



Ethical Conduct for Enrolled Agents

Course #90301C

Ethics

2 Credit Hours

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ETHICAL CONDUCT FOR ENROLLED AGENTS

This course outlines the Internal Revenue Service requirements under Circular 230 and the ethical standards that apply to Enrolled Agents. It also covers common types of fraud and scams investigated by the IRS, emphasizing the importance of ethical conduct and compliance in tax practice. The course provides essential guidance for maintaining professional integrity and meeting regulatory obligations. This course is designed to meet specific ethics requirements for Enrolled Agents.

LEARNING ASSIGNMENTS AND OBJECTIVES

As a result of studying each assignment, you should be able to meet the objectives listed below each individual assignment.

SUBJECTS

IRS Circular 230
NAEA Code of Ethics and Rules of Professional Conduct
IRS Practice Issues

Study the course materials

Complete the review questions at the end of each chapter

Answer the exam questions 1 to 10

Objectives:

- Identify the Internal Revenue Service Requirements as outlined in Circular 230.
- Recognize the ethical framework applicable to EAs.
- Recognize various types of fraud and scams that are investigated by the IRS.

NOTICE

Note: Any case studies or examples relating to any disciplinary actions taken by the Board of Accountancy have been taken directly from a BOA source (e.g. website, newsletters, notices) and were published based on the information available at the time of course development. Subsequent events, actions, withdrawals may have occurred since the publication of this course.

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EXAM OUTLINE

- **TEST FORMAT:** The final exam for this course consists of 10 multiple-choice questions and is based specifically on the information covered in the course materials.
- **ACCESS FINAL EXAM:** Log in to your account and click Take Exam. A copy of the final exam is provided at the end of these course materials for your convenience, however you must submit your answers online to receive credit for the course.
- **LICENSE RENEWAL INFORMATION:** This course qualifies for **2** CPE hours.
- **PROCESSING:** You will receive the score for your final exam immediately after it is submitted. A score of 70% or better is required to pass.
- **CERTIFICATE OF COMPLETION:** Will be available in your account to view online or print. If you do not pass an exam, it can be retaken free of charge.

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CHAPTER 1: IRS CIRCULAR 230

Chapter Objectives

After completing this chapter, you should be able to:

- Identify the Internal Revenue Service Requirements as outlined in Circular 230.

Introduction

The tax preparation and tax consulting industry has historically enjoyed less government regulation than the practice of accountancy. In 1995, the IRS proposed studying the concept of tax preparer registration in order to combat rising fraud in the earned income credit program. This proposal was dropped because of widespread industry opposition. Instead, the IRS increased the scrutiny applied to firms applying to file tax returns electronically. In 2010, the IRS issued regulations requiring the registration of tax preparers. Effective January 1, 2011, all paid tax return preparers are required to have a Preparer Tax Identification Number (PTIN).

The tax practice field has had less ethical guidance because of the unique relationship between the tax preparer and client. In a tax engagement, the EA is an “advocate of the taxpayer.” The courts have held that there is nothing illegal or sinister in a taxpayer arranging one’s affairs so as to pay the lowest tax legally available.

Nevertheless, EAs in tax practice do have two sets of ethical and legal guidance which governs their tax practice. Circular 230 governs practice before the Internal Revenue Service. The National Association of Enrolled Agents (NAEA) has issued rules of professional conduct. We will examine both of these items, pointing out the differences wherever relevant.

Observation



Although membership in the NAEA is voluntary, practitioners should be aware of the NAEA’s ethical standards as well as those outlined in Circular 230.

I. CIRCULAR 230

Circular 230 is published by the Treasury Department. It prescribes regulations governing the practice of attorneys, CPAs, EAs, Enrolled Actuaries, appraisers, and others before the Internal Revenue Service. Circular 230 has been amended several times recently, and more changes are proposed. This course reprints and discusses most, but not all, of Circular 230.

A. EXPLANATIONS OF PROVISIONS

Tax advisors play an increasingly important role in the federal tax system, which is founded on principles of voluntary compliance. The tax system is best served when the public has confidence in the honesty and integrity of the professionals providing tax advice. To restore, promote, and maintain the public's confidence in those individuals and firms, Circular 230 sets forth regulations and best practices applicable to all tax advisors. Circular 230 regulations are limited to practice before the IRS and do not alter or supplant other ethical standards applicable to practitioners.

B. WHAT IS NOT CONSIDERED “PRACTICE BEFORE THE IRS”

Section 10.7 of Circular 230 provides a long list of exceptions and exclusions to Circular 230. The following persons and situations are not considered “practicing before the IRS” and therefore are generally exempt from the rules we will discuss later in this course.

(a) Representing oneself – individuals may appear on their own behalf before the IRS, provided they present satisfactory identification.

(b) Participating in rulemaking – individuals may participate in rulemaking.

(c) Limited practice –

(1) In general. Subject to the limitations in paragraph (c)(2) of this section, an individual who is not a practitioner may represent a taxpayer before the Internal Revenue Service in the circumstances described in this paragraph (c)(1), even if the taxpayer is not present, provided the individual presents satisfactory identification and proof of his or her authority to represent the taxpayer. The circumstances described in this paragraph (c)(1) are as follows:

(i) An individual may represent a member of his or her immediate family.

