 2028). Funds generally cannot be withdrawn before the child turns 18.

The SECURE 2.0 Act Signed into law as part of the Consolidated Appropriations Act of 2023, this Act included provisions affecting retirement plans. While many provisions went into effect in 2024, the OBBBA repealed the "Savers Match" program that was created by SECURE 2.0 and slated to begin in 2027. Instead, the OBBBA permanently enhances the existing Savers Credit.

New Proposed Regulations On December 20, 2024, the IRS proposed updates to Circular 230 rules (REG-116610-20), governing practice before the IRS. These amendments aim to reflect legal changes and the evolving tax practice landscape, including removing outdated sections related to registered tax return preparers.

Due Dates: Taxpayers will have until April 15, 2026, to file their 2025 tax return. The extended filing deadline is October 15, 2026. If any of these due dates falls on a Saturday, Sunday, or legal holiday, the deadline is extended to the next business day.

Modernizing Payments (Executive Order 14247): The IRS is transitioning toward fully electronic federal payment and refund systems to improve security and efficiency. As part of this initiative, paper tax refund checks will begin to be phased out on September 30, 2025. Taxpayers are encouraged to use direct deposit to receive refunds, as paper check issuance will be significantly reduced.

Direct Pay Expansion: Beginning in 2025, the IRS expanded Direct Pay to businesses. Effective October 17, 2025, individuals may no longer create new EFTPS enrollments and must use IRS Online Account or Direct Pay instead. Businesses may continue using EFTPS, but now also have the option to make payments and federal tax deposits electronically through an IRS Business Tax Account or Direct Pay. Federal Tax Deposits still cannot be made with cash or credit cards.

FBAR Filing Deadline: The official due date for the FBAR (FinCen 114) coincides with the filing of the federal tax return (normally April 15). However, an automatic extension is allowed until October 15.

Essential Tax Law Updates for Representation

Form 1099: The Form 1099-NEC must be distributed to both recipients and the IRS by January 31, regardless of the filing method. For other types of forms, such as Form 1099-S and 1099-B, and 1099-MISC with amounts in Boxes 8 or 10, the IRS has revised the deadline for delivering recipient copies of these forms. They should be distributed to the recipient on or before February 15. If any of these due dates falls on a Saturday, Sunday, or legal holiday, the deadline is extended to the next business day.

Certifying Acceptance Agents (CAA): The purpose of this program is to assist both resident and non-resident aliens in obtaining an Individual Taxpayer Identification Number (ITIN), if they do not have or cannot obtain a Social Security Number (SSN). New Acceptance Agents will be able to help taxpayers with their 2025 returns in the current filing season. Instead of mailing in Form 13551, also known as the Application to Participate in the IRS Acceptance Agent Program, applicants must now use IRS e-Services and upload all required documents through the CAA upload tool.

E-file Mandate for Information Returns: The IRS issued final regulations requiring most businesses to e-file beginning on January 1, 2024. This mandate applies to individuals and businesses who submit 10 or more information returns, such as Form 1099, W-2, and 1099-MISC. Filers must aggregate almost all return types covered by the regulation to determine whether a filer meets the 10-return threshold (previously, a 250-return threshold applied separately to each type of information return). These new regulations significantly expand the number of entities that must e-file. A waiver may be requested in cases of undue hardship. Failure to e-file, when required, may result in penalties. Note: The 10-return threshold does not make electronic filing mandatory for employment tax returns, such as Forms 940 and 941.

New OBBBA Requirement: The OBBBA mandates that returns filed by Qualified Opportunity Funds and Qualified Rural Opportunity Funds must be filed electronically, regardless of other thresholds

Increase in penalty for failure to file: The penalty for failure of a taxpayer to file an income tax return that is more than 60 days late shall not be less than the lesser of (1) **$525** or (2) 100% of the tax due on the return. This penalty applies to Form 1120 and Form 1040 returns filed in 2026.

Form 1099-K Requirements for 2025: The **One Big Beautiful Bill Act (OBBBA)** repealed the lower reporting threshold enacted by the American Rescue Plan. For 2025, the requirement for Form 1099-K reporting reverts to the pre-2021 levels: Third-Party Settlement Organizations (TPSOs) must report transactions only if the aggregate payments exceed $20,000 AND the number of transactions exceeds 200.

Note for 2026: The OBBBA also increased the general Form 1099-NEC/1099-MISC reporting threshold to $2,000, but this change does not take effect until the 2026 tax year. **For 2025, the $600 threshold still applies to 1099-NEC.**

E-file Procedure (Current and Prior Two Years): Electronically filed returns continue to account for the vast majority of filings. When a new tax form type is added to the IRS' Modernized e-File (MeF) platform, MeF will accept the current year and two Prior Tax Years. In Processing Year 2026, MeF will accept TY2025, TY2024, and TY2023 returns for Form 1040.

