

# Citators and Other Finding Devices

## Chapter Outline

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### Citators

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## Learning Objectives

- Understand the function of the citator in the tax research process.
- Use the indexing systems in each of the most popular tax citators.
- Know the abbreviation and reference conventions used by the most popular tax citators.
- Update research by using materials in the most popular tax citators.
- Know the comparative strengths and weaknesses of the most popular tax citators.
- Understand the basic and advanced citator functions of Internet resources.

BESIDES CONFRONTING THE TREMENDOUS volume of tax law, tax practitioners face the added dilemma that the tax law is in a constant state of change. Each year new laws are passed that amend the *Internal Revenue Code* (IRC) and new Regulations are issued to provide guidance and revise interpretations of the Code. Every day administrative pronouncements are issued and court cases are decided. This daily change in the tax law makes it very difficult for a tax practitioner to know what law is current and what has been superseded or overruled. This chapter provides the methodology for ensuring that the tax laws, cases, and administrative documents supporting a client's tax position are up-to-date and still controlling law.

Recall from the research process explained in Chapter 2, an evaluation of the relevant primary authority must occur before conclusions can be developed. The evaluation of tax authority includes not only determining whether the authority is still valid but also making judgments about the precedential value of the primary sources. How citators help in this evaluation process is the focus of this chapter.

## CITATORS

Law relies heavily on the **precedential value** of cases, which can be defined as the legal authority established by the case. This legal authority of prior cases is considered when judges are writing opinions in subsequent cases that have similar facts or legal issues. Tax law also relies on the precedential value of tax cases and administrative rulings for guidance. The tax law attempts to maintain continuity in treatment of similar issues so taxpayers can anticipate the application of the law to their own situations. Each appellate opinion sets a precedent that applies to later cases.

### What Is a Citator?

The law is constantly in a state of flux, and, again, tax law is no exception. The Code is changed frequently by passage of tax bills. Regulations are proposed, finalized, and withdrawn. Administrative rulings are issued, modified, superseded, and revoked or made obsolete by changes in the tax law. A case decided at one level may be appealed by one or both parties. The higher court can overrule the lower court's decision. Infrequently, a court may see a flaw in the reasoning it or another (equal or lower) court used in deciding an earlier case, or a court may use a different line of reasoning to reach a distinct decision in an area previously reviewed by other courts. When a court takes any action that relies on, rejects, or affects the holding of another case, the acting court refers to the affected case in its opinion. All of this results in a tangle of interferences among vast numbers of cases.

Along with statutory law, practitioners rely on administrative rulings and court decisions to interpret tax law and argue the appropriate treatment of their clients' tax transactions. They must be able to determine if subsequent events have affected the legal standing of the sources upon which they rely. Thus, they need a tool to help them ascertain which legal sources provide strong precedents and which have little or no value. The tax professional could follow the reference threads from case to case or ruling to ruling, but this would be extremely tedious and would only identify earlier cases and not later cases that may have altered or overruled the case or ruling of interest. This latter information is critical for determining the validity of the case of interest. Fortunately, citators provide this service by following the threads in subsequent cases and summarize, in shorthand form, where the threads lead, and what they mean.

A citator is a tool through which a tax researcher can learn the history of a legal source and evaluate the strength of its holdings. Before a researcher relies on the opinion in a case or analysis in a ruling (or even commits the time to read the document), it is important to ascertain its legal standing. Thus, when a case or ruling relevant to a

client's tax situation is found, it is imperative that a citator be examined to determine how later legal sources have considered the document of interest. Since the legal profession long has recognized the need for this specialized information, citators were developed in the late 1800s, a hundred years before computer searches were possible.

To avoid confusion, it is important to learn the specific terminology that describes references between cases. When one case refers to another case, it **cites** the latter case. The case making reference to another case is called the **citing case**. The case that is referenced is the **cited case**. The citing case will contain the name of the cited case and where the cited case can be found. The reference is called a **citation**. A **citator** is a service that indexes cited cases, gives their full citations, and lists the citing cases and where each citing case can be found. A significant older case, one that establishes an important legal principle, may have been cited by hundreds of other cases. Thus, its entry in a citator would be extremely long and complex. A very recent case, or one examining a narrow aspect of the law, would have few cites and thus a short entry.

A citator will not provide all types of information about a case or a ruling. For instance, it does not guide the researcher to documents related to a case or ruling that do not specifically cite it. Citators also may not always indicate when a case or ruling is no longer valid because of changes in the Code, unless the Code itself specifically identifies the case or a subsequent document makes a specific reference to the Code overriding the case. This is because citators are created by searching primary sources for cites to the case or ruling. A practitioner could perform the same search by using the case name or its official cite in a keyword search of databases containing all primary sources. Without access to a tax service, you might try a simple Google or Yahoo search on the case name. However, sifting through the results would be an arduous task and very inefficient.

Given the tremendous number of court cases and rulings issued annually, the citator is a vital tool in the research process. If the primary sources have not been checked through a citator, the research process is not complete. Thus, only careless or improperly trained practitioners rely on legal sources that have not been checked through a citator.

The various commercial citators organize the lists of citing cases in distinctive schemes. Depending on the researcher's purpose, one citator may be more appropriate than another. For example, one citator may only list citations that have a major impact on the logic or holding of the cited case. Another may list all citations. A researcher, initially checking to make sure a case has not been overruled, would prefer the former. The citations may be annotated to indicate the type of impact the citing case has on the cited case (e.g., modified, overruled, followed). A trial court case may be appealed, and each appellate court that hears the case creates additional citations. Because each of these decisions may be cited in other documents, a citator can organize cases by jurisdictional level. As each citator is discussed in this chapter, you should consider its suitability for specific research applications. Citators are not a one-size-fits-all type of research tool.

It is important for the researcher to consider a case in context, to trace its judicially derived decision, and to monitor the reaction of subsequent court cases. This is even more important when the opinion is innovative. By using a citator properly, the researcher can review subsequent courts' reactions and determine the strength of the precedent established by the opinion. However, before turning to a case, the Code and Regulations, the foundation for tax research, should be read and analyzed. Remember, cases and rulings are reviewed to provide guidance in interpreting the statutory and administrative tax law.



## SPOTLIGHT ON TAXATION

### Changing the Tax Law—Courts and IRS

#### Tax Cases

There are ninety-four Federal District Courts. Each state has at least one district, and New York City and the District of Columbia have their own. Puerto Rico, the Virgin Islands, Guam, and the Northern Mariana Islands also have District Courts. These courts along with the other federal courts publish over 200 decisions in a year giving guidance on taxes. Besides these decisions, the Tax Court hands down about 450 memorandum and summary decisions in a year.

#### Revenue Rulings and Procedures

The IRS is releasing fewer published rulings currently than it did in the past. For example, in 2006, the IRS issued sixty-three Revenue Rulings and fifty-six Revenue Procedures. Looking back twenty years to 1986, the IRS was issuing more than 200 Revenue Rulings and Procedures in a year. This is about a 42 percent drop in the number of published guiding rulings. In the mid-1990s, the IRS decided to cut back on its issuances of Revenue Rulings, thus causing the reduction in administrative rulings.

With so much tax law being promulgated on a yearly basis, tax professionals need citators to help determine which cases and rulings are still valid and which have been modified, reversed, revoked, and superseded.

When a legal source has been identified as pertinent to a research question, the first step in reviewing the document is to check it through a citator. For instance, say that a tax researcher has identified *Corn Products Refining Company* (a 1955 Supreme Court holding) as pertinent to a research project. The holding in the case might help or hurt the client's case. The task, then, is to find out how strong the holding in the *Corn Products* case is. The researcher must determine how subsequent cases evaluated the legal reasoning and findings of the *Corn Products* decision. In addition, the researcher must determine if changes in the Code made the case obsolete.

### Commercial Citators

Of the four citators examined in this chapter, three have editions that exclusively cover tax cases—Commerce Clearing House (CCH), Research Institute of America (RIA), and Shepard's—and one includes tax cases in its law citator—Westlaw. The CCH, RIA, and Shepard's commercial citators are available in published or electronic formats, although the published format is becoming used less frequently over time in the tax practice. Westlaw does not have a published counterpart. CCH provides its citator as part of its Standard Federal Tax Reporter tax service, whereas the RIA Citator 2nd is offered separately from its tax services. Shepard's Federal Tax Citator is offered through the Internet exclusively by Lexis. The accuracy of the case citations is very important; consequently, this will be the focus of the citators review in this chapter.

One of the advantages of the CCH and RIA citators is that they allow the researcher to enter case names or citations. Shepard's and Westlaw, on the other hand, accept only citations. All of the citators furnish templates and/or guidance for entering the citations for documents of interest to the researcher. The citations reproduced by CCH are *general*, directing the researcher to the first page of the citing case; the other citators give *local* citations (also called a pinpoint citation), directing the researcher to the exact page where the cited case is mentioned in the

citing case. For example, *Gregory v. Helvering* (293 US 465) is cited in the Second Circuit Court of Appeals case *Bausch & Lomb Optical Co.*, on page 78 in the *Federal Reporter 2d Series* case reporter. The CCH citation indicating this citing is *Bausch & Lomb Optical Co.*, 267 F2d 75 (first page of the *Bausch & Lomb Optical Co.* case), whereas the RIA, Shepard's, and Westlaw citators have the cite as *Bausch & Lomb Optical Co.*, 267 F2d 78. Having local citations that pinpoint the discussion of the case of interest can be a real time saver when the citing case is long.

The discussion in this chapter concentrates on the Internet versions of the citators. The published versions are briefly reviewed to give a sense of the origins and evolution of citators, as well as some concept of the physical scope of the information contained in citators. While the Internet versions generally are no more than the paper publication in electronic form, this may not be evident to the user.

The *Nader Soliman* case (506 US 168, 113 S Ct 701, 71 AFTR 2d 93-463, 93-1 USTC ¶ 50,014, 121 L Ed 2d 634) will be utilized for demonstrating the various features of the citators. This case involves the deductibility of home office expenses (§ 280A). It has an interesting judicial history, as it started in the Tax Court and was affirmed by the Fourth Circuit Court of Appeals and then reversed by the Supreme Court. The Supreme Court case was then superseded by new congressional legislation causing § 280A to be amended.