(ii) A regular full-time employee of an individual employer may represent the employer

(iii) A general partner or regular full-time employee of a partnership may represent the partnership

(iv) A bona fide officer or a regular full-time employee of a corporation, association, or organized group may represent the corporation, association, or organized group

(v) A regular full-time employee of a trust, receivership, guardianship, or estate may represent the trust, receivership, guardianship, or estate

(vi) An officer or a regular employee of a governmental unit, agency, or authority may represent the governmental unit, agency, or authority in the course of his or her official duties.

(vii) An individual may represent any individual or entity, who is outside the United States, before personnel of the Internal Revenue Service when such representation takes place outside the United States.

(2) Limitations.

(i) An individual who is under suspension or disbarment from practice before the Internal Revenue Service may not engage in limited practice before the Internal Revenue Service under paragraph (c)(1) of this section.

(ii) The Commissioner, or delegate, may, after notice and opportunity for a conference, deny eligibility to engage in limited practice before the Internal Revenue Service under paragraph (c)(1) of this section to any individual who has engaged in conduct that would justify a sanction under §10.50.

(iii) An individual who represents a taxpayer under the authority of paragraph (c)(1) of this section is subject, to the extent of his or her authority, to such rules of general applicability regarding standards of conduct and other matters as prescribed by the Internal Revenue Service.

(d) Special appearances. The Commissioner, or delegate, may, subject to conditions deemed appropriate, authorize an individual who is not otherwise eligible to practice before the Internal Revenue Service to represent another person in a particular matter.

(e) Fiduciaries. For purposes of this part, a fiduciary (for example, a trustee, receiver, guardian, personal representative, administrator, or executor) is considered to be the taxpayer and not a representative of the taxpayer.

(f) Effective/applicability date. This section is applicable beginning August 2, 2011.

Observation



None of the items above in (a)-(e) are considered to be practicing before the IRS.

Section 10.8 of Circular 230 discusses the application of Circular 230 on those that prepare tax returns and the application of the rules to other individuals as follows:

(a) Preparing all or substantially all of a tax return. Any individual who for compensation prepares or assists with the preparation of all or substantially all of a tax return or claim for refund must have a preparer tax identification number. Except as otherwise prescribed in forms, instructions, or other appropriate guidance, an individual must be an attorney, certified public accountant, enrolled agent, or registered tax return preparer to obtain a preparer tax identification number. Any individual who for

compensation prepares or assists with the preparation of all or substantially all of a tax return or claim for refund is subject to the duties and restrictions relating to practice in subpart B, as well as subject to the sanctions for violation of the regulations in subpart C.

(b) Preparing a tax return and furnishing information. Any individual may for compensation prepare or assist with the preparation of a tax return or claim for refund (provided the individual prepares less than substantially all of the tax return or claim for refund), appear as a witness for the taxpayer before the Internal Revenue Service, or furnish information at the request of the Internal Revenue Service or any of its officers or employees.

(c) Application of rules to other individuals. Any individual who for compensation prepares, or assists in the preparation of, all or a substantial portion of a document pertaining to any taxpayer's tax liability for submission to the Internal Revenue Service is subject to the duties and restrictions relating to practice in subpart B, as well as subject to the sanctions for violation of the regulations in subpart C. Unless otherwise a practitioner, however, an individual may not for compensation prepare, or assist in the preparation of, all or substantially all of a tax return or claim for refund, or sign tax returns and claims for refund. For purposes of this paragraph, an individual described in 26 CFR 301.7701-15(f) is not treated as having prepared all or a substantial portion of the document by reason of such assistance.

(d) Effective/applicability date. This section is applicable beginning August 2, 2011.

An EA who is practicing before the IRS and does not fall into one of the exception categories above is subject to subpart B of Circular 230 – Duties and Restrictions relating to practice before the IRS. It is reproduced below and should be read in its entirety.

C. CIRCULAR 230: SUBPART B -- DUTIES AND RESTRICTIONS RELATING TO PRACTICE BEFORE THE INTERNAL REVENUE SERVICE

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SECTION 10.20 Information to be furnished.

(a) To the Internal Revenue Service.

(1) A practitioner must, on a proper and lawful request by a duly authorized officer or employee of the Internal Revenue Service, promptly submit records or information in any matter before the Internal Revenue Service unless the practitioner believes in good faith and on reasonable grounds that the records or information are privileged.

(2) Where the requested records or information are not in the possession of, or subject to the control of, the practitioner or the practitioner's client, the practitioner must promptly notify the requesting Internal Revenue Service officer or employee and the practitioner must provide any information that the practitioner has regarding the identity of any person who the practitioner believes may have possession or control of the requested records or information. The practitioner must make reasonable inquiry of his or her client regarding the identity of any person who may have possession or control of the requested records or information, but the practitioner is not required to make inquiry of any other person or independently verify any information provided by the practitioner's client regarding the identity of such persons.

