

# Federal Income Tax Code, by Denny Lancaster 281018

The version of the Internal Revenue Code posted on TaxAlmanac has been updated and is the current public law version.[1] The printed public law version pertaining to the Internal Revenue Service is not issued until after the law is enacted.[2]

When Congress passes laws, there is a very specific procedure that they follow. Laws are enacted by either a Bill or a Resolution that may originate in the House or the Senate. "A bill that has been agreed to in an identical form by both bodies becomes the law of the land only after:

1. Presidential approval; or
2. 2. failure by the President to return it with objections to the House in which it originated within 10 days, (Sundays excepted) while Congress is in session; or
3. 3. the overriding of a presidential veto by two-thirds vote in each House." [3]

Title 26: Internal Revenue Code

Prior to 1939, Congress passed tax laws in the form of a series of self-contained revenue acts. In 1939, Congress passed the Internal Revenue Code of 1939, which was the first wholly organized federal tax law. The Internal Revenue Code has been reorganized twice: in 1954 and in 1986.

At present there are 50 uniform titles for inclusion of public law. Title 26 is the section of public law which pertains to the Internal Revenue Code. At this writing there are 100 chapters such as normal tax, gift tax, estates and so forth. [4]

**Internal Revenue Code of 1954:** The Internal Revenue Code of 1954 was enacted in the United States as Chapter 736, Public Law 83-591, and became law on August 16, 1954, succeeding the Internal Revenue Code of 1939. As enacted, the 1954 Code was published as Volume 68A of the United States Statutes at Large.

**Internal Revenue Code of 1986:** The 1986 tax act also represented a temporary reversal in the evolution of the tax system. Though called an income tax, the Federal tax system had for many years actually been a hybrid income and consumption tax, with the balance shifting toward or away from a consumption tax with many of the major tax acts. The 1986 tax act shifted the balance once again toward the income tax. Of greatest importance in this regard was the return to references to economic depreciation in the formulation of the capital cost recovery system and the significant new restrictions on the use of Individual Retirement Accounts. [5]

## Legislative Process

IRS regs are published first in the Federal Register and subsequently compiled in the CFR (see "Federal Register" and "Code of Federal Regulations"). IRS Regs are also available on Lexis, Westlaw, the Federal Research Library and the CCH Tax Research Network. Comments on proposed regulations are available on Federal Research Library, Lexis (TAXANA;TNT) and Westlaw (TNT). For more sources, see "Internal Revenue Code and Regulations."

The Internal Revenue Service ("IRS"), a division of the Treasury Department, issues tax regulations, officially known as Treasury Regulations. Its regulations are the Treasury Department's official interpretations of the Internal Revenue Code. The IRS issues three types of regulations: **final, temporary and proposed.**

- **Final regulations** provide legally binding guidance. Temporary regulations are effective upon publication in the Federal Register and may be valid for no more than three years from their date of issuance. Proposed regulations do not become effective until after comments and testimony have been received and reviewed and a final version

of the regulations have been issued.

- **Temporary and final regulations** are initially published as Treasury Decisions (“TD”). TD's include an explanatory preamble, which can be a great source for research. TD's as well as proposed regulations are published in the Federal Register. Final and temporary regulations are later codified in Title 26 of the Code of Federal Regulations ("C.F.R."), however, the explanatory preambles are not published in the C.F.R.

## Review Process

The Code of Federal Regulations (CFR) is a much larger compendium than is the United States Code (USC). This is because the CFR provides all the intricate and/or technical details that are required to properly administrate or enforce a statute. As an example, a statute may be only three paragraphs in length, but the implementing regulation(s) may be eight pages long! Additionally, there may be numerous regulations associated with just one statute! This reality makes the CFR many times larger than the USC. In the average law library the USC (annotated lawyer's edition) takes up a modest size bookcase. The CFR usually takes up the better part of a wall.

Regulations are intended to elaborate on the working details of a statute. It is beyond Congress' ability to be experts in every field concerning which it may be called upon to legislate. The US Supreme Court has referred to the text of Congressional legislation as "the broad language of the statute", which often times requires more detail to be properly placed into effect. These "details" are found in the "implementing regulations" promulgated by the agencies that must administrate and/or enforce a statute. Federal agencies are charged with faithful implementation and enforcement of the laws [statutes] through the regulations they promulgate. Although properly speaking, regulations are not law, rules and regulations have the full force and effect of the law.

In 1990 the regulatory landscape was changed yet again by passage of the Negotiated Rulemaking Act of 1990 (NRA) [currently codified to 5 U.S.C pp 561-570]. The NRA allows for greater involvement by affected parties in the drafting of regulations.

### Footnotes and Citations:

[1] [Tax Almanac](#)

[2] [Office of the Law Revision Counsel](#)

[3] [Thomas Register](#)

[4] U. S. House of Representatives [Downloadable title 26](#)

[5] U. S. Department of Treasury: [Fact Sheets](#)

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