Form 8888, Allocation of Refund and Modernizing Payments: In accordance with Executive Order 14247, the government is advancing a transition to fully electronic payments and paper tax refund checks will begin to phase out on September 30, 2025. Taxpayers who wish to split their electronic refund can file Form 8888 to direct deposit their refund into up to three different accounts in their name. For taxpayers without traditional bank accounts, alternative electronic payment methods will be supported, including direct deposits to certain mobile apps and prepaid debit cards.

Perfection Periods for Rejected Submissions: When a transmitted electronic business return is rejected, there is a Transmission Perfection Period to perfect that return for electronic re-transmission. The period for Form 1040 is usually five days. Business returns (Form 1065, 1120, 1120S) have a perfection period of ten days from the date of rejection The following transmission dates pertain to individual returns for the 2025 tax year:

- **April 20, 2026**, is the last day to retransmit rejected 2025 Form 1040 returns.
- **October 20, 2026**, is the last day to retransmit rejected 2025 timely-filed Form 1040 returns on extension from Form 4868.

Due Diligence Preparer Penalties:

- **Form 8867:** The penalty for failure to meet the due diligence requirements on tax returns containing EITC, CTC/ACTC/ODC, the AOTC, and/or HOH status is **$650 per failure** for tax returns filed in 2026 (2025 tax year).
- **COVID-ERTC (New):** The OBBBA imposes a new penalty of **$1,000 per failure** for "COVID-ERTC promoters" who fail to comply with due diligence requirements regarding eligibility or credit calculation for the Employee Retention Tax Credit.

Enforcement and Deadlines for Employee Retention Credit (ERC) Claims: The IRS has shifted focus from voluntary disclosure programs to strict enforcement regarding ERC claims. Under the OBBBA, a retroactive deadline has been imposed: no ERC credit or refund for the third and fourth quarters of 2021 will be allowed after July 4, 2025, unless the claim was filed by the taxpayer on or before January 31, 2024. Additionally, the OBBBA extends the statute of limitations for the IRS to assess taxes attributable to improper ERC claims to 6 years.

Expansion of IRS Math Error Authority (New): The OBBBA expands the IRS's statutory "mathematical or clerical error" authority. If a taxpayer fails to include a correct Social Security Number (SSN) to claim the new Senior Deduction, the Qualified Tip Deduction, the Qualified Overtime Deduction, or the Trump Account Contribution credit, the IRS can summarily deny the tax benefit and assess additional tax without issuing a formal Notice of Deficiency.

Passport Revocation Threshold: The IRS can certify a taxpayer has "seriously delinquent tax debt," which can lead to the denial and/or revocation of a taxpayer's passport. The revocation threshold for calendar year 2025 is **$64,000**, which includes penalties and interest.

Tax Pro Accounts: The IRS Tax Pro Account allows tax professionals to submit authorization requests (Power of Attorney or Tax Information Authorization) directly to a taxpayer's IRS Online Account. Most requests are recorded immediately to the CAF database.

Identity Theft Affidavit Can be Filed Electronically with the IRS: IRS Form 14039 (Identity Theft Affidavit) can now be filed electronically with the IRS. While Form 14039 can still be mailed or faxed to the IRS, the IRS prefers that it be sent to them electronically. The electronic version of Form 14039 can be accessed from the IRS website at: https://apps.irs.gov/app/digital-mailroom/dmaf/f14039/.

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Study Unit 1

Legal Authority of the IRS

Study Unit 1: Legal Authority of the IRS

More Reading:

- Circular 230, Regulations Governing Practice Before the Internal Revenue Service
- Publication 947, Practice Before the IRS and Power of Attorney
- Publication 1, Your Rights as a Taxpayer

Part 3 of the EA exam focuses on the ethical standards, legal requirements, and regulations that govern the tax profession. This includes guidelines that tax professionals must adhere to, standards that they are expected to meet, who has the authority to represent taxpayers before the IRS, procedures for assessment, collection, audit, and appeals by the IRS, and penalties that tax preparers may face if they violate the law.

Part 3 of the exam is composed of the following sections and their corresponding percentage of questions:

1) Practices and Procedures – 26 questions
2) Representation before the IRS – 25 questions
3) Specific Areas of Representation – 20 questions
4) Filing Process – 14 questions

Issues of ethics, practice, and representation are dealt with in detail in Treasury Department Circular No. 230, *Regulations Governing Practice before the Internal Revenue Service*.[1] The rules in Circular 230 are codified as **Title 31** of the Code of Federal Regulations. All practitioners who represent taxpayers before the IRS are subject to the rules and regulations outlined in Circular 230.

