

# Improving Your Tax Writing

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## Improving your Tax Writing

### I. Why do tax professionals need to write well?

Tax research and tax planning, which are some of the most important and lucrative work for tax accountants, result in written documents. A well-written document clearly communicates the results of your tax research to your clients. A poorly written document not only fails to inform the client, but it also reflects poorly on your professional expertise.

### II. Tax Research Memorandum (Tax Research Memo)

**Overview:** The tax research memorandum documents the tax research process. A carefully crafted tax research memo allows the reader to assess the strength of the legal argument used to reach your conclusion or recommendation. This memo will become part of the client file.

#### A. Components of a Tax Research Memo

The tax research memo has the following sections: Facts, Issue, Conclusion, and Analysis.

- **Facts:** The facts section, the foundation of the research, is where the writer tells the client's story. These facts need to be accurate and complete. Missing or inaccurate facts could cause the researcher to reach an incorrect conclusion or miss an important issue.
- **Issue (s):** The issues, which arise from the facts, are the areas to be researched. An issue is written in the form of a question and is specific to the client. The following is an example of an issue statement:
  - Is Ms. Branco a non-resident alien for US tax purposes in 2019?
- **Conclusion(s):** The conclusion clearly answers the question posed in the issue statement. For example:
  - Issue: Is Ms. Branco a non-resident alien for US tax purposes in 2019?
  - Conclusion: Yes. For tax purposes in 2019, Ms. Branco will be considered a non-resident alien.
- **Analysis:** The analysis section documents the research that leads to the conclusion. In the analysis section, the tax professional examines relevant primary sources (e.g., the code, Treasury regulations, court cases) to determine the applicable rules. Next, the facts are linked to the rules. Finally, after linking the facts to rule, the professional reaches a conclusion. Note: The tax professional never makes an assertion without referencing a primary source.

#### B. Format for a Tax Research Memo

- While the tax research memo is organized as follows
  - Facts
  - Issue
  - Conclusion

- Analysis

In writing the tax research memo, the order you are likely to follow is:

- Facts: Start with the facts.
- Issue: Identify the issue or issues embedded in the facts.
- Analysis: Engage in analysis (i.e., conduct tax research), and
- Conclusion: Reach the conclusion which answers the question posed in the issue. Make sure that you reach a conclusion/recommendation. Remember: You recommend, but the client decides.

### III. Rule Outlining: Deconstructing a Code Section

Rule outlining is a tool to deconstruct a code section. Most codes sections are written in the form of an “if,” “then” statement (or “then,” followed by the “if” statements). The “if” statements are the conditions while the “then” statement is the resulting rule. “If,” “then” statements follow one of the following formats:

#### Example 1

If A,  
B, **OR**  
C

**Then,** this result D

#### Example 2

If X,  
Y, **AND**  
Z

**Then,** this result Q

In example 1, if either A, B, or C is true, then the result will be D. While in example 2, all three “if” statements (X, Y, Z) must be true to reach result Q. Therefore, whether the code section uses “and” or “or” is extremely significant.

Example:

Sec. 351 (a) General rule. No gain or loss shall be recognized if property is transferred to a corporation by one or more persons solely in exchange for stock in such corporation and immediately after the exchange such person or persons are in control (as defined in section 368(c)) of the corporation.

Then:

No gain or loss shall be recognized

If:

- Property is transferred to a corporation by one or more persons
- Solely in exchange for stock in such corporation **AND**
- Immediately after the exchange such person or persons are in control

Once you have deconstructed the code section, you match your facts to each of the conditions (if statements).

Example: Assume an individual incorporated his or her sole proprietorship by transferring highly appreciated assets from the sole proprietorship to the new corporation.



After the transfer, the new shareholder holds 100% of the stock (has control). Will this individual recognize gain on the transfer?

First, match the facts to the conditions.

If:

- |  |                          |
|--|--------------------------|
| • Property is transferred to a corporation by one or more persons      | Yes—assets transferred.  |
| • Solely in exchange for stock in such corporation <b>AND</b>          | Yes—only stock received. |
| • Immediately after the exchange such person or persons are in control | Yes--owns 100%.          |

Then:

- |  |  |
|--|--|
| • No gain or loss shall be recognized. | <b>No gain recognized</b><br>because all three conditions are met, |
|--|--|

#### IV. Crafting a Legal argument

In the analysis section of a tax research memo, you use a variety of primary sources (e.g., code sections, regulations, court cases) to build a legal argument for your position. Each assertion is tied to at least one primary source. Since you need a primary source to make an assertion, you cannot make an assertion “in my opinion.” Therefore, each assertion needs to include a citation of a primary source.