## Shepard's

Shepard's was the first major publisher to truly understand the commercial value of citators. It became the leading publisher of citators and thus its name has become synonymous with the act of citing. In fact, the process of evaluating the validity of a case and locating additional authority is called "**Shepardizing**" a case. The **Shepard's Citators** (Shepard's) are currently available in print, on CD-ROM, and on the Internet through LexisNexis, who acquired Shepard's in mid-1990s. Many attorneys view Shepard's as *the* citator service and all other services as mere imitations. This may have been true at one point in time, but the current competitors have just as much to offer as the "original."



## SPOTLIGHT ON TAXATION

### Factoid

In 1873, Frank Shepard of Chicago introduced his first citator as an aid to legal research. This citator was actually printed on gummed labels, listing each case cited in another case. Before Shepard created these gummed labels, those reading a case that cited another case would jot a note in the reporter margins of the cited case, to signal that they might later need to rely on the cited case. In 1900, Shepard's began to annotate the cases by indicating the treatment of the case by the citing cases (i.e., explained, overruled, etc.).

Since that time, Shepard's has evolved into over twenty different citators that cover virtually every case reporter series, as well as for specialized areas of the law, such as *Shepard's Federal Tax Citator* (FTC) for tax research. Because of its dominance in citator publishing and the breadth of its coverage, legal researchers often refer to the process of evaluating the validity of a case as "Shepardizing" a case. In 1996, LexisNexis purchased 50 percent of Shepard's and operated it in conjunction with Time Mirror. In 1998, LexisNexis acquired the remaining 50 percent to become the sole owner and Internet provider of Shepard's.

**Shepard's Citator** Shepard's is the only major tax citator that is organized by case reporter series. Accordingly, the practitioner must know the court reporter citation for the case of interest, regardless of whether the paper or electronic version is used. This can be a problem if only the name of a case is known. However, using a document searching tool, such as the Tax Law Search in LexisNexis Academic, the name of the case can be entered as a keyword search and the case retrieved. From the document (case) listing or the actual document, the citation is obtained. This can then be entered into the citation box. Since citations must be entered in the proper format, Shepard's provides an exhaustive list of examples of citation formats for every possible document that can be Shepardized (see Citation Formats tool).

There are two ways to locate the citation format, Browse Citations and Find Citations. Within the Browse Citations tool, there are so many sample entries that they are indexed themselves. When using the Find Citations tool, the publication name (reporter for cases) is entered as shown in Exhibit 8-1. Once the document of interest is found, clicking on its associated abbreviation displays a template for entering the citation. The templates are set up in the standard "volume, reporter, page" format. If the researcher knows these three elements of the citation, the program is forgiving of punctuation, internal spacing, and capitalization variations.

**Exhibit 8-1: Shepard's Find a Citation Format Screen**

The screenshot shows the LexisNexis Academic interface. At the top, there are navigation links: Start | Sign Out | Contact Us | Help. Below that, there are tabs for Search and Sources, with sub-tabs for General, News, Legal, Business, and People. The main content area is titled 'Shepard's > Citation Formats' and has two sub-sections: 'Find Citations' and 'Browse Citations'. The 'Find Citations' section contains a search box with the text 'Find a Citation Format' and 'Tax Court' entered. A 'Find' button is to the right. Below the search box, it says '15 Publications'. A table follows with two columns: 'Full Name' and 'Abbreviation'. The table lists various tax court publications and their corresponding abbreviations. Arrows indicate the flow from the search input to the selected entry and then to its abbreviation.

Full Name	Abbreviation
Maryland Tax Court LEXIS cite [MD]	<a href="#">Md. Tax LEXIS</a>
Minnesota Tax Court LEXIS cite [MN]	<a href="#">Minn. Tax LEXIS</a>
New Jersey Tax Court LEXIS cite [NJ]	<a href="#">N.J. Tax LEXIS</a>
New Jersey Tax Court Reports [NJ]	<a href="#">N.J. Tax</a>
Oregon Tax Court Advanced Sheets [OR]	<a href="#">Or. Tax. Adv.</a>
Oregon Tax Court LEXIS cite [OR]	<a href="#">Ore. Tax LEXIS</a>
Reports of the United States Tax Court [US]	<a href="#">T.C.</a>
Tax Court Memorandum (RIA)	<a href="#">T.C.M. (RIA)</a>
Tax Court Memorandum Decisions	<a href="#">T.C. Memo</a>
Tax Court Memorandum Decisions (CCH)	<a href="#">T.C.M. (CCH)</a>
Tax Court of the United States Reports (by number) [US]	<a href="#">T.C. No.</a>
Tax Court Summary Opinions	<a href="#">T.C. Summary Opinion</a>
Tax Court Summary Opinions LEXIS cite	<a href="#">Tax Ct. Summary LEXIS</a>
United States Tax Court LEXIS cite [US]	<a href="#">U.S. Tax Ct. LEXIS</a>
United States Tax Court Memorandum LEXIS cite [US]	<a href="#">Tax Ct. Memo LEXIS</a>

At the bottom of the page, there is a footer with the LexisNexis logo and the text: 'About LexisNexis | Terms and Conditions | My ID Copyright © 2007 LexisNexis, a division of Reed Elsevier Inc. All rights reserved.'

Shepard's displays the following information for the case of interest (see Exhibit 8-2).

- Case evaluation symbol.
- Case citation in proper format.
- Parallel citations.
- All prior case history.
- Treatment by citing cases.
- Citations to secondary citing sources such as law reviews.

In examining Exhibit 8-2, the first item listed is the case citation in proper format. Clicking on the citation produces the LexisNexis reporter full-text case document. Each commercial reporter provides information that varies by publisher before the text of the actual case, which is the same in each reporter. For example, LexisNexis includes a case summary (Procedural Posture and Overview) as well as headnotes and core terms. **Headnotes** are the paragraphs in which the editors of the court reporter summarize the court's holdings on each issue of the case. Since the editors

### Exhibit 8-2: Shepard's Unrestricted List for Soliman Case

LexisNexis® Academic Start | Sign Out | Contact Us | Help

Shepard's® > 506 us 168(1/1) - Unrestricted(Full)

Search Sources Results

Restrict By: Unrestricted

1-100 of 214 Total Cites

**Commissioner v. Soliman, 506 U.S. 168**

*Commissioner v. Soliman*, 506 U.S. 168, 113 S. Ct. 701, 121 L. Ed. 2d 634, 1993 U.S. LEXIS 828, 61 U.S.L.W. 4053, 6 Fla. L. Weekly Fed. S 807, 93 Cal. Daily Op. Service 219, 93 D.A.R. 528, 71 A.F.T.R.2d (RIA) 463, 93-1 U.S. Tax Cas. (CCH) P50014 (1993)

**SHEPARD'S SUMMARY** [Show Summary](#)

**PRIOR HISTORY ( 5 citing references )** [Hide Prior History](#)

1. *Soliman v. Commissioner*, 94 T.C. 20, 1990 U.S. Tax Ct. LEXIS 3, 94 T.C. No. 3 (1990)
2. **Affirmed by:**  
*Soliman v. Commissioner*, 935 F.2d 52, 1991 U.S. App. LEXIS 11355, 67 A.F.T.R.2d (RIA) 1112, 91-1 U.S. Tax Cas. (CCH) P50291 (4th Cir. Va. 1991)
3. **Writ of certiorari granted:**  
*Commissioner v. Soliman*, 503 U.S. 935, 112 S. Ct. 1472, 117 L. Ed. 2d 616, 1992 U.S. LEXIS 1708, 60 U.S.L.W. 3652 (1992)
4. **Motion granted by:**  
*Commissioner v. Soliman*, 503 U.S. 969, 112 S. Ct. 1582, 118 L. Ed. 2d 302, 1992 U.S. LEXIS 2136, 60 U.S.L.W. 3687 (1992)
5. **Motion granted by:**  
*Commissioner v. Soliman*, 503 U.S. 969, 112 S. Ct. 1582, 118 L. Ed. 2d 302, 1992 U.S. LEXIS 2136, 60 U.S.L.W. 3687 (1992)

**Reversed by (CITATION YOU ENTERED):**  
*Commissioner v. Soliman*, 506 U.S. 168, 113 S. Ct. 701, 121 L. Ed. 2d 634, 1993 U.S. LEXIS 828, 61 U.S.L.W. 4053, 6 Fla. L. Weekly Fed. S 807, 93 Cal. Daily Op. Service 219, 93 D.A.R. 528, 71 A.F.T.R.2d (RIA) 463, 93-1 U.S. Tax Cas. (CCH) P50014 (1993)

**SUBSEQUENT APPELLATE HISTORY ( 1 citing reference )** [Show Subsequent Appellate History](#)

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**CITING DECISIONS ( 123 citing decisions )**

**1ST CIRCUIT - COURT OF APPEALS**

of each reporter analyze the legal points of a case differently, the headnotes for a specific case will not likely correspond across the various reporters. Tax cases may address several issues, and the headnotes help the researcher identify how their particular issue of interest was treated. If the researcher is examining the case document and wants to Shepardize it, links to Shepard's are easily accessible.

Preceding the case citation is an easy-to-recognize symbolic case evaluation. Thus, the researcher quickly can determine the legal standing of a case at-a-glance. Note that the *Soliman* case has a stop sign shape (see Exhibit 8-2). The symbols used by Shepard's to indicate the precedential status of the citing cases are as follows.

- Red stop sign shape: Warning—Negative Treatment. The case has a history of negative treatment such as being overruled or reversed on one or more of its issues.
- Yellow triangle: Caution—Validity Questioned. The case's validity is questioned by citing cases.
- Green diamond with a "+" in the center: Positive Treatment. The citing cases have affirmed or followed the case.
- Blue circle with an "A" in the center: Analysis Available. The citing cases have analysis of the case.
- Blue circle with an "I" in the center: Information Available. The citing material has citation information available. Law review or treatise discussion would be an example of this information available.

Shepard's furnishes an extensive list of parallel citations. It includes all of the government and major commercial citations along with several unofficial or lesser known reporter versions. Parallel citations all refer to the same case, thus the text of the case is the same regardless of which citation is utilized to retrieve the case. Therefore, it is not necessary for researchers to list every parallel citation in file memos or client letters; one citation usually is sufficient. This can be either the government or one of the major commercial citations (RIA, CCH, or West). Lexis citations are not supported with templates by CCH and RIA, and tax professionals generally do not use them.

The prior direct history developed by Shepard's lists the complete judicial proceeding for the case of interest. For example, the prior direct history of the *Soliman* case includes its original Tax Court opinion that was affirmed on appeal by the Fourth Circuit Court of Appeals, the motion for writ of certiorari granted, and the reversal by the Supreme Court. Cases may have prior direct histories with more than two lower court citations when the case has been remanded or other judicial proceedings were required.