Note: The statutory authority to regulate the conduct of representatives before the IRS is not found in Title 26 of the U.S. Code, the Internal Revenue Code. Instead, it appears in Title 31 of the U.S. Code, Section 330. The Office of Professional Responsibility (OPR), which interprets and applies the regulations in Treasury Department Circular 230, functions separately from the Title 26 enforcement components of the IRS. The language, now codified as Section 330, was originally enacted in 1884 as part of a War Department appropriation for "horses and other property lost in the military service" and actually pre-dates the IRS and the income tax.

So, while Title 26 of the United States Code contains the tax laws enforced by the IRS, Title 31 of the *Code of Federal Regulations* contains the regulations that govern the practice of representatives before the IRS, ensuring that tax professionals adhere to tax practice standards and follow the law.

Tax return preparers play a crucial role in the U.S. tax system, as they are responsible for preparing around 60% of all filed tax returns. Their actions have a significant influence on the Internal Revenue Service's ability to properly administer tax laws effectively.

[1] Regulations governing practice before the IRS are also set forth in Title 31, Code of Federal Regulations, Subtitle A, Part 10, as published in pamphlet form as Treasury Department Circular No. 230 on June 12, 2014.

Federal Tax Law

The Internal Revenue Code (IRC) is the main body of tax law of the United States. The IRC is enacted by Congress and published as **Title 26**, the Internal Revenue Code of the United States Code. The Federal courts interpret the IRC in judicial opinions, by the Treasury Department in Treasury Regulations, and in other administrative guidance published by the IRS. Other tax laws are promulgated by individual states, cities, and municipalities.

Not all Federal tax law is located in Title 26 of the United States Code. FBARs and most international financial reporting laws are promulgated in the *Bank Secrecy Act*, a provision of Title 31. Although the *Bank Secrecy Act* was focused initially on financial institutions, the law has been expanded by Congress beyond the regulation of banks.

In 2003, the Financial Crimes and Enforcement Network (FinCEN) delegated enforcement authority regarding the FBAR to the Internal Revenue Service (IRS).

Note: The enrolled agent exam deals only with federal laws and not with the laws of any individual state or municipality. However, some state laws directly affect federal tax reporting. An example of this would be community property laws, which determine how much income each spouse is required to report on a separate return.

Tax law is determined by all three branches of our federal government, although the legislative branch (Congress) has the primary function of originating tax laws. The executive branch (the president) is responsible for income tax regulations, revenue rulings, and revenue procedures. The judicial branch is responsible for court decisions. The U.S. courts also have the responsibility for determining whether a particular tax law is constitutional.

The U.S. Treasury Department (which includes the Internal Revenue Service) is part of the **executive branch** of the U.S. government. The U.S. Treasury collects taxes through the Internal Revenue Service. The president has veto powers, which means he can stop legislation from becoming law (subject to a veto override by a two-thirds vote in both the House of Representatives and the Senate).

The IRS and U.S. Treasury Department are part of the **Executive branch.**

The Internal Revenue Service (IRS) is a bureau of the Department of the Treasury, and it is responsible for enforcing the Internal Revenue Code. In other words, the IRS is the "collection arm" of the U.S. Treasury Department, which is responsible for paying various government expenses. However, the IRS does not have the power to enact tax statutes—that power belongs to Congress. Instead, the IRS's role is to interpret and implement the tax statutes enacted by Congress. If there are disputes about the interpretation of the tax laws, these disputes may be resolved by the courts.

The IRS produces several kinds of documents that provide guidance to taxpayers, including the following:

1) Treasury Regulations
2) Revenue Rulings
3) Revenue Procedures
4) Private letter rulings
5) Technical advice memoranda (also called "TAMs")
6) IRS notices

Each of these can factor into "substantial authority," which means the authority to serve as the basis for interpretation of current tax law and to establish precedents for the future. Treasury Regulations define substantial authority as existing when "the weight of authorities for the tax treatment of an item is substantial in relation to the weight of authorities supporting contrary positions."

The weight placed on an authority is determined by factors such as its relevance and persuasiveness, as well as the type of document in which it appears. In general, a revenue ruling holds more weight than a private letter ruling (other than to whom the private letter ruling was issued) discussing the same matter. Additionally, newer pronouncements hold more weight than older ones.