When a proper and lawful request is made by a duly authorized officer or employee of the Internal Revenue Service, concerning an inquiry into an alleged violation of the regulations in this part, a practitioner must provide any information the practitioner has concerning the alleged violation and testify regarding this information in any proceeding instituted under this part, unless the practitioner believes in good faith and on reasonable grounds that the information is privileged.

NAEA Rule 1

Members and Associates will adhere to all laws and regulations that provide equal opportunity for all clients and employees regardless of race, color, religion, gender, national origin, age, handicap, sexual orientation, or any other legally protected class.

(b) Interference with a proper and lawful request for records or information.

A practitioner may not interfere, or attempt to interfere, with any proper and lawful effort by the Internal Revenue Service, its officers or employees, to obtain any record or information unless the practitioner believes in good faith and on reasonable grounds that the record or information is privileged.

Observation Furnishing Information to the IRS/OPR



If you receive a proper and lawful request for records or information from the IRS/OPR, you must promptly submit the requested information unless in good faith you reasonably believe that it is privileged. If the requested information is not in your or your client's possession, you must promptly inform the requesting IRS personnel of that fact. In the case of requests from the IRS, you must also provide any information you may have regarding who is in possession of the requested information, but you are not required (i) to make inquiries of anyone other than your client or (ii) to verify information provided by your client regarding the person(s) in possession of the requested information. You must not interfere with any lawful attempt by the IRS to obtain information unless in good faith you reasonably believe that the information is privileged. You cannot advise a client to submit any document to the IRS that is frivolous or that contains or omits information in a manner demonstrating an intentional disregard of a rule or regulation unless you also advise the client to submit a document that evidences a good faith challenge to the rule or regulation.

SECTION 10.21 Knowledge of client's omission.

A practitioner who, having been retained by a client with respect to a matter administered by the Internal Revenue Service, knows that the client has not complied with the revenue laws of the United States or has made an error in or omission from any return, document, affidavit, or other paper which the client submitted or executed under the revenue laws of the United States, must advise the client promptly of the fact of such noncompliance, error, or omission. The practitioner must advise the client of the consequences as provided under the Code and regulations of such noncompliance, error, or omission.

Observation Errors and Omissions



If you know that a client has not complied with the U.S. revenue laws or has made an error in, or omission from, any return, affidavit, or other document which the client submitted or executed under U.S. revenue laws, you must promptly inform the client of that noncompliance, error, or omission and advise the client regarding the consequences under the Code and regulations of that noncompliance, error, or omission. Depending on the particular facts and circumstances, the consequences of an error or omission could include (among other things) additional tax liability, civil penalties, interest, criminal penalties, and an extension of the statute of limitations.

NAEA Rule 17

Members and Associates will advise a client, preferably in writing, if they suspect the client may not have complied with the revenue laws or may have made an error in, or omission from, a return, document, affidavit, or other paper the client is required by law to execute.

Note: The Circular 230 requirement is more restrictive than that of the NAEA in that under Circular 230 the practitioner must advise the client of the consequences of any noncompliance, error, or omission.

SECTION 10.22 **Diligence as to accuracy.**

(a) In general.

A practitioner must exercise due diligence:

- (1) In preparing or assisting in the preparation of, approving, and filing tax returns, documents, affidavits, and other papers relating to Internal Revenue Service matters;
- (2) In determining the correctness of oral or written representations made by the practitioner to the Department of the Treasury; and
- (3) In determining the correctness of oral or written representations made by the practitioner to clients with reference to any matter administered by the Internal Revenue Service.

(b) Reliance on others.

Except as modified in §§10.34 and 10.37, a practitioner will be presumed to have exercised due diligence for purposes of this section if the practitioner relies on the work product of another person and the practitioner used reasonable care in engaging, supervising, training, and evaluating the person, taking proper account of the nature of the relationship between the practitioner and the person.

Observation Professional Responsibility and the Report of Foreign Bank and Financial Accounts



Practitioners who prepare Form 1040 must inquire of their clients with sufficient detail to prepare correct responses for the two questions at the bottom of Schedule B. Penalties of up to \$10,000 can apply for a simple failure to file the required forms.

(c) Effective/applicability date. Paragraph (a) of this section is applicable on September 26, 2007. Paragraph (b) of this section is applicable June 12, 2014.

Observation Due Diligence



You must exercise due diligence in preparing and filing tax returns and other documents/submissions, and in determining the correctness of representations made by you to your client or to the IRS. You can rely on the work product of another person if you use reasonable care in engaging, supervising, training, and evaluating that person, taking into account the nature of the relationship between you and that person. You generally may rely in good faith and without verification on information furnished by your client, but you cannot ignore other information that has been furnished to you or which is actually known by you. You must make reasonable inquiries if any information furnished to you appears to be incorrect, incomplete or inconsistent with other facts or assumptions.

SECTION 10.23 Prompt disposition of pending matters.

A practitioner may not unreasonably delay the prompt disposition of any matter before the Internal Revenue Service.

Observation Handling Matters Promptly



You cannot unreasonably delay the prompt disposition of any matter before the Internal Revenue Service. This applies with respect to responding to your client as well as to IRS personnel. You cannot advise a client to submit any document to the IRS for the purpose of delaying or impeding the administration of the Federal tax laws.