The researcher can restrict the citing cases retrieved by Shepard's to all positive, all negative, or any analysis, or the restriction can be customized by type of court or headnote paragraph number. This allows the researcher to quickly locate citing cases that address the particular tax issue of interest and in the geographical location of the taxpayer. For our case, we used an unrestricted search, which retrieved 123 citing decisions. In addition to the citation of the citing case (and its parallel citations), Shepard's hyperlinks the specific page where the citing case discusses the case of interest and indicates which headnote is linked to the discussion.

Since the numbered headnotes for a specific case do not necessarily correspond among the various reporters, when using headnote numbers to restrict retrieved cases, the researcher must be cognizant of which court reporter headnote



numbers are pertinent to each citator service. Shepard's also evaluates the discussion of the citing case and categorizes its treatment (e.g., affirmed, cited by, criticized, distinguished, explained, followed, etc.) and the operation (amended, extended, revoked, etc.) of the citing cases. These evaluated citing cases are listed beginning with any Supreme Court citing cases and continuing with Federal jurisdiction (Appeals Courts in number order and then District Courts), followed by the U.S. Court of Federal Claims, Tax Court, various state courts, statutes, law reviews and periodicals, treatises, and other secondary sources. Within each of these citing groups, the citations are listed in reverse chronological order (newest first).

**Shepard's Table of Authorities** Shepard's **Table of Authorities** (TOA) is a type of citator service, but it has a different purpose than regular citators. Rather than furnishing a history of a case and a list of cases citing it, the TOA lists the cases that are cited by the case of interest and to what extent it relied on these cases. This saves the researcher from having to enter each of these cases in the regular citator and consequently is a tremendous time-saving tool. For our research, the TOA would list the cases the Supreme Court cited and relied upon in reaching its opinion in *Soliman*. Examining the cases cited in *Soliman* is useful in tracing the logic of the court's decision, whether or not *Soliman* supports our client's preferred tax treatment. If *Soliman* relies on other cases with negative or weak histories, then some of the reasoning in *Soliman* may be flawed. Accordingly, a case that itself has no negative history when checked in the regular citator may appear to be sound law when, in fact, it may be weak as precedent because it relies on cases that have been overruled or have other negative connotations. Thus, less reliance should be placed on the case's findings in this situation.

The TOA lists the cited cases by jurisdiction (Circuit Court of Appeals, District Court, etc.). For each of these cases, the TOA furnishes the same information that the researcher would obtain if each case was separately checked through the regular Shepard's citator. Thus, for each cited case, the TOA lists the full case name, its citation (with parallel citations), and the ultimate disposition of the case. It also provides an assessment of how your case of interest evaluated the cited cases and the page in your case on which the cited case is discussed. The cited cases themselves are evaluated based on their history and assigned a Shepard's at-a-glance symbol (stop sign, triangle, etc.) indicating their current status.

## Lexis

Besides the Shepard's Citators, Lexis contains the Auto-Cite citator and the LEX-CITE search system. Each of these is a useful tool for the researcher when verifying a case's value as precedent.

**Auto-Cite** LexisNexis developed its own citator, **Auto-Cite**, before it offered Shepard's. Since Auto-Cite was first offered in 1979, it was originally available only through Lexis dedicated terminals. Now it is part of the Lexis Internet service. Auto-Cite was designed by Lawyers Cooperative Publishing to help their editors check the validity of citations. Therefore, its primary objectives are to provide absolutely accurate citations, and to do so within twenty-four hours of receipt of each case. Not only is Auto-Cite beneficial in determining whether a case is still good law, it also allows researchers to check the standing of Revenue Rulings and Revenue Procedures.

The information retrieved by Auto-Cite includes the correct spelling of the case name, its official citation, the year of the decision, and all official and most unofficial parallel cites. The prior and subsequent case history shows the full litigation history of a case, whereas the subsequent treatment history focuses on opinions that have lessened or negated the case's precedential value. Thus, the service lists citing cases

that have overruled, criticized, or in some manner devalued the case of interest. To help quickly analyze whether a case is still good law, Auto-Cite uses at-a-glance symbol designations similar to those of Shepard's. Finally, an interesting feature of Auto-Cite that is not offered in Shepard's is a listing of documents that have had their precedential value negatively affected by the case of interest.

Auto-Cite is updated at least daily, and it provides accurate information on cases that affect the strength of the cited case. Whereas Shepard's focus is on furnishing a comprehensive history of the case, Auto-Cite is a selective list of citing cases having a significant impact on the validity of the case of interest.

**LEXCITE** When researchers want to search the most current legal documents for references to their case of interest, **LEXCITE** is the tool to choose. Lexis prides itself on LEXCITE being more current than even Shepard's. As with Shepard's and Auto-Cite, the citation for the case (not the name) must be entered in the standard "volume-reporter-page" convention. LEXCITE ascertains the case's parallel citations, and then it searches for all of the embedded cite references in documents including case law, the Code, Federal Register, IRS pronouncements, and secondary sources such as law reviews and journals. Once the case cite has been located in a document, LEXCITE will identify and highlight subsequent *id.* and *supra* references.

The LEXCITE feature actually searches the full text of the documents available in Lexis, which covers more than 1,700 reporters and authorities. Accordingly, the researcher is able to see the references to the case of interest in context and make a personal determination of how the case was evaluated by the document's author. One limitation should be mentioned, however; LEXCITE will not find references to case names only—a court reporter citation must be present for LEXCITE to identify the document as a source.

An advantage of using LEXCITE is that the practitioner can customize the search to retrieve documents that address only a particular point of law in the cited case by using other search terms in addition to the citation. The jurisdiction, such as only Circuit Court of Appeals or only Missouri state court cases, can be specified. Date restrictions are very helpful when updating previous research, and one could examine all of the decisions written by a specific judge. This ability to customize the search is particularly useful when assisting a client in litigating a tax issue.

### **Westlaw Citator System**

As discussed in Chapter 7, Westlaw is structured for legal research. It was designed by attorneys for attorneys. Since case law is very important in most areas of law, taxation included, the citation applications are the centerpiece of the Westlaw service. Westlaw's citators are also very effective for validating statutes, regulations, and administrative rulings. Besides its own citators, Westlaw also offers the RIA Citator 2nd. As its operation is essentially the same as when accessed through the RIA Checkpoint service, discussion of the RIA Citator 2nd is deferred until the next section of this chapter.

**KeyCite** Westlaw launched its own major citator, called **KeyCite**, in 1997, while still offering other citator services such as Shepard's. With the loss of Shepard's in 1999, Westlaw reorganized its citators and developed KeyCite into a comprehensive proprietary service. Since it was developed solely for use by Westlaw customers, there is no published version of KeyCite. Westlaw also created a KeyCite especially for tax. As Exhibit 8-3 shows, this citator offers templates and examples (below the templates) illustrating the proper format for entering citations. Besides the templates for the Code, Regulations, and administrative pronouncements that are visible in Exhibit 8-3, templates also are provided for all tax case reporters. The

Exhibit 8-3: Westlaw KeyCite Tax Templates

The screenshot shows the Westlaw KeyCite Tax Templates interface. The top navigation bar includes 'Westlaw', 'FIND&PRINT', 'KEYCITE', 'DIRECTORY', 'KEYSEARCH', 'COURT DOCS', 'SITE MAP', 'HELP', and 'SIGN OFF'. Below this is a secondary navigation bar with 'Tax', 'Westlaw', 'Business & News', 'Washington', '9th Circuit', 'Westlaw International', and 'Add/Remove Tabs'. The main interface is split into a left sidebar and a right main area.

**Left Sidebar:**

- Shortcuts:** Recent Developments: Weekly Tax Updates.
- Find by citation:** Input field with 'Go' button. Options: 'and Print', 'Find a Federal Tax Document', 'Find a State Tax Document'.
- Check a Citation:** 'KeyCite for Tax' (highlighted with an arrow), 'RIA Tax Citator'.
- Search these databases:** Input field with 'Go' button. Dropdowns for 'Recent Databases' and 'Favorite Databases'. Links: 'View Westlaw Directory', 'View Taxation Directory'.
- Get Market Information:** 'Access The Quotes Service', 'Access The Market Indices'.
- Tables of Contents:** 'Select a TOC' dropdown with 'Go' button.
- Federal Rates:** 'Applicable Federal Rates' link.

**Main Area (KeyCite):**

- Tabs: 'Codes and Regulations', 'Rulings and Releases', 'Cases'.
- Codes and Regulations:**
  - Internal Revenue Code: I.R.C. § [input] Go. Example: 104.
  - Treasury Regulations: Treas. Reg § [input] Go. Example: 1.656-6.
- Rulings and Releases:**
  - Action on Decision: AOD [input] Go. Example: 2000-08.
  - Announcement: Announcement [input] Go (arrow). Example: 2001-7 (arrow).
  - Chief Counsel Advice: IRS CCA [input] Go. Example: 199952003.
  - Field Service Advice: IRS FSA [input] Go. Example: 199916003.
  - General Counsel Memoranda: GCM [input] Go. Example: 35373.
  - Litigation Bulletin: IRS LB [input] Go.

templates simplify entering the citations, especially when the researcher is unfamiliar with the acceptable Westlaw format.

KeyCite for Tax has the same drawback as the previously discussed citators, that is, only a citation and not the case name can be entered into the templates. However, by using the Find&Print feature in the Westlaw toolbar (see top of Exhibit 8-3), the option of locating a court case by the taxpayer's name (Find a Case by Party Name) is available. The jurisdiction of the case may be used to narrow the search. Once the case is found, KeyCite may be applied to retrieve the citator information. As seen in the left frame of Exhibit 8-4, the KeyCite citator offers several display options to the researcher. Those that we will examine are Direct History, Citing References, Full-Text Document, ResultsPlus, and TOA. Demonstrating just how "key" the KeyCite service is to Westlaw, it is accessible directly on the Westlaw Welcome screen (see Chapter 7, Exhibit 7-10) by entering a citation, or by clicking on the KeyCite button in the Welcome screen and then entering a citation.

