



Code Breaker; The § 83 Equation: The Tax Code's Forgotten Paragraph

David R. Myrland

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This manual focuses on Tax Code § 83 which remains unknown to the accounting industry, the legal profession, and IRS personnel. HOWEVER, the courts say that § 83 is universally applicable and fundamentally governing:

US Tax Court: “The amount taxable as ordinary income was the lesser of the fair market value of the stock ... over the individual’s cost of the stock. ...the language of the section [Tax Code § 83] covers the transfer of any property transferred in connection with the performance of services... The legislative history makes clear that Congress was aware that the Statute’s coverage extended beyond restricted stock plans for employees.” (See *Cohn v. Comm’r of IRS*, 73 USTC 443, 446 (1979)).

Fifth Circuit: “Section 83(a) explains how property received in exchange for services is taxed.” (See *Montelepre Systemed, Inc. v. Comm’r of IRS*, 956 F.2d 496, 498 (CA5 1992)).

Second Circuit: “At the heart of this case is I.R.C. § 83 [Tax Code § 83], which governs the taxation of property transferred in connection with the performance of services.” (See *Gudmundsson v. US*, 634 F.3d 212 (CA2 2011)).

This manual is the first and last word on the meaning and operation of the statute that determines whether Americans owe an income tax on their hard earned pay. When you observe how this interpretation comes together you’ll quickly come to understand why the IRS refuses to indulge any and all inquiries as to how Tax Code § 83 operated in any determination of income tax liability.

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