Example



Nash, CPA is representing a client under audit by the IRS. Nash believes all the factual matters of the audit could be resolved in 6-8 weeks. Nash learns that the auditor assigned to the audit is planning to retire in six months. Nash believes that if he could delay the audit by raising unreasonable objections until after the IRS agent retires, he could possibly get a better result from the new agent. Purposely delaying the conclusion of the audit until after the IRS agent retires would be a violation of Section 10.23.

SECTION 10.24 Assistance from disbarred or suspended persons and former Internal Revenue Service employees.

A practitioner may not, knowingly and directly or indirectly:

- (a) Accept assistance from or assist any person who is under disbarment or suspension from practice before the Internal Revenue Service if the assistance relates to a matter or matters constituting practice before the Internal Revenue Service.
- (b) Accept assistance from any former government employee where the provisions of §10.25 or any federal law would be violated.

NAEA Rule 10

Members and Associates will not knowingly, directly or indirectly, professionally Associate with an individual who has been suspended or disbarred.

SECTION 10.25 Practice by former Government employees, their partners and their associates.

- (a) Definitions.

For purposes of this section:

- (1) Assist means to act in such a way as to advise, furnish information to, or otherwise aid another person, directly or indirectly.
- (2) Government employee is an officer or employee of the United States or any agency of the United States, including a special Government employee as defined in 18 U.S.C. 202(a), or of the District of Columbia, or of any State, or a member of Congress or of any State legislature.
- (3) Member of a firm is a sole practitioner or an employee or associate thereof, or a partner, stockholder, associate, affiliate or employee of a partnership, joint venture, corporation, professional association or other affiliation of two or more practitioners who represent nongovernmental parties.

(4) Particular matter involving specific parties is defined at 5 CFR 2637.201(c), or superseding post-employment regulations issued by the U.S. Office of Government Ethics.

(5) Rule includes Treasury regulations, whether issued or under preparation for issuance as notices of proposed rulemaking or as Treasury decisions, revenue rulings, and revenue procedures published in the Internal Revenue Bulletin (see 26 CFR 601.601(d)(2)(ii)(b)).

(b) General rules

(1) No former Government employee may, subsequent to Government employment, represent anyone in any matter administered by the Internal Revenue Service if the representation would violate 18 U.S.C. 207 or any other laws of the United States.

(2) No former Government employee who personally and substantially participated in a particular matter involving specific parties may, subsequent to Government employment, represent or knowingly assist, in that particular matter, any person who is or was a specific party to that particular matter.

(3) A former Government employee who within a period of one year prior to the termination of Government employment had official responsibility for a particular matter involving specific parties may not, within two years after Government employment is ended, represent in that particular matter any person who is or was a specific party to that particular matter.

(4) No former Government employee may, within one year after Government employment is ended, communicate with or appear before, with the intent to influence, any employee of the Treasury Department in connection with the publication, withdrawal, amendment, modification, or interpretation of a rule the development of which the former Government employee participated in, or for which, within a period of one year prior to the termination of Government employment, the former government employee had official responsibility. This paragraph (b)(4) does not, however, preclude any former employee from appearing on one's own behalf or from representing a taxpayer before the Internal Revenue Service in connection with a particular matter involving specific parties involving the application or interpretation of a rule with respect to that particular matter, provided that the representation is otherwise consistent with the other provisions of this section and the former employee does not utilize or disclose any confidential information acquired by the former employee in the development of the rule.

(c) Firm representation.

(1) No member of a firm of which a former Government employee is a member may represent or knowingly assist a person who was or is a specific party in any particular matter with respect to which the restrictions of paragraph (b)(2) of this section apply to the former Government employee, in that particular matter, unless the firm isolates

the former Government employee in such a way to ensure that the former Government employee cannot assist in the representation.

(2) When isolation of a former Government employee is required under paragraph (c) (1) of this section, a statement affirming the fact of such isolation must be executed under oath by the former Government employee and by another member of the firm acting on behalf of the firm. The statement must clearly identify the firm, the former Government employee, and the particular matter(s) requiring isolation. The statement must be retained by the firm and, upon request, provided to the office(s) of the Internal Revenue Service administering or enforcing this part.

(d) Pending representation. The provisions of this regulation will govern practice by former Government employees, their partners and associates with respect to representation in particular matters involving specific parties where actual representation commenced before the effective date of this regulation.

(e) Effective/applicability date. This section is applicable beginning August 2, 2011.

Observation



This section reflects changes to federal statutes governing post-employment restrictions applicable to former government employees.

It may impose obligations on the firms of former government employees that exceed the obligations of other practitioners.

SECTION 10.26 Notaries.

A practitioner may not take acknowledgments, administer oaths, certify papers, or perform any official act as a notary public with respect to any matter administered by the Internal Revenue Service and for which he or she is employed as counsel, attorney, or agent, or in which he or she may be in any way interested.

Observation



Obviously, a notary may not be a party to the transaction, benefit from the transaction, or have a conflict of interest.

SECTION 10.27 Fees.

(a) In general.

A practitioner may not charge an unconscionable fee in connection with any matter before the Internal Revenue Service.