As with Shepard's Citator, the system has been designed to be flexible as to citation formats. Most formats are accepted as long as the general form of "volume-reporter-page" is used. If the researcher does not know the proper citation format for a document of interest, a publication list is available. Since the list contains over 4,400 documents, it can be scanned by either entering words contained in the document title or entering letters or words with which the document title starts. Unlike the Shepard's list, clicking on the title does not produce a template for

## Exhibit 8-4: Westlaw KeyCite Full History for Soliman Case

The screenshot shows the Westlaw KeyCite interface for the case *C.I.R. v. Soliman*. The top navigation bar includes 'FIND&PRINT', 'KEYCITE', 'DIRECTORY', 'KEYSEARCH', 'COURT DOCS', and 'SITE MAP'. The left sidebar contains various navigation options such as 'Result List', 'Full Screen List', 'KeyCite citations', 'Some negative history but not overruled', 'Full History', 'Direct History (Graphical View)', 'Citing References', 'Monitor With KeyCite Alert', 'Full-Text Document', 'Case Outline', 'Petitions, Briefs & Filings', 'ResultsPlus', 'Corpus Juris Secundum: Internal Revenue', 'Table of Authorities', and 'West Key Numbers'. The main content area displays the case title, citation, and a 'History' section showing 14 documents. The 'Direct History' section lists three documents, and the 'Negative Citing References (U.S.A.)' section lists two documents. The interface also includes a 'KeyCite' search box and a 'Go' button.

entering the citation. The researcher must enter the citation in the KeyCite box, using the abbreviation discovered in the publication list.

**History** The Direct History and Negative Citing References are retrieved when the case citation is initially entered into KeyCite. The case's chronological progress through the courts is listed first in the Direct History section, as Exhibit 8-4 illustrates for *Nader Soliman* (506 US 168). The chronological progress also can be graphically displayed. The editors indicate the effects of this progression with words and symbols. Although the symbols employed are different from Shepard's, their meanings are similar. KeyCite's symbols are as follows.

- **Red Flag:** Warning—Negative Treatment. The case or administrative decision is no longer good law for at least one of the points of law it contains. For statutes or regulations, the law has been amended recently or repealed, superseded, or held unconstitutional or preempted in whole or in part.
- **Yellow Flag:** Caution—Some Negative Treatment. The case has negative history but has not been overruled. The statute or regulation has been renumbered, reinstated, corrected, or transferred recently, or its validity has been called into doubt.
- **Blue "H":** Neutral Analysis. The case has some direct history but it is not known to be negative.

- Green “C”: Information Available. The case or administrative decision has citing references but no direct or negative history. For statutes and regulations there are citing references, but no updating documents.

After the direct history, KeyCite presents the Negative Citing References section, which includes citing cases that adversely affect the precedential value of the case of interest. Phrases indicate whether the cases have criticized, distinguished, limited, questioned, or overruled the cited case’s logic or holding. Notice in Exhibit 8-4 that KeyCite indicates that the *Soliman* case has been superseded by statute as indicated in two citing cases. The negative cases are also evaluated as to whether they are still good law, using the same symbols as for the direct history (see Exhibit 8-4).

Besides this evaluation, KeyCite determines the extent to which the citing cases discuss the cited case of interest. This feature is unique to KeyCite and greatly facilitates determining which citing cases should be reviewed. The symbols range from four stars to one star, with four denoting an extended examination of the case (usually more than a printed page in length) and one denoting a brief reference (such as in a string of citations). The final unique symbol supplied by KeyCite is quotation marks, indicating that the citing case has quoted the cited case. This symbol does not appear in the negative citing references but is utilized in the Citing References and the Table of Authorities (Exhibit 8-5).

**Exhibit 8-5: Westlaw KeyCite Table of Authorities for Soliman Case**

The screenshot displays the Westlaw KeyCite interface for the case *C.I.R. v. Soliman*. The main content area shows a list of 19 citing cases, each with a symbol indicating the nature of the citation and a page number. The symbols include stars (1 to 4) and quotation marks. The left sidebar provides navigation options for the case, including 'Full History', 'Direct History', 'Citing References', and 'Monitor With KeyCite Alert'. The 'ResultsPlus' section offers additional resources related to the case, such as 'Corpus Juris Secundum: Internal Revenue' and 'ALR'.

Case	Symbol	Page
8 U. S. v. Detroit Timber & Lumber Co., 26 S.Ct. 282 (U.S. Ark. 1906)	★ ★	702
9 Drucker v. C.I.R., 715 F.2d 67 (2nd Cir. 1983)	★	704+
10 Malat v. Riddell, 86 S.Ct. 1030 (U.S. Cal. 1966)	★ ★	703+
11 Meiers v. C.I.R., 782 F.2d 75 (7th Cir. 1986)	★ ★	704+
12 Newi v. C. I. R., 432 F.2d 998 (2nd Cir.(N.Y.) 1970)	★ ★	705+
13 State of Tex. v. State of N.J., 85 S.Ct. 626 (U.S. 1965) (dissent)	★ ★	715
14 Pomarantz v. C.I.R., 867 F.2d 495 (9th Cir. 1988)	★ ★	705
15 Sharon v. Commissioner of Internal Revenue, 66 T.C. 515 (U.S. Tax Ct. 1976) (dissent)	★	712
16 Soliman v. C.I.R., 935 F.2d 52 (4th Cir. 1991) ”	★ ★ ★ ★	703+
17 Soliman v. C. I. R., 94 T.C. 20 (U.S. Tax Ct. 1990) ”	★ ★ ★	704+
18 Weissman v. C.I.R., 751 F.2d 512 (2nd Cir. 1984)	★ ★	704+
19 Welch v. Helvering, 54 S.Ct. 8 (U.S. 1933) ”	★ ★	708

**Citing References** To look at a comprehensive list of citing cases, select the Citing References option. KeyCite retrieved 579 documents for the *Soliman* case, almost all of which are positive cites. The listing starts with the negative cases presented in the Negative Citing References, with the most recent cases presented first. The Positive Cases section is organized by the depth of coverage, starting with the four-star examinations and leading to the one-star citing cases. Next is administrative pronouncements, such as IRS Rulings and Notices, and the last section contains secondary source references by journals, law reviews, Bureau of National Affairs (BNA) Portfolios, tax services, and so on. Since the number of documents retrieved can be overwhelming, KeyCite allows the researcher to limit those retrieved by headnotes (key numbers), location, type of jurisdiction, date, type of document, and depth of treatment (number of stars). A keyword search is possible if the KeyCite list is less than 2,000 documents.

As discussed previously, the headnote paragraphs represent a summary of each significant legal issue in the case. The interpretation of “significant issues” varies by the editorial staff of each court reporter. The editors of the court reporters analyzed the judicial opinions to different degrees of detail. For example, the *West Supreme Court Reporter* editors for the *Soliman* case required thirteen headnotes to evaluate the law, whereas the RIA editors of the AFTR2d series needed just one. The drafting of headnotes and the breadth of the issue that each headnote addresses are a matter of style and editorial policy of the entity that publishes the reporter. In KeyCite, the West headnotes discussed by each citing case are listed after the “star” designations in the citation (see Exhibit 8-4).



## SPOTLIGHT ON TAXATION

### Supreme Court Justices

The U.S. Supreme Court is made up of nine justices who are nominated by the President and approved by the Senate. Approximately 8,000 petitions are filed with the Supreme Court in the course of one year. In addition, some 1,200 applications of various kinds are filed each year that are acted upon by a single justice. As Supreme Court justices reside on the bench for life, the ability to nominate a Supreme Court justice accords the President tremendous power to influence future Supreme Court decisions by virtue of the person selected for nomination. This is especially true if that person is relatively young (by Supreme Court standards), such as John Roberts, who was fifty when nominated by George W. Bush to be the Chief Justice. The following is a list of the Supreme Court justices as of the beginning of 2008. It is likely that this list will change in the next few years.

Name	Date and Place of Birth	Nominating President	Year Installed
John G. Roberts, Jr. (Chief Justice)	January 27, 1955 Buffalo, New York	G. W. Bush	2005
John Paul Stevens	April 20, 1920 Chicago, Illinois	Nixon	1970
Antonin Scalia	March 11, 1936 Trenton, New Jersey	Reagan	1986
Anthony M. Kennedy	July 23, 1936 Sacramento, California	Reagan	1988

*continued*

*continued*

David H. Souter	September 17, 1939 Melrose, Massachusetts	G. H. W. Bush	1990
Clarence Thomas	June 28, 1948 Pinpoint, a community near Savannah, Georgia	G. H. W. Bush	1991
Ruth Bader Ginsburg	March 15, 1933 Brooklyn, New York	W. Clinton	1993
Stephen Breyer	August 15, 1938 San Francisco, California	W. Clinton	1994
Samuel A. Alito	April 1, 1950 Trenton, New Jersey	G. W. Bush	2006

The West headnote system has a particularly valuable feature for finding law, the **West Key Number System**. The points of law articulated in a case are classified by the editors into Key Numbers that create an extensive system for organizing case law called the West Key Number Digest. The key number for a topic of interest can be found by drilling down through the Key Numbers alphabetical list. Internal Revenue, for example, is Key 220 and Home Office Expenses are 220k3355.

**Full-Text Document** Selecting Full-Text Document displays the text of the selected case. The full citation (all official cites and numerous unofficial cites) of the case, geographical location, and date of judgment are provided as well. After a summary of the case, the headnotes and key numbers assigned by the case reporter editors appear, and then the official full text of the document. Rather than retrieving the full text, the researcher can select the outline option. With this option, the researcher can jump to the synopsis, headnotes, or opinions (concurring and dissenting) for the case.

**ResultsPlus** As discussed in Chapter 7, **ResultsPlus** displays a list of suggested analytical materials relevant to the search. For the *Soliman* case, ResultsPlus suggests discussions of the IRC related to the issues in *Soliman* (see Exhibit 8-4). The materials appear in legal encyclopedias (Corpus Juris Secundum and American Jurisprudence), legal reports (American Law Reports), treatises, law reviews, and topical publications such as the *BNA Portfolios* and *Mertens*.

**Table of Authorities** The Westlaw TOA performs the same function as the Shepard's version. However, the Westlaw TOA reports more information. As Exhibit 8-5 demonstrates, not only does the TOA indicate where the case of interest cites other cases in supporting its reasoning, Westlaw also denotes how much discussion was given to the case using its four-star depth of treatment symbols. Further, if the case of interest quotes other cases, this is designated with the quotation marks symbol. The cases listed in the TOA with negative history, or those that have been reversed or overruled, are marked with a yellow or red flag, making it easy for researchers to determine the strength of the cases relied on by the case of interest.