We will use a very simple structure for your legal argument:

- First, identify the rules from a primary source
- Next, link your facts to the rules
- Finally, reach a conclusion

Example:

A non-resident alien is neither a citizen (§7701(b)(1)(B)) nor a lawfully admitted permanent resident §7701(b)(1)(A)(i). Ms. Branco, a citizen of Brazil, is not a citizen of the United States and does not possess a United States Permanent Resident Card (a green card). Thus, she is neither a U.S. citizen nor a “lawfully admitted permanent resident.”

**Rule:** A non-resident alien is neither a citizen (§7701(b)(1)(B)) nor a lawfully admitted permanent resident §7701(b)(1)(A)(i).

**Link the facts to the rule:** Ms. Branco, a citizen of Brazil, is not a citizen of the United States and does not possess a United States Permanent Resident Card (a green card).

**Conclusion:** Thus, she is neither a U.S. citizen nor a “lawfully admitted permanent resident.”

## V. Client Letter

The client letter converts the tax research memorandum from technical-tax language to ordinary English. While the tax research memo includes tax terminology and primary source citations, the client letter avoids tax jargon and citations. The tax research memo is sent to the client as an appendix to the client letter. If the clients are tax savvy, they can review your work in the tax research memo. However, many clients do not want to slog through the minutiae of tax analysis; instead, they will rely on the client letter to understand your analysis and recommendation.

The client letter consists of the following sections:

- **Pleasantries:** This section may be one or two sentences. At the very least, you thank the client for the opportunity to assist with their taxes.
- **Limitations:** Your firm may have boilerplate to use for this section. In this paragraph, you clearly state your responsibilities—what you can do and what you cannot do. For example, you would include a statement that your findings are not binding on the Internal Revenue Service.
- **Facts:** You restate the facts that you used in the tax research memo. Indicate that the client needs to contact you if any of the facts are incorrect.
- **Recommendations:** In the recommendations, you translate your research into non-technical terms. Depending on the sophistication of the client, you may need to provide context: Why is this issue important? Then, you explain the logic you used to reach your recommendation.

Note: Make sure that you make a recommendation. You can discuss options, but your client is expecting you to recommend a course of action. You make the recommendation, but the client ultimately makes the decision.

- **Next steps:** Make sure that the client knows what they need to do next. If you are not having an in-person (or virtual) meeting to discuss the results of the tax research memo, let them know when you will contact them.

## VI. Emails

For most of us, emails are our most common form of written communication. Here are some basic rules for emails:

- **Subject line:** Include information on the subject line to identify the topic and to assess the importance or urgency of a response. For example:
  - ABC tax issue: Action Required by [date]
  - ABC tax issue: FYI No action required

- **Body of the email:** If you are sending this to a group of individuals, start with a sentence indicating why they are receiving the message. For example,  
**You are receiving this message because you are a member of the ABC committee.**

If possible, restrict the message to one or two key points. Use headings and bullet points to make it easy for the reader to quickly scan the document. Avoid writing long paragraphs.

- **Avoid “reply to all”:** Unless you really need to keep everyone informed, do not reply to everyone on the list.
- **Do not give tax advice in an email.**

## VII. Sentence Structure

There are three basic types of sentence structures: simple, compound, and complex.

- Simple—a subject and a verb.
  - Ms. Branco is a citizen of Brazil.
  - Ms. Branco does not have a green card.
- Compound—two or more stand-alone sentences combined with a conjunction.
  - Ms. Branco is a citizen of Brazil **and** does not have a green card.
- Complex—one independent clause and one or more dependent clauses.
  - Ms. Branco is not seeking residency status. (simple)
  - She should not make this election. (simple)
  - Complex: Since Ms. Branco is not seeking residency status [dependent clause], she should not make this election [independent clause].

Use a variety of sentence structures to add interest and clarity to your writing.

## VIII. Conclusion

- Writing is an integral part of tax research and tax planning
- Tax research memorandum
  - Documents how you reached your conclusion on a tax issue
  - Is formal document
- Tax client letter
  - Explains the research to the client or client’s representative
  - Identifies responsibilities
  - Details limitations



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