Observation



A practitioner may charge different rates depending upon the complexity of the issue.

(b) Contingent fees.

(1) Except as provided in paragraphs (b)(2), (3), and (4) of this section, a practitioner may not charge a contingent fee for services rendered in connection with any matter before the Internal Revenue Service.

(2) A practitioner may charge a contingent fee for services rendered in connection with the Service's examination of, or challenge to—

(i) An original tax return; or

(ii) An amended return or claim for refund or credit where the amended return or claim for refund or credit was filed within 120 days of the taxpayer receiving a written notice of the examination of, or a written challenge to the original tax return

(3) A practitioner may charge a contingent fee for services rendered in connection with a claim for credit or refund filed solely in connection with the determination of statutory interest or penalties assessed by the Internal Revenue Service.

(4) A practitioner may charge a contingent fee for services rendered in connection with any judicial proceeding arising under the Internal Revenue Code.

(c) Definitions. For purposes of this section—

(1) Contingent fee is any fee that is based, in whole or in part, on whether or not a position taken on a tax return or other filing avoids challenge by the Internal Revenue Service or is sustained either by the Internal Revenue Service or in litigation. A contingent fee includes a fee that is based on a percentage of the refund reported on a return, that is based on a percentage of the taxes saved, or that otherwise depends on the specific result attained. A contingent fee also includes any fee arrangement in which the practitioner will reimburse the client for all or a portion of the client's fee in the event that a position taken on a tax return or other filing is challenged by the Internal Revenue Service or is not sustained, whether pursuant to an indemnity agreement, a guarantee, rescission rights, or any other arrangement with a similar effect.

(2) Matter before the Internal Revenue Service includes tax planning and advice, preparing or filing or assisting in preparing or filing returns or claims for refund or credit, and all matters connected with a presentation to the Internal Revenue Service or any of

its officers or employees relating to a taxpayer's rights, privileges, or liabilities under laws or regulations administered by the Internal Revenue Service. Such presentations include, but are not limited to, preparing and filing documents, corresponding and communicating with the Internal Revenue Service, rendering written advice with respect to any entity, transaction, plan or arrangement, and representing a client at conferences, hearings, and meetings.

(d) Effective/applicability date. This section is applicable for fee arrangements entered into after March 26, 2008.

NAEA Rule 22

Tax preparation or representation services will be offered as authorized by the most current provisions of Circular 230.

SECTION 10.28 Return of client's records.

(a) In general, a practitioner must, at the request of a client, promptly return any and all records of the client that are necessary for the client to comply with his or her federal tax obligations. The practitioner may retain copies of the records returned to a client. The existence of a dispute over fees generally does not relieve the practitioner of his or her responsibility under this section. Nevertheless, if applicable state law allows or permits the retention of a client's records by a practitioner in the case of a dispute over fees for services rendered, the practitioner need only return those records that must be attached to the taxpayer's return. The practitioner, however, must provide the client with reasonable access to review and copy any additional records of the client retained by the practitioner under state law that are necessary for the client to comply with his or her federal tax obligations.

(b) For purposes of this section – Records of the client include all documents or written or electronic materials provided to the practitioner, or obtained by the practitioner in the course of the practitioner's representation of the client, that preexisted the retention of the practitioner by the client. The term also includes materials that were prepared by the client or a third party (not including an employee or agent of the practitioner) at any time and provided to the practitioner with respect to the subject matter of the representation. The term also includes any return, claim for refund, schedule, affidavit, appraisal or any other document prepared by the practitioner, or his or her employee or agent, that was presented to the client with respect to a prior representation if such document is necessary for the taxpayer to comply with his or her current federal tax obligations. The term does not include any return, claim for refund, schedule, affidavit, appraisal or any other document prepared by the practitioner or the practitioner's firm, employees or agents if the practitioner is withholding such document pending the client's performance of its contractual obligation to pay fees with respect to such document.

Observation



A practitioner may withhold the client's current year completed tax return pending payment of fees.

Observation Client Records



On request of a client, you must promptly return any client records necessary for the client to comply with his or her Federal tax obligations, even if there is a dispute over fees. You may keep copies of these records. If state law allows you to retain a client's records in the case of a fee dispute, you need only return the records that must be attached to the client's return but you must provide the client with reasonable access to review and copy any additional client records retained by you that are necessary for the client to comply with his or her Federal tax obligations. The term "client records" includes all written or electronic materials provided to you by the client or a third party. "Client records" also include any tax return or other document that you prepared and previously delivered to the client, if that return or document is necessary for the client to comply with his or her current Federal tax obligations. You are not required to provide a client with any of your work product- i.e., any return, refund claim, or other document that you have prepared but not yet delivered to the client if (i) you are withholding the document pending the client's payment of fees related to the document and (ii) your contract with the client requires the payment of those fees prior to delivery.

NAEA Rule 21

Members and Associates will return to the client or former client all records or other data the client provided.

SECTION 10.29 **Conflicting interests.**

(a) Except as provided by paragraph (b) of this section, a practitioner shall not represent a client before the Internal Revenue Service if the representation involves a conflict of interest. A conflict of interest exists if:

- (1) The representation of one client will be directly adverse to another client; or
- (2) There is a significant risk that the representation of one or more clients will be materially limited by the practitioner's responsibilities to another client, a former client or a third person or by a personal interest of the practitioner.