## RIA Citator 2nd

The **RIA Citator 2nd** is a comprehensive tax citator. Along with District Court, Court of Federal Claims, Court of Appeals, and Supreme Court cases reported in RIA's tax court reporter series, American Federal Tax Reporter series (AFTR and

AFTR 2d), and the Tax Court cases (regular, memorandum, and unpublished), the RIA citator evaluates administrative pronouncements (hereafter referred to as rulings) issued by the IRS and Treasury Decisions.

**Using the RIA Citator 2nd** The Citator 2nd is accessible from the opening Checkpoint screen (see Chapter 6, Exhibit 6-1, left window). It supports citator searches by case (taxpayer) name, citation, or keyword (see Exhibit 8-6). For case name searches, as in Exhibit 8-6, the court may be indicated through a list supplied by RIA. This is an optional entry; thus, if only the taxpayer name is known, the search still can be successful. When the citation is known, templates, similar to those provided by Westlaw, are furnished to ensure that citations are entered in the proper format.

The researcher has the option of retrieving a list of cases and rulings that cite the case of interest (Cited) or a list of cases and rulings cited by the case of interest (Citing). This latter option is similar to the Shepard's and Westlaw's TOA, but less extensive information is provided. The score rating supplied is based on the number of times the citation appears in the case in relation to other documents, applied with a "complex formula" developed by RIA. This method of scoring probably does not provide much information to the researcher, however.

The result of the *Soliman* Cited search is a list of all the tax cases citing *Soliman*. Thus, the major difference between the RIA Citator 2nd and Shepard's or KeyCite is that RIA only lists citing tax cases. This is beneficial to a tax researcher

#### Exhibit 8-6: RIA Citator 2nd Case Name Template

**Checkpoint** History | Options | My Folders | Help | Sign Off

Home | Research | Newsstand | Tools | Practice Development

Search | Table of Contents

**Search**  
Practice Area:  
Federal

**Keyword Search**

**Find by Citation**  
Code & Regs  
Cases  
Rulings/IRB  
IRS Pubs & Other Tax Docs  
Citator 2nd  
Case Name  
Case Citation  
Ruling Citation  
Keywords  
More...

**Date Range Search**

**Legislation Search**

Go to  
Form/Line Finder  
i-Tables  
Indexes  
Tax Watch  
USTR Code Section

**Find Cases by Name**

**Source Selection:** (Required)  
 Citator  
 Advanced Citator

**Cited / Citing:** (Required) ←  
 Cited  
 Citing

The "cited" option will retrieve the main entry or entries of your search entry.  
The "citing" option will retrieve all the cases and/or rulings which were cited by your search entry.

Example: ABBOTT, JR. v. COMM or ABBOTT

Case Name:

**Court Selection:** (Optional)  
 United States Supreme Court  
 Court of Appeals (Example: 1 or 1,3)   
 District Court (Example: PA or PA,DE)   
 Court of Federal Claims  
 Bankruptcy Appellate Panel (Example: 1 or 1,3)   
 Bankruptcy Court (Example: PA or PA,DE)   
 Tax Court (Reported)  
 Tax Court (Memoranda)  
 Internal Revenue Service-Rulings

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because it reduces the number of citations retrieved to only those citing the case of interest based on its analysis of tax issues. Clicking on the citation of any of the citing cases listed will take the researcher directly to the place in the citing case where *Soliman* is cited and discussed.

The AFTR court reporter's full-text reproduction of the *Soliman* case is in Exhibit 8-7. The main advantages of the AFTR court reporter for tax research are that its headnotes address only the tax issues of the case, and that it adds the Code sections addressed in the case to its Case Information summary, which includes the level of the court, docket number, date decided, prior history, tax year, disposition of the case, and parallel citations. Knowing the tax year for the case can be very beneficial when the tax law is amended after the tax year but before the case is decided. This is possible, when, as the *Soliman* case illustrates, it can take ten years for the final decision by the courts (tax year 1983 and Supreme Court decision 1993). Knowing the disposition of the case before starting to read the case also may help practitioners to focus their reading of the opinion. It can be hard to determine the final result of the case merely by reading an opinion from beginning to end!

The three buttons just above the *Soliman* case name and citation, in Exhibit 8-7, access annotations of the case in the United States Tax Reporter (Annot), paragraph references of the case in the Federal Tax Coordinator 2d (FTC), or the case's listing in the Citorator 2nd (Citorator). References to the annotations also are listed between the headnotes and the opinion (not visible in Exhibit 8-7).

#### Exhibit 8-7: RIA Soliman Case and Citorator 2nd Links

Checkpoint® History | Options | My Folders | Help | Sign Off

Home Research Newsstand Tools Practice Development

Search | Table of Contents

RIA COMM. v. SOLIMAN, 71 AFTR 2d 93-463 (506 US 168), Code Sec(s) 162; 157; 280A, (S Ct), 01/12/1993  
American Federal Tax Reports (1860 - 2006) (RIA)

▶ Annot ▶ FTC ▶ Citorator

**COMM. v. SOLIMAN, Cite as 71 AFTR 2d 93-463 (506 US 168), 01/12/1993, Code Sec(s) 162**

COMMISSIONER of Internal Revenue, PETITIONER v. Nader E. SOLIMAN, DEFENDANT.

**Case Information:**

<b>Code Sec(s):</b>	162
<b>Court Name:</b>	U.S. Supreme Court,
<b>Docket No.:</b>	No. 91-998,
<b>Date Decided:</b>	01/12/1993
<b>Prior History:</b>	Fourth Circuit, <a href="#">_67 AFTR2d 91-1112</a> , ( <a href="#">_935 F.2d 52</a> ), which affirmed <a href="#">_94 TC 20 (No. 3)</a> , reversed.
<b>Tax Year(s):</b>	Year 1983.
<b>Disposition:</b>	Decision for Govt.
<b>Cites:</b>	71 AFTR 2d 93-463, 506 US 168, 121 L Ed 2d 634, 93-1 USTC P 50014.

**HEADNOTE**

**1. Home office deduction.** Taxpayer-anesthesiologist who cared for patients in several hospitals (for 30-35 hrs./wk.) wasn't entitled to [\\_IRC § 280A\(c\)\(1\)\(A\)](#) deductions for home office even though administrative functions that he performed there (for 10-15 hrs./wk.) were necessary to his practice and no other offices were available: office wasn't his principal place of business. Principal place of business must be determined by comparing relative importance of activities performed at each business location and time spent at each location. Place where services are rendered or goods are delivered, though not conclusive,

Print Expert E-mail Save Open Text

Back to Results Document Contents

**RIA Conventions** When the plaintiff in a tax case is the U.S. Government, Commissioner of Internal Revenue, Secretary of the Treasury, or an IRS employee, the RIA citator does not catalog the case under the plaintiff's name, as is the traditional legal convention. This is because there are thousands of cases in which Eisner, Helvering, Burnet, or other Commissioners or Secretaries of the Treasury initiated the litigation. Rather, the RIA Citator 2nd catalogs all cases by the taxpayer's name. This convention greatly facilitates the researcher's search by case name.

The *Soliman* case was first decided in 1990 by the Tax Court (94 TC 20), which found for the taxpayer, allowing the home office deduction. The IRS appealed to the Court of Appeals for the Fourth Circuit. This case, decided in 1991 (67 AFTR2d 91-1112), again found for the taxpayer. The IRS appealed again, this time to the U.S. Supreme Court. The Supreme Court decided the case in the IRS's favor in 1993 (71 AFTR2d 93-463). Consequently, there are three separate entries in the Citator 2nd for this case, because each of these courts wrote an opinion that can be cited by other cases (see left frame, Exhibit 8-7).

The Supreme Court opinion is the most cited, since it is the final judicial decision on the issue. However, this is not the final word for the tax researcher because Congress amended the Code to reject the findings of the Supreme Court, as Exhibit 8-8 clearly indicates in the *Soliman* judicial history. Note that the Tax Court decision is not shown in the Judicial History, but two relevant rulings are listed.

Compare the data provided in Exhibit 8-8 to that of Exhibits 8-2 and 8-4. Shepard's and KeyCite list more parallel citations and more extensive judicial

#### Exhibit 8-8: RIA Citator 2nd for Soliman Case

RIA SOLIMAN, NADER E.; COMM. v. 71 AFTR 2d 93-463, 506 US 168, 113 S Ct 701, 93-1 USTC ¶50,014, (US, 1/12/1993)  
Citator 2nd (RIA)

**SOLIMAN, NADER E.; COMM. v. 71 AFTR 2d 93-463, 506 US 168, 113 S Ct 701, 93-1 USTC ¶50,014 (us, 1/12/1993)**

Judicial History

**Overruled by legislation** : P.L. 105-34, , 8/5/1997 ; [See sec. 932(a), Taxpayer Relief Act of 1997] ←

**Reversing earlier case**: *Soliman, Nader E. v Comm.*, **67 AFTR 2d 91-1112, 935 F2d 52 (CA4, 6/5/1991)**

**Related case** : Notice 93-12, 1993-1 CB 298, ...

**Related case** : Rev Rul 94-24, 1994-1 CB 87, ...

Cited In

**Reasoning followed**: *Induni, Noel D. v Comm.*, **71 AFTR 2d 93-1365, 93-1366, 93-1367, 990 F2d 55 (CA2, 4/1/1993)** [See 71 AFTR 2d 93-466, 113 S Ct 705]

**Reasoning followed**: *Heublein, Inc. & Subsidiaries v U.S.*, **72 AFTR 2d 93-5332, 996 F2d 1465 (CA2, 6/29/1993)** [See 71 AFTR 2d 93-466, 113 S Ct 705-706]

Print Export E-mail Save Open Text Viewed Link Close Maximize

(prior) histories than Citator 2nd. The question for the researcher is which service provides the information essential to the project at hand. More information is not necessarily more useful to assessing current law.

Following the judicial history, the Citator 2nd first lists the citations for cases that are in complete agreement with the cited case. Next, citing cases are listed that discuss the holdings or reasoning of the cited case but do not refer to a specific paragraph or headnote. Finally, cases are listed in order of the headnote issue that they address. The headnote number references allow the researcher to restrict a search to only those citing cases with issues that are relevant to the client's factual situation. The Citator 2nd bases its headnote designations on the AFTR series, as that reporter also is an RIA product. For the *Soliman* Supreme Court case, AFTR2d provides only one headnote. The researcher needs to make sure that with the Citator 2nd the AFTR headnotes numbers are utilized and not headnotes numbers from other reporters, such as those published by West.

Within any of the citing groupings—complete agreement, no specific headnote, Headnote 1, Headnote 2, and so on—citing cases and rulings are listed in the following order.