Example: Jesse is an enrolled agent. Recently, he made a mistake on his client's corporate tax return by claiming a significant business deduction based on a court case that was several decades old. Unfortunately, Jesse was not aware that this case had been overturned by a higher court in recent years, making it an outdated and invalid source for his deduction. As a result, when his client's return was audited, the business deduction was disallowed, and an accuracy-related penalty was assessed against his client. Jesse could also be assessed a preparer penalty for his negligence.

The **primary** authority for any tax position is the **Internal Revenue Code.** "Primary authority" also includes decisions by the U.S. Supreme Court, which is the highest court in the land, and international tax treaties. Other sources of tax law that factor into "substantial authority" include the following:

- Temporary and final Treasury Regulations (but not proposed regulations);2
- Court cases;
- Administrative pronouncements; and
- Congressional intent, as reflected in committee reports.

This list was later expanded to include private letter rulings, technical advice memoranda, IRS information or press releases, notices, and any other similar documents published by the IRS in the Internal Revenue Bulletin. Treatises and articles in legal periodicals are not considered substantial authority under this statute. An authority no longer remains an authority if it is overruled or modified by a body with the power to overrule or modify it.

Note: The IRS announced that all future frequently asked questions (FAQs) posted on irs.gov would be issued as a Fact Sheet as part of an IRS press release. By doing this, these FAQs can constitute authority for a tax return position. Please note that general content on the IRS webpage does NOT constitute substantial authority.

[2] Taxpayers generally may not rely on proposed regulations for planning purposes, except if there are no applicable final or temporary regulations in force and there is an express statement in the preamble to the proposed regulations that taxpayers may rely on them currently.

Note that *"substantial authority"* does *not* include official IRS publications or IRS form instructions. Many IRS publications are not updated every year, and reliance on IRS publications does not constitute substantial authority for purposes of avoiding understatement penalties. While a good source of general information, IRS publications cannot be used to sustain a position (IRM 4.10.7.2.8).[3]

The possibility that a return will not be audited or, if audited, that an item will not be raised on audit, is not relevant in determining whether the substantial authority standard (or the reasonable basis standard) is satisfied.

Example: Reggie Smith, a small business owner, filed his tax return, claiming a significant deduction for business expenses based on outdated information in an old IRS publication. He did not consult a tax professional or verify current law. When he filed his return, he believed that his audit risk was low. In 2025, Reggie's return was audited. The IRS found the deduction unsupported by the current tax law, leading to an understatement of his income tax by over 15%. The IRS imposed a 20% accuracy-related penalty for substantial understatement of income tax under IRC §6662. Reggie argued he relied on an IRS publication, believing it was substantial authority, and claimed he acted in good faith without intentionally disregarding current regulations. The IRS examiner disagreed with Reggie, stating that reliance on outdated IRS publications doesn't meet substantial authority standards.

Reduced Substantial Understatement Threshold — Clean Energy Credit

Establishing substantial authority is especially critical when claiming clean energy credits. The One, Big, Beautiful Bill Act (OBBBA) significantly tightened the substantial understatement accuracy-related penalty for certain clean energy credits beginning in 2025.

If an applicable energy credit (such as the clean electricity production credit or clean electricity investment credit) is disallowed because the taxpayer overstated material assistance received from a prohibited foreign entity, the penalty threshold is dramatically reduced.

Instead of the standard rule requiring an understatement greater than 10% of the tax required to be shown on the return, the penalty is triggered if the understatement exceeds 1% of the tax required to be shown on the return.

This lower threshold applies specifically to these energy credit misstatements.

Expanded Mathematical or Clerical Error Authority

The OBBBA also expanded the IRS's mathematical and clerical error authority beginning in 2025.

If a required Social Security number (SSN) is missing or incorrect, the IRS may automatically deny the following benefits using math error procedures:

- The $6,000 Deduction for Seniors
- The Deduction for Qualified Tips
- The Deduction for Qualified Overtime Compensation
- The Child Tax Credit

In these situations, the IRS may adjust the return and issue a bill without first issuing a 90-day Notice of Deficiency.

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[3] IRS Publications generally explain the law in more easy-to-understand language than the actual primary law for taxpayers and their advisors. They typically highlight changes in the law and provide examples illustrating IRS positions on matters. IRS publications are non-binding on the IRS and do not necessarily cover all positions for a given issue. While a good source of general information.

Note: Failure to provide a required SSN when claiming one of the new OBBBA benefits allows the IRS to use summary math error procedures. This means the IRS can adjust the return and send a bill immediately, bypassing the standard requirement to first issue a 90-day Notice of Deficiency.