(b) Notwithstanding the existence of a conflict of interest under paragraph (a) of this section, the practitioner may represent a client if:

(1) The practitioner reasonably believes that the practitioner will be able to provide competent and diligent representation to each affected client;

(2) The representation is not prohibited by law;

(3) Each affected client waives the conflict of interest and gives informed consent, confirmed in writing by each affected client, at the time the existence of the conflict of interest is known by the practitioner. The confirmation may be made within a reasonable period after the informed consent, but in no event later than 30 days.

(c) Copies of the written consents must be retained by the practitioner for at least 36 months from the date of the conclusion of the representation of the affected clients and the written consents must be provided to any officer or employee of the Internal Revenue Service on request.

(d) Effective/applicability date. This section is applicable on September 26, 2007.

Observation Conflicts of Interest



A conflict of interest exists if representing one of your clients will be directly adverse to another client. A conflict of interest also exists if there is a significant risk that representing a client will be materially limited by your responsibilities to another client, a former client or a third person, or by your personal interests. When a conflict of interest exists, you may not represent a client in an IRS matter unless (i) you reasonably believe that you can provide competent and diligent representation to all affected clients, (ii) your representation is not prohibited by law, and (iii) all affected clients give informed, written consent to your representation. You must retain these consents for 36 months following the termination of the engagement and make them available to the IRS/OPR upon request.

NAEA Rule 6

Members and Associates will not represent conflicting interests without express written consent of all parties after full disclosure.

NAEA Rule 12

Members and Associates who are engaged simultaneously in another occupation will conduct themselves in such a manner that no conflict of interest exists when rendering professional tax service or professional advice. No Member or Associate will accept or pay a commission for the sale or referral of products or services to a client unless they are properly licensed and all facts are fully disclosed in writing to the client. No Member or Associate will pay a commission or referral fee to an employee for the sale or referral of products or services to a client unless the employee is properly licensed and the facts are fully disclosed in writing to the client.

IRS Censures Tax Practitioner for Willfully Mishandling Conflicts of Interest

The Internal Revenue Service announced its Office of Professional Responsibility (OPR) censured a tax practitioner for violating conflict of interest rules under Circular 230.

“OPR is committed to sanctioning tax practitioners governed by Circular 230 who do not live up to those ethical standards,” said Stephen Whitlock, Director of OPR. “Sanctions reflect the nature of the misconduct, impact on taxpayers and an individual’s fitness to practice before the IRS.”

Circular 230 establishes the rules governing those who practice before the IRS, including attorneys, Certified Public Accountants (CPAs) and Enrolled Agents (EAs).

The practitioner was retained by a client to take specific actions as required by a settlement agreement executed between the client and a third party. The settlement agreement directed transfers from the client to the third party. The practitioner was aware of the terms of the agreement. The practitioner knowingly provided misleading information to the third party, upon which the third party relied. Such reliance and resulting harm to the third party was foreseeable. By knowingly providing misleading information, the practitioner breached a duty of care owed to the third party.

Circular 230 prohibits practitioners from representing a client if the representation involves a conflict of interest. A conflict of interest exists if there is a significant risk that the representation of one or more clients will be materially limited by the practitioner’s responsibilities to another client, a former client, a third party, or by a personal interest of the practitioner.

Persons censured by the IRS are listed in the Internal Revenue Bulletin. Censure is a public reprimand. Unlike disbarment or suspension, censure does not affect an individual’s eligibility to practice before the IRS.

SECTION 10.30 Solicitation.

(a) Advertising and solicitation restrictions.

(1) A practitioner may not, with respect to any Internal Revenue Service matter, in any way use or participate in the use of any form of public communication or private solicitation containing a false, fraudulent, or coercive statement or claim; or a misleading

or deceptive statement or claim. Enrolled agents or enrolled retirement plan agents, in describing their professional designation, may not utilize the term of art “certified” or imply an employer/employee relationship with the Internal Revenue Service. Examples of acceptable descriptions for enrolled agents are “enrolled to represent taxpayers before the Internal Revenue Service,” “enrolled to practice before the Internal Revenue Service,” and “admitted to practice before the Internal Revenue Service.” Similarly, examples of acceptable descriptions for enrolled retirement plan agents are “enrolled to represent taxpayers before the Internal Revenue Service as a retirement plan agent” and “enrolled to practice before the Internal Revenue Service as a retirement plan agent.” An example of an acceptance description for registered tax return preparers is “designated as a registered tax return preparer by the Internal Revenue Service.”

NAEA Rule 16

Members and Associates will not suggest or give the impression they can obtain special consideration from governmental agencies or their representatives because of prior IRS employment.

NAEA Rule 13

Members and Associates will not solicit clients in any manner prohibited by the most current provisions of Circular 230, including advertising or other forms of solicitation that present a false, misleading, or deceptive appearance.