- U.S. Supreme Court
- U.S. Courts of Appeal
- U.S. Court of Federal Claims (or predecessor court)
- U.S. District Court
- U.S. Tax Court (or predecessor court—BTA, regular then memorandum decisions)
- State courts
- Treasury Rulings and Decisions

Citing cases within any court or ruling group are arranged in chronological order.

The Citator 2nd includes tax citing cases that discuss or even just cite the case of interest in a list of citations. Therefore, the listings for important cases, such as *Soliman*, can be several screens long. Rather than using symbols to indicate how each of these citing cases treated the case of interest, the Citator 2nd uses short, easy-to-understand, descriptive phrases.

Many researchers prefer to start their analysis of a case with the most recent citing cases and work backward to earlier cases. Using this method, they can quickly identify the current status of the cited case. For example, a steady stream of recent favorable references probably indicates that the precedent of the original case is still valid and strong, whereas either a list of negative comments or a scarcity of references may indicate a weak or out-of-date decision. The citator portion of a research project is complete when the researcher is satisfied that the status of the case is sufficiently confirmed.

At this point, some of the citing cases should be examined, especially if the cases found initially support the client's position but the facts are somewhat different. The citing cases may provide support with more similar facts. Hence, those citations designated as "case reconciled," indicating that their facts or opinions are different from those of the cited case and require reconciliation, should be consulted. If the initial cases found have holdings adverse to a client's position, the practitioner should search for cases marked "case distinguished," to identify what factors are relevant to the issuance of an adverse opinion.

The “distinguished” cases usually have facts that are actually different from those of the cited case, thus supporting a different holding. Some of these facts may resemble the facts of the practitioner’s client and thus provide the desired support. Similarly, a case denoted as “citing generally” limits the holding of the cited case to a narrow set of facts. This may occur when a higher court has ruled differently on a case with somewhat similar facts or there has been a change in the tax law. Thus, the holding of the cited case may be inapplicable to the client’s factual situation.

**RIA Citator: Rulings** Upon identifying administrative rulings (Revenue Ruling, Revenue Procedure, Notice, General Council Memorandums, etc.) that appear to support a client’s tax position, it is critical for a researcher to determine if they are still in effect and represent the current view of the IRS. Rulings are continually clarified, modified, superseded, or revoked, as Exhibit 8-9 illustrates. What is good law at one point (e.g., Rev Rul 2006-36 issued August 14, 2006) may not be so a few months later (modified by Notice 2007-22 on February 15, 2007).

The steps in checking the validity of rulings are the same as with a court case. The Citator 2nd furnishes templates for most IRS administrative rulings. The search results for rulings provide a hyperlink to the actual ruling and then its judicial history. In this case, the judicial history shows the effect the ruling of interest had on other administrative pronouncements, and/or the effect subsequent administrative pronouncements had on the ruling of interest. If there are any citing court cases, these are listed after citing rulings and before lesser pronouncements (such as Notices). As Exhibit 8-9 demonstrates, it is always important to check pertinent pronouncements through a citator.

### **CCH Citator**

The Commerce Clearing House Tax Citator (**CCH Citator**) is available in print as an integral part of CCH’s Standard Federal Tax Reporter (discussed in Chapter 6). It also is accessible through CCH’s Internet service Tax Research NetWork (NetWork). The NetWork version is merely the paper version in electronic form.

**The CCH Citator Attributes** The CCH Citator differs dramatically from the other citators. First, the CCH Citator lists only those citing cases that the CCH editors believe will serve as useful guides in evaluating the cited case’s effectiveness as precedent. Thus, the tax researcher is directed to those cases that may be most likely to develop, explain, criticize, or otherwise evaluate a rule of law. This is in contrast to the other citators, which provide all of the cases mentioning the cited case. Although the latter practice provides a level of thoroughness that may be useful, the CCH editorial screening procedure guards against the possibility of being overwhelmed by the sheer volume of citing cases presented. The more selective CCH approach, of course, forces the researcher to rely on an editor’s evaluation concerning the usefulness of the citing cases.

Second, as discussed at the beginning of this chapter, the CCH Citator uses a general citation rather than a specific location citation. This means that the citation for the citing case is the first page of the citing case and not the point in the case of interest where the citing case is discussed. If the citing case is long, the researcher can waste valuable time identifying where the citing case discusses the case of interest.

Third, as Exhibit 8-10 illustrates, the CCH Citator acts as a Finding Table as well as a citator, by listing paragraph references as to where the case is reviewed in the Standard Federal Income Tax Reporter. This feature reduces the searching time

Exhibit 8-9: RIA Citator 2nd for Notice 2007-22

The screenshot shows the RIA Citator 2nd for Notice 2007-22. The interface includes a navigation menu on the left with options like 'Document List', 'Outline', and 'Links'. The main content area displays the title 'Notice 2007-22, 2007 USTR 186,119, . . .' and a list of 'Judicial History' entries. A red arrow points to the entry 'Modifying earlier case : Rev Rul 2006-36 , 2006 USTR 186,409 , . . .'.

required to locate supplemental information regarding a case or ruling of interest. The tax service discussions help the researcher evaluate the case or ruling in the context of relevant Code sections, Regulations, and administrative sources of tax law.

Fourth, while the CCH Citator provides parallel citations, it does not list as many other citations. Specifically missing are references to the RIA AFTR court reporter series and the Lexis reporter series (see Exhibit 8-10). It may be understandable that the competitor AFTR series is not represented, but Lexis cites should be present, given the relationship between the two companies.

Finally, the CCH Citator does not provide evaluations of the citing cases (see Exhibit 8-10), nor references to headnotes. While the CCH court reporter, United States Tax Cases (USTC), provides headnote information and back references to its tax service, it does not number or label this analysis. Thus, there is no available method to reference this evaluation in the Citator. The omission of these evaluation sources is a significant drawback of the CCH Citator. With cases having numerous issues and lists of citing cases as long as *Soliman*'s, for example, knowing how each citing case interpreted the different tax issues substantially could reduce the number of cases the researcher reads. The only information that can be gleaned by glancing at the *Soliman* Citator entry is that *Soliman* is an important case, given the number of cases citing it. One cannot even tell if the Supreme Court decision is still valid, which is critical when relying on the *Soliman* case.

## Exhibit 8-10: CCH Citator for Soliman Case

**CCH-CITATOR, 2007FED, Main Citator Table, Soliman, Nader E.**

Soliman, Nader E.

ANNOTATED AT ... [2007FED ¶12,523,477](#); [¶14,854,027](#); [¶14,854,94](#); [¶39,651G,305](#); [¶39,652,34](#) ←

- **Sct-(rev/g CA), 93-1 USTC ¶50,014, 506 US 168; 113 Sct 701; Ct. D. 2054, 1993-1 CB 45**
- Sorrentino, CA-10, [2004-2 USTC ¶50,372, 383 F3d 1187](#)
- Textron, Inc., CA-1, [2003-2 USTC ¶60,571, 336 F3d 26](#)
- Tokh, CA-7, [2002-1 USTC ¶50,128, 26 FedAppx 440](#)
- Popov, CA-9, [2001-1 USTC ¶50,353, 246 F3d 1190](#)
- Kurzet, CA-10, [2000-2 USTC ¶50,671, 222 F3d 830](#)
- True Oil Co., CA-10, [99-1 USTC ¶50,364, 170 F3d 1294](#)
- Finger, CA-11, [99-1 USTC ¶50,392, 176 F3d 493](#)
- EWC, Inc., CA-10, [97-1 USTC ¶50,475, 114 F3d 1071](#)
- Sierra Club, Inc., CA-9, [96-2 USTC ¶50,326, 86 F3d 1526](#)
- Rakosi, CA-9, [95-1 USTC ¶50,133](#)
- Putnam, CA-5, [94-2 USTC ¶50,486, 32 F3d 911](#)
- Heublein, Inc., CA-2, [93-2 USTC ¶50,397, 996 F2d 1456](#)
- Indupri, CA-2, [93-1 USTC ¶50,200, 990 F2d 53](#)

**CCH Conventions** Similar to the RIA Citator 2nd, the CCH Citator accepts the taxpayer's name, the complete citation, if known, and it furnishes templates for entering the citation of the case or ruling of interest. For illustrative purposes, Exhibit 8-11 has entered the case name, complete citation, and cites using the case templates for the *Soliman* case. A researcher would actually input data for only one of these searches. Notice that the CCH Citator does not support AFTR (RIA Federal court reporter) citations with a template, nor will it recognize them as complete citations, whereas the RIA Citator does include templates for USTC (CCH Federal court reporter) citations. This can cause problems when a journal article, published by WG&L, for example, contains an AFTR 2d cite for a case with a common taxpayer name, but the practitioner has access only to the CCH Citator and CCH court reporters.

Rather than listing the judicial history, the first entry after the name of a cited case is the annotation paragraph number references to the Standard Federal Tax Reporter compilations (see Exhibit 8-10). Bold black bullets are used to designate the cases in the direct history. The highest level court to address the case is listed first, and the trial-level court is listed last. Hence, the citation for the *Soliman* Supreme Court case is listed first, followed by all of its citing cases, then several screens later the Fourth Circuit case followed by its citing cases, and finally the

Exhibit 8-11: CCH Check Citator with Soliman Case Citation

**CCH Tax Research Network** Preferences | Help | Log Out

Main Menu Clear Selections Research History Research Folders **Check Citator** Find by Citation Search Tools

### Check Citator

Type the citation number in the appropriate box and click on Search.

Search Enter a case name: Soliman

Search Enter a complete citation: 506 US 168

#### Federal Tax

##### CASES

Search 93 - 1 USTC ¶ 50014

Search 506 US 168

Search 113 S. Ct. 701

Search F. 2d

Search F. 3d

Search Fed. Appx

Search F. Supp.

Search F. Supp. 2d

Search Ct. Cl.

Search Cls. Ct.

Search Fed. Cl.

Search B.R.

Search Tax Ct. Dec.

Tax Court case. Consequently, the court path chosen by the parties is not as quickly identifiable as with other citators. Examining the entries in Exhibit 8-10, the citing cases are listed by court level and generally in reverse chronology (most recent first), although this is not consistent for all cases. Unlike Shepard's, the CCH Citator does not list Appeals Court cases in order, or the Circuit or District Court by geographical location. Rather, within Appeals Courts, the cases are listed by date. After listing all court citations, pronouncements are listed by type in a random date order.