Treasury Regulations

Treasury regulations are the U.S. Treasury Department's official interpretations of the Internal Revenue Code. The IRC authorizes the Secretary of the Treasury to "prescribe all needful rules and regulations for enforcement" of the code.[4] All regulations are written by the IRS's Office of the Chief Counsel and approved by the U.S. Treasury Secretary.

The courts give weight to Treasury regulations and will generally uphold the regulations so long as the IRS's interpretation is *reasonable* and does not contradict any provisions in the IRC. Treasury regulations are first published in the Federal Register. After publication in the Federal Register, regulations are organized by subject matter and codified in a separate publication called the Code of Federal Regulations (CFR). The three types of Treasury regulations are:

1) Legislative Regulations,
2) Interpretive Regulations, and
3) Procedural Regulations.

1) Legislative regulations are created when Congress expressly delegates the authority to the Treasury secretary or the commissioner of the IRS to provide the requirements for a specific provision of the IRC. A legislative regulation has a higher degree of authority than an *interpretive regulation*. In general, legislative regulations carry the same authority as the law itself.

However, a legislative regulation **may be overturned** if any of the following conflicts apply:

- It is outside the power delegated to the U.S. Treasury.
- It conflicts with a specific statute.

It is deemed unreasonable or unconstitutional by the courts.

2) Interpretive regulations are issued under the IRS's general authority to interpret the IRC. An interpretive regulation only explains the meaning of a portion of the code. Unlike a legislative regulation, there is no grant of authority for the promulgation of an interpretive regulation, so these regulations may be challenged on the grounds that they do not reflect Congressional intent.

3) Procedural regulations concern the administrative provisions of the code and are issued by the Commissioner of the IRS and not the Secretary of the Treasury. They often concern minor issues, such as when notices should be sent to employees or how to file certain IRS forms.

[4] The Internal Revenue Service (IRS) is responsible for administering and enforcing the internal revenue laws and related statutes, except those relating to alcohol, tobacco, firearms, and explosives.

Classification of Treasury Regulations

Regulations are further classified as proposed, temporary, or final:

- **Proposed regulations** are open to commentary from the public. Various versions of proposed regulations may be issued and withdrawn before a final regulation is issued. Proposed regulations have minimal practical effect. A taxpayer may not rely on proposed Treasury regulations unless they contain an express statement permitting reliance. Unlike temporary regulations, proposed regulations do not expire.
- **Temporary regulations** remain in effect for three years. They provide immediate guidance to the public and IRS employees before publishing final regulations. Temporary regulations are effective immediately upon publication in the Federal Register.[5]
- **Final regulations** are issued when a regulation becomes an official Treasury decision. These are the official interpretations of the tax laws by the Treasury Department. They are the highest authority issued by the Treasury Department. They are issued after a period of public comment and become effective upon publication in the Federal Register. Final regulations have the effect of law.

It is important to note that while these regulations provide the IRS's official interpretations of the tax laws, they are not the tax laws themselves. The tax laws, or statutes, are enacted by Congress and are contained in the Internal Revenue Code.

Note: The IRS is **legally bound** by its regulations, but the courts are **not.**[6] Official regulations have the force of law, unless they are overly broad in relation to the statute or are deemed unconstitutional by the courts. U.S. Treasury regulations are authorized by law, but U.S. courts are not obligated to follow any of the IRS's administrative interpretations.

Revenue Rulings and Revenue Procedures

The IRS issues **revenue rulings** and **revenue procedures** to inform and guide taxpayers. Neither has the force of Treasury Department regulations, but they may be used as authority. A revenue ruling typically states the IRS position, while a revenue procedure provides instructions concerning that position. Both revenue rulings and revenue procedures are important tools for understanding and complying with tax laws, offering clarity and guidance on various tax-related issues.

Study Note: A **revenue ruling** may announce that taxpayers may deduct certain automobile expenses. A **revenue procedure** will then explain how taxpayers must deduct, allocate, or calculate these automobile expenses.

Revenue rulings are intended to promote the uniform application of the IRC. The national office of the IRS issues revenue rulings, which are published in the Internal Revenue Bulletin. A revenue ruling is not binding in Tax Court or any other U.S. court. However, taxpayers can use revenue rulings as guidance to avoid certain accuracy-related IRS penalties.

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[5] Unlike proposed regulations, temporary regulations go into effect immediately upon publication in the Federal Register, but they expire within three years of enactment (except for temporary regulations issued prior to 1989).

[6] Certain court cases lend more weight to a position than others. A case decided by the US Supreme Court becomes the law of the land and takes precedence over decisions of lower courts. The IRS must follow Supreme Court decisions, and for the IRS, Supreme Court decisions have the same weight as the Internal Revenue Code.