(2) A practitioner may not make, directly or indirectly, an uninvited written or oral solicitation of employment in matters related to the Internal Revenue Service if the solicitation violates Federal or State law or other applicable rule, e.g., attorneys are precluded from making a solicitation that is prohibited by conduct rules applicable to all attorneys in their State(s) of licensure. Any lawful solicitation made by or on behalf of a practitioner eligible to practice before the Internal Revenue Service must, nevertheless, clearly identify the solicitation as such and, if applicable, identify the source of the information used in choosing the recipient.

(b) Fee information.

(1) (i) A practitioner may publish the availability of a written schedule of fees and disseminate the following fee information:

- (A) Fixed fees for specific routine services.
- (B) Hourly rates.
- (C) Range of fees for particular services.
- (D) Fee charged for an initial consultation.

(ii) Any statement of fee information concerning matters in which costs may be incurred must include a statement disclosing whether clients will be responsible for such costs.

(2) A practitioner may charge no more than the rate(s) published under paragraph (b)(1) of this section for at least 30 calendar days after the last date on which the schedule of fees was published.

(c) Communication of fee information.

Fee information may be communicated in professional lists, telephone directories, print media, mailings, electronic mail, facsimile, hand delivered flyers, radio, television, and any other method. The method chosen, however, must not cause the communication to become untruthful, deceptive, or otherwise in violation of this part. A practitioner may not persist in attempting to contact a prospective client if the prospective client has made it known to the practitioner that he or she does not desire to be solicited. In the case of radio and television broadcasting, the broadcast must be recorded and the practitioner must retain a recording of the actual transmission. In the case of direct mail and e-commerce communications, the practitioner must retain a copy of the actual communication, along with a list or other description of persons to whom the communication was mailed or otherwise distributed. The copy must be retained by the practitioner for a period of at least 36 months from the date of the last transmission or use.

(d) Improper associations.

A practitioner may not, in matters related to the Internal Revenue Service, assist, or accept assistance from, any person or entity who, to the knowledge of the practitioner, obtains clients or otherwise practices in a manner forbidden under this section.

(e) Effective/applicability date. This section is applicable beginning August 2, 2011.

Observation Solicitation



With respect to any Internal Revenue Service matter, you may not use any form of public communication or private solicitation containing a false, fraudulent, or coercive statement or claim; or a misleading or deceptive statement or claim. You also may not assist, or accept assistance from, any person or entity who obtains clients or otherwise practices in violation of the solicitation provisions.

SECTION 10.31 Negotiation of taxpayer checks.

(a) A practitioner may not endorse or otherwise negotiate any check (including directing or accepting payment by any means, electronic or otherwise, into an account owned or controlled by the practitioner or any firm or other entity with whom the practitioner is associated) issued to a client by the government in respect of a Federal tax liability.

(b) Effective/applicability date. This section is applicable beginning June 12, 2014.

Observation Negotiating Checks



You may not endorse, negotiate, electronically transfer, or direct the deposit of any government check relating to a Federal tax liability issued to a client. This prohibits any person subject to Treasury Circular No. 230 from directing or accepting payment from the government to the taxpayer into an account owned or controlled by that person. This provision does not apply to whistleblower payments.

SECTION 10.32 Practice of law.

Nothing in the regulations in this part may be construed as authorizing persons not members of the bar to practice law.

SECTION 10.33 Best practices for tax advisors.

(a) Best practices. Tax advisors should provide clients with the highest quality representation concerning federal tax issues by adhering to best practices in providing advice and in preparing or assisting in the preparation of a submission to the Internal Revenue Service. In addition to compliance with the standards of practice provided elsewhere in this part, best practices include the following:

- (1) Communicating clearly with the client regarding the terms of the engagement. For example, the advisor should determine the client's expected purpose for and use of the advice and should have a clear understanding with the client regarding the form and scope of the advice or assistance to be rendered.
- (2) Establishing the facts, determining which facts are relevant, and evaluating the reasonableness of any assumptions or representations, relating the applicable law (including potentially applicable judicial doctrines) to the relevant facts, and arriving at a conclusion supported by the law and the facts.
- (3) Advising the client regarding the import of the conclusions reached, including, for example, whether a taxpayer may avoid accuracy-related penalties under the Internal Revenue Code if a taxpayer acts in reliance on the advice.
- (4) Acting fairly and with integrity in practice before the Internal Revenue Service.

(b) Procedures to ensure best practices for tax advisors. Tax advisors with responsibility for overseeing a firm's practice of providing advice concerning federal tax issues or of preparing or assisting in the preparation of submissions to the Internal Revenue Service should take reasonable steps to ensure that the firm's procedures for all members, associates, and employees are consistent with the best practices set forth in paragraph (a) of this section.

(c) Applicability date. This section is effective after June 20, 2005.

SECTION 10.34 Standards with respect to tax returns and documents, affidavits and other papers.

(a) Tax returns.

(1) A practitioner may not willfully, recklessly, or through gross incompetence —

(i) Sign a tax return or claim for refund that the practitioner knows or reasonably should know contains a position that —

(A) Lacks a reasonable basis;

(B) Is an unreasonable position as described in Section 6694(a)(2) of the Internal Revenue Code (Code) (including the related regulations and other published guidance); or

(C) Is a willful attempt by the practitioner to understate the liability for tax or a reckless or intentional disregard of rules or regulations by the practitioner as described in Section 6694(b)(2) of the Code (including the related regulations and other published guidance).