The CCH Citator provides limited information about the judicial history of the case. The reference for the Supreme Court case for *Soliman* denotes that it reversed the Fourth Circuit's holding, and the Fourth Circuit reference indicates it affirmed the Tax Court decision. Since the CCH Citator does not denote citing case evaluations, the researcher cannot determine if, for example, the *Sorrentino* case followed, or explained, or distinguished itself from the *Soliman* case (see Exhibit 8-10).

Finally, the Check Citator button in CCH Tax Research Network is available from all screens, as it is part of the toolbar that is constantly visible. Thus, while viewing a case on screen, selecting the Check Citator button will display the Citator entries for the case being examined.

## SUMMARY

The tax researcher's job of sorting through the thousands of potentially pertinent Federal tax authorities is facilitated by citators. When familiar with these research tools, the current status and precedential value of a specific case or ruling can be determined effectively and quickly. This determination is necessary for the researcher to evaluate the judicial and administrative sources of the tax law that pertain to a client's tax issue. The Internet services automate

virtually all of the tedious mechanical aspects of Shepardizing cases and validating the formal correctness of citations. Further, they make the retrieval of cited and citing cases seamless. The overview of citators and the act of citing presented in this chapter demonstrate that research is not complete until all primary sources upon which the researcher is relying are found to be currently "good law."

## TAX TUTOR

Reinforce the tax research information covered in this chapter by completing the online tutorials located at the *Federal Tax Research* web site: <http://academic.cengage.com/taxation/raabe>

## KEY WORDS

By the time you complete this chapter, you should be comfortable discussing each of the following terms. If you need additional review of any of these items, return to the appropriate material in the chapter or consult the glossary to this text.

Auto-Cite  
CCH Citator  
Citation  
Citator  
Citator 2nd  
Cited case  
Cites  
Citing case  
Full-Text Document

Headnotes  
KeyCite  
LEXCITE  
Precedential value  
ResultsPlus  
Shepardizing  
Shepard's Citators  
Table of Authorities  
West Key Number System

## DISCUSSION QUESTIONS

1. Why does the researcher need to determine the precedential value of a case?
2. Why are subsequent cases important to the value of a prior case?
3. Describe the function of a citator in the tax research process.
4. Distinguish between the following terms: cited case, citing case, citation, and cites.



5. Citators do not provide all information related to a case. What kind of information do citators *not* provide?
6. How many federal judicial districts are there, and where are they located?
7. Name three commercial citators that focus exclusively on tax cases. Indicate whether the citators are sold as part of a commercial tax service.
8. Explain the difference between a general directing and a local directing cite. Which service uses local directing cites?
9. What does “Shepardizing” mean?
10. Compare the coverage and organization of Shepard’s with the RIA and CCH citator services.
11. Explain whether a researcher can locate a case either by the case name or by its citation when using the Shepard’s Citator.
12. What are headnotes? Explain whether the headnotes for a given case are set by the court and are consistent across court reporting services.
13. What is the equivalent of the Shepard’s Green Diamond symbol in Westlaw?
14. What is the function of a TOA? Why is it a useful research tool?
15. What is Auto-Cite, who developed it, and what is its primary objective?
16. What is LEXCITE, and when would a researcher use this Lexis service?
17. What is KeyCite, and what event in 1999 caused a reorganization of KeyCite?
18. How does the information provided by KeyCite History differ from that retrieved using KeyCite Citing Reference?
19. What information regarding citing cases is provided by KeyCite that is not available from the other citation services discussed in this chapter?
20. Who is the Chief Justice of the Supreme Court? Who is the most recent addition to the Supreme Court?
21. When is the West Key Number System useful to a researcher?
22. Compare the Shepard’s TOA with the Westlaw KeyCite version.
23. Why is the responsibility of nominating Supreme Court justices an important presidential power? Which President appointed the greatest number of the current Supreme Court justices?
24. What company was the first to introduce citators as legal aids?
25. What is the tax court reporter series that is associated with the RIA Citator 2nd?
26. What types of citator searches are supported by the RIA Citator 2nd?

27. What Internet service besides Checkpoint provides access to the RIA Citator 2nd?
28. What type of case searching does the RIA Citator support that is unavailable with Shepard's, Auto-Cite, LEXCITE, or KeyCite?
29. What feature does the RIA Citator 2nd offer that is similar to the TOA in Shepard's and KeyCite?
30. What is the major difference in the focus of the citing cases found with a RIA Citator 2nd search and those cases found using Shepard's or KeyCite?
31. The RIA Citator 2nd does not follow the traditional legal convention of listing cases under the plaintiff's name. What convention does it use? Why are the cases listed in this manner?
32. In what order does the RIA Citator list citing cases?
33. What symbols does the RIA Citator 2nd use to indicate the treatment of citing cases of the cited case?
34. When is the citator portion of a research project finished?
35. Why must Revenue Rulings identified through a keyword search be checked in a citator?
36. What different Internet services offer access to the CCH Citator?
37. How is the CCH Citator different from the other citators discussed in this chapter?
38. How does the CCH Citator act as a Finding Table?
39. How is the direct history for a case of interest presented in the CCH Citator?
40. When viewing a document in CCH NetWork, how does one check the document through the CCH Citator?

## EXERCISES

41. Use Shepard's to answer the following questions.
  - a. Provide the full citation for a 2007 article on Sarbanes-Oxley in the *Akron Law Review*. What is the Shepard's abbreviated citation?
  - b. What topic is addressed in the sixteenth Technical Advice Memorandum (TAM) issued in the twenty-seventh week of 2007 (a TAM is cited the same as PLR)? Provide its Shepard's abbreviated citation.
  - c. What is the Shepard's abbreviated citation for the twentieth Chief Counsel Advice Memorandum issued in the thirtieth week of 2007?
  - d. What is the Shepard's abbreviated citation for the Lexis reproduction of Field Service Advice 199952041?

42. Shepardize *C. G. Services Corp.*, found in volume 73 of the Tax Court Reporter on page 406.
  - a. What Shepard's evaluation symbol is associated with the case? What does the symbol mean?
  - b. Give either the AFTR or the USTC citation for the 1997 District Court case citing *C. G. Services Corp.*
  - c. What is the subsequent appellate history of this case?
  - d. There is an article in the 1989 *Tennessee Law Review* on page 661 that cites *C. G. Services Corp.* What is the title of the article and the name of the author(s)?
  
43. Locate *Stange* (282 US 270) using the Shepard's Citator.
  - a. What are the parallel citations for this case? What precedence symbol is associated with this case?
  - b. What is the highest court to have heard this case, and in what year was this case decided?
  - c. On what page does the case, *Aiken v. Burnet*, 75 L. Ed 339, cite the *Stange* case? What page would this be if you were using the United States Supreme Court Reports (US)?
  - d. The Alaska Supreme Court has cited the *Stange* case. Provide the citation for the case.
  
44. Shepardize *Fritz W. Hintze* (879 F2d 121) using the Shepard's Citator.
  - a. What are the parallel citations for the *Hintze* case? What precedence symbol is associated with this case?
  - b. How many headnotes does the *Hintze* have? How many of the headnotes concern civil procedures?
  - c. Who were the judges who heard *Hintze* case? Which judge wrote the opinion?
  - d. What was the Supreme Court's view of the *Hintze* case? In what case did the Supreme Court indicate this viewpoint?
  
45. Use the Shepard's Citator to answer the following questions regarding the *Hinck* (127 S CT 2011) case.
  - a. Which Supreme Court justice wrote the *Hinck* opinion? Explain whether the other Supreme Court justices agreed with the written opinion.
  - b. What was the court of original jurisdiction for the *Hinck* case, and what court heard the appeal?
  - c. What are the parallel citations for the *Hinck* case? What precedence symbol is associated with this case?
  - d. What Code section is involved in the *Hinck* case? When was the case argued and when was it decided?
  
46. Use the LexisNexis Auto-Cite to locate *City of New Britain*, 1954 US Lexis 2751.
  - a. What Lexis precedent symbol is associated with this case? What event caused the New Britain case to receive this symbol?
  - b. What is this case's judicial history?
  - c. What U.S. Code Service (USCS) sections cite *City of New Britain*?
  - d. What citing cases are listed in the subsequent treatment history section?

47. Use the LexisNexis LEXCITE and enter the following citation: 5 L Ed 2d 128 and select Combined Federal Courts as the Jurisdiction.
  - a. What is the name of the case with the citation you entered? When was it decided and by what court?
  - b. In the “Enter more terms” type “sweepstakes” into the box. There is a 1965 Tax Court case and its Second Court of Appeals case in the citing list. What is the name of this case?
  - c. Remove the “sweepstakes” term and select Secondary Sources as the Jurisdiction. What is the full citation for the *University of Colorado Law Review* article citing the case of interest?
  
48. Use the LexisNexis TOA and enter the following citation: 347 US 81.
  - a. What are the parallel citations for this case? In what year was this case decided?
  - b. How many cases did it cite in developing its decision? Which cited cases have some type of warning associated with them?
  - c. What are the jurisdictional levels in which the cases are divided?
  - d. On which pages in 347 US 81 are the cases in the TOA cited?
  
49. State the proper Westlaw KeyCite citation for the following documents.
  - a. An article in *New York University Law Review*, volume 81 starting on page 148.
  - b. The forty-third Private Letter Ruling issued in the twenty-ninth week of 2007.
  - c. The second section of article 16 of the Arkansas State Constitution.
  - d. The thirty-fourth Field Service Advice issued in the forty-seventh week of 2002.
  
50. Use Westlaw KeyCite to locate *Hinck*, 95 AFTR 2d 2005-873.
  - a. What are official parallel citations for this case? In what year was this case decided?
  - b. Using KeyCite History, list each court hearing the case. How did the appeals court treat this case? Did the Supreme Court grant certiorari?
  - c. Where is this case discussed in the FTC 2d?
  - d. Select Full-Text Document. What are the titles of the headnotes for this case?
  
51. Use the Westlaw TOA to find the following information for *Stange*, 28 US 270.
  - a. How many cases does *Stange* cite in its decision? What year was the most recent cited case decided?
  - b. What case does *Stange* (28 US 270) quote? What does the quote discuss?
  - c. How many of the cases cited in *Stange* have warning or caution symbols? How does this make you feel about the reasoning in this case?
  - d. How many different pages have discussion of cases?
  
52. Use Westlaw to answer the following questions.
  - a. Locate the 2006 *David Bruce Billings* Tax Court case (Hint: use Find&Print). What was the tax issue and what was the decision of the court?
  - b. Find the 2007 *David Bruce Billings* Tax Court case. Why are the results of this case different from those of the 2006 case?

- c. What is the KeyCite Key Number for the issue in the 2007 case?
  - d. How useful do you think the KeyCite Key Numbering system is in locating cases on income tax issues?
53. Use the RIA Checkpoint Citator to locate the 1958 *Knetsch* case.
- a. What is its citation? Provide the citations for all the cases generally citing the *Knetsch* case.
  - b. What are the citations for the cases that constitute the direct history for the *Knetsch* case?
  - c. How many headnotes does the case show? What does each headnote address?
  - d. How many Eleventh Circuit Court of Appeals cases cite the *Knetsch* Supreme Court case? List the names of the taxpayers in these cases. What was the easiest method to find this information?
54. Use the RIA Checkpoint Citator 2d to locate the 2002 *Gwendolyn A. Ewing* Tax Court case.
- a. What is its citation and what tax issues does the case address?
  - b. What is the case's direct judicial history?
  - c. Where is the case annotated in the United States Tax Reporter?
  - d. The *Robert Haag* case cites the 2002 *Ewing* case at 94 AFTR 2d 2004-6667. What is the *Haag* case's treatment of the *Ewing* case?
55. Use the LexisNexis Academic Shepard's and the RIA Checkpoint Citator 2d to Shepardize *Deluxe Check Printers, Inc.* 15 Cl Ct 175.
- a. Explain the difference in the AFTR citation listed by the RIA Citator 2d and that listed in Shepard's.
  - b. Do RIA and Shepard's link to the same case documents? Explain your response.
  - c. Discuss whether the two citators display the same citing cases and other citing documents.
  - d. Which citator do you find easier to use? Explain your response.
56. Use the RIA Checkpoint Citator 2d to locate the Revenue Ruling 2001-60.
- a. What is the ruling's complete citation?
  - b. What was the effect of Rev Rul 2001-60 on Rev Proc 99-49 and Rev Rul 55-290?
  - c. Which IRS Revenue Procedures favorably cite Rev Rul 2001-60?
  - d. What issue does Rev Rul 2001-60 address?
57. Use the CCH Citator to locate the 1956 *William George* Tax Court case.
- a. What is the citation for the case?
  - b. What is the title of the paragraph where *George* is annotated?
  - c. What Code section is related to the *George* case?
  - d. A Revenue Ruling cites the *George* case. What is the citation and title? How does the Revenue Ruling evaluate the *George* case?
58. Use the CCH Citator to locate the 290th Revenue Ruling issued in 1955.
- a. What is its complete Cumulative Bulletin citation? Is this Revenue Ruling still valid?
  - b. What tax issue does the Revenue Ruling address?

- c. List the citations of any cases that cite Revenue Ruling 1955-290.
  - d. In what paragraph of the CCH service was this ruling initially discussed?
59. Use the CCH and the RIA Citators to locate the *Estate of Edward Kunze* Seventh Circuit case.
- a. What method did you use to find this case?
  - b. Do the citators list the same citing cases? Explain your response.
  - c. How did the citing cases generally treat the *Kunze* case? Which citator did you use to determine this?
  - d. What issues appear to be involved in this case? Which citator did you use to determine this?
60. Use the CCH Citator to locate the 2006 *Gwendolyn A. Ewing* case.
- a. What is its citation and what tax issues does the case address?
  - b. What is the case's direct judicial history?
  - c. Where is the case annotated in the Standard Federal Income Tax Reporter?
  - d. The *Robinette* case (2006-1 USTC ¶ 50,213) cites *Ewing*. What is the *Robinette* treatment of the *Ewing* case?
  - e. Compare the information retrieved using the CCH Citator and the RIA Checkpoint Citator 2nd (question 54). Which was easier to use, and which provided more relevant information?

## RESEARCH CASES

61. Jamie is an elementary school teacher, and her adjusted gross income is \$31,000. For 2007 and 2008, she spent \$350 of her own funds on special school supplies for those children who could not afford to purchase the necessary supplies. She bought these supplies during a seventy-mile round trip to a specialty educational store. Can she deduct any portion of these amounts?
62. Ted's sister, April, was injured while performing her duties as a police officer. She was in the hospital for three weeks before she died from her wounds. The city paid directly to Ted the workers' compensation benefits due to April before she died, as he is April's only surviving relative. How much gross income does Ted recognize upon receiving the benefits?
63. Peggy had been a heavy tobacco user until she joined the Norwood Tobacco Free Program. She had spent a substantial amount of money on nicotine patches and other nonprescription treatments without much success. Her father recently died from lung cancer, and his death made her realize that to kick the habit she would need to get professional help before her smoking created serious medical problems. While she is very pleased at being tobacco free for the first time in ten years, she is wondering whether any of the vast amounts spent on the cure are deductible?
64. Sally sells her home to Bob and pays \$9,000 in points for Bob's mortgage, by receiving \$9,000 less in sale proceeds. Determine the tax effects on both parties.
65. Ethel and Rick spent \$4,500 in allocable interest and taxes and \$1,100 in advertising and maintenance for their "bed and breakfast" inn. This year's rental

- income from the inn came to \$4,900. Determine the tax effects of conducting the B&B using one-third of Ethel and Rick's residence.
66. Carline's son, Leon, who is 10, is a musical prodigy. Carline, also a musical person, has spent a significant amount of time teaching Leon music and promoting his possible career. When Leon finally receives a recording contract, Carline is designated in the contract to receive one-half of Leon's total earnings. Discuss the proper recognition of gross income and related deductions concerning this arrangement.
  67. Barbara owns an incorporated consulting business, for which she has spent years building up its respectable reputation. However, business recently has dropped dramatically due to the unprofessional behavior of Cliff, Barbara's husband. Barbara feels that the only way to protect her business is to divorce Cliff. Cliff demands 50 percent of the stock in Barbara's business. The divorce will be costly because Cliff and Barbara cannot reach an agreement about the business's stock. Are the costs of the divorce deductible to Barbara or to Cliff?
  68. Newark Marine Food Service (NMFS) sells hot lunches and snacks to the crews of ships that dock at the Port of Newark. According to custom, the officers of the visiting ships receive a 5 percent "commission" from all sales, so that NMFS can retain its "exclusive rights" to the seamen's business. Are the commissions deductible by NMFS?
  69. Clara, a community college graduate, works at the Pamper U Hotel in Lake Tahoe. Clara's job is to provide relaxation demonstrations, teach yoga, provide massage therapy, and give lectures on stress management. Since Clara possessed no formal training in any of these subjects, she decided to attend seminars all over the United States on the topics related to her job. She also attended the local university and took physiology classes to learn more about the body and how it functions. Can Clara receive any tax benefits from these educational expenses?
  70. John accompanied his wife, Ling, on a business trip to San Diego because Ling is paralyzed from the waist down and confined to a wheelchair. John was not associated with Ling's business directly, but he performed services such as helping Ling overcome architectural barriers, carrying Ling's luggage, facilitating security inspections of Ling at airports, and helping Ling gain access to airplanes. What is the tax treatment of the incremental expenses for John accompanying Ling on the trip?
  71. After his divorce, Brown paid the expenses of maintaining the family home, which continued to be the principal residence of his ex-wife and their three children. Thus, he owns the house, but he no longer lives there. Instead, Brown maintains another home as his principal residence. Can Brown claim head of household status, assuming that the divorce decree grants him the dependency exemptions for his children?
  72. Alice, the chair of the School of Accountancy, entertains the faculty at her home each semester and has a holiday party at the end of December for the faculty and their families. When a faculty member is promoted or has a paper published in an exceptionally prestigious journal, Alice hosts a "social hour" at her house. She also sponsors a picnic for the faculty and graduate students at

- the start of the fall semester to let them get acquainted with each other. To what extent are these expenses deductible?
73. Cambro Construction Company hires union carpenters for home building. Cambro requires, as a condition of employment, that the carpenters provide and maintain various tools of their trade. Cambro pays each carpenter a set amount per hour as a “tool allowance” to cover the costs of the tools. This amount is determined quarterly based on national compiled data on the costs of carpenter tools. How should this employee reimbursement be treated for tax purposes?
74. Buddy was injured by Matt in an automobile accident. The court awarded Buddy \$30,000 in damages, but Matt was only able to pay Buddy \$12,000. They both then considered the matter closed, under these terms. Compute the amount of gross income to Buddy, and to Matt, from this event.
75. Con man Floyd sold Larry the Library of Congress for \$150,000. Since Larry didn’t have that kind of money, he embezzled the \$150,000 from his employer to make the purchase.
- How much gross income should Larry and Floyd report as a result of this event?
  - For tax purposes, how will Larry treat any repayment of the embezzlement to his (former) employer?
76. Reverend Ruth receives a yearly salary of \$50,000 and a parsonage allowance of \$12,000. She paid \$9,000 in rent for the house where she lives, and she spent \$1,500 on housing-related purchases. What is her gross income from these items?
77. Jill received a research grant from the University of Minnesota in amounts of \$10,000 for her time and \$3,000 for related supplies and expenses. She purchased a \$28,000 Audi the day after depositing the university’s check. Jill is a candidate for a master’s degree in philosophy and ethics. What is her gross income from the grant?
78. Earl is a golf course superintendent. He recently was hired by the Jack Nicks Corporation to construct an eighteen-hole course in Wyoming. There will be substantial earthmoving costs in creating the landscape desired for the course. The fairways will have planted grass, but the greens will be “modern greens” containing sophisticated drainage systems. The greens must be replaced when the underlying drainage systems are replaced. Earl would like to know what costs are expensed and what costs capitalized either as part of the land or as depreciable assets.
79. Barry’s wife, Terra, died in an accident, leaving him with four young children to raise. Shortly after Terra’s funeral, Barry and the children move from the house that Barry and Terra owned for eight years, mainly because they needed a change. Barry buys a new house with the help of Lisa, a realtor. Lisa and Barry start dating and, within one year, Barry and Lisa are married. Lisa has four children of her own. Given that neither Lisa’s or Barry’s homes are large enough for the combined family of eight children, Lisa and Barry both sell their homes and buy a new six-bedroom house. Lisa owned her home for six years but Barry has owned his most recent house for only one year. All of the



houses show realized gains on the sales. How are these sales of personal residences treated for tax purposes?

80. To what extent should Professor Dodd include in gross income the value of examination copies of text books that he receives without charge from book publishers, if he donates them to a local library and takes a charitable contribution deduction?