(ii) Advise a client to take a position on a tax return or claim for refund, or prepare a portion of a tax return or claim for refund containing a position, that—

(A) Lacks a reasonable basis;

(B) Is an unreasonable position as described in Section 6694(a)(2) of the Code (including the related regulations and other published guidance); or

(C) Is a willful attempt by the practitioner to understate the liability for tax or a reckless or intentional disregard of rules or regulations by the practitioner as described in Section 6694(b)(2) of the Code (including the related regulations and other published guidance).

(2) A pattern of conduct is a factor that will be taken into account in determining whether a practitioner acted willfully, recklessly, or through gross incompetence.

(b) Documents, affidavits and other papers

(1) A practitioner may not advise a client to take a position on a document, affidavit or other paper submitted to the Internal Revenue Service unless the position is not frivolous.

(2) A practitioner may not advise a client to submit a document, affidavit or other paper to the Internal Revenue Service

(i) The purpose of which is to delay or impede the administration of the federal tax laws;

(ii) That is frivolous; or

(iii) That contains or omits information in a manner that demonstrates an intentional disregard of a rule or regulation unless the practitioner also advises the client to submit a document that evidences a good faith challenge to the rule or regulation.

(c) Advising clients on potential penalties.

(1) A practitioner must inform a client of any penalties that are reasonably likely to apply to the client with respect to

(i) A position taken on a tax return if—

(A) The practitioner advised the client with respect to the position; or

(B) The practitioner prepared or signed the tax return; and

(ii) Any document, affidavit or other paper submitted to the Internal Revenue Service.

(2) The practitioner also must inform the client of any opportunity to avoid any such penalties by disclosure, if relevant, and of the requirements for adequate disclosure.

(3) This paragraph (c) applies even if the practitioner is not subject to a penalty under the Internal Revenue Code with respect to the position or with respect to the document, affidavit or other paper submitted.

(d) Relying on information furnished by clients. A practitioner advising a client to take a position on a tax return, document, affidavit or other paper submitted to the Internal Revenue Service, or preparing or signing a tax return as a preparer, generally may rely in good faith without verification upon information furnished by the client. The practitioner may not, however, ignore the implications of information furnished to, or actually known by, the practitioner, and must make reasonable inquiries if the information as furnished appears to be incorrect, inconsistent with an important fact or another factual assumption, or incomplete.

(e) Effective/applicability date. Paragraph (a) of this section is applicable for returns or claims for refund filed or advice provided beginning August 2, 2011. Paragraphs (b) through (d) of this section are applicable to tax returns, documents, affidavits and other papers filed on or after September 26, 2007.

Observation Tax Return Positions



You cannot sign a tax return or refund claim or advise a client to take a position on a tax return or refund claim that you know or should know contains a position (i) for which there is no reasonable basis; (ii) which is an unreasonable position as defined in Internal Revenue Code §6694(a)(2); or, (iii) which is a willful attempt to understate tax liability, or a reckless or intentional disregard of rules or regulations. An unreasonable position is one which lacks substantial authority as defined in IRC §6662 but has a reasonable basis, and is disclosed. For purposes of Circular 230 disclosure, if you advised the client regarding the position, or you prepared or signed the tax return, you must inform a client of any penalties that are reasonably likely to apply to the client with respect to the tax return position and how to avoid the penalties through disclosure (or, by not taking the position).

NAEA Rule 9

Members and Associates will take a position on a tax return favorable to their clients only if there is substantial authority that the position will be sustained on its merits, unless the position is disclosed and there is at least a reasonable basis for it. If applicable law is unsettled, or the application of law to the facts in a given situation is uncertain, Members and Associates must explain the probable effects of various alternatives to their clients who make the final decision as to the position taken.

SECTION 10.35 Competence.

(a) A practitioner must possess the necessary competence to engage in practice before the Internal Revenue Service. Competent practice requires the appropriate level of knowledge, skill, thoroughness, and preparation necessary for the matter for which the practitioner is engaged. A practitioner may become competent for the matter for which the practitioner has been engaged through various methods, such as consulting with experts in the relevant area or studying the relevant law.

(b) Effective/applicability date. This section is applicable beginning June 12, 2014.

Certified Public Accountant Disbarred for Multiple Circular 230 Violations

The Internal Revenue Service announced that its Office of Professional Responsibility (OPR) obtained the disbarment of Certified Public Accountant ATT for charging unconscionable fees, giving irresponsible advice to clients and making false statements to federal and state authorities, among other things. ATT is prohibited from preparing tax returns or representing taxpayers before the Internal Revenue Service for a minimum of five years.

“Practitioners who abuse the trust of their clients by charging unconscionable fees for taking frivolous positions on their tax returns can expect to hear from my office in the IRS,” said Karen L. Hawkins, director of OPR.

In a Final Agency Decision, the Administrative Law Judge (ALJ) disbarred ATT on March 1. The ALJ found that ATT’s advice to clients to use Form 2555 to treat California earned income as foreign source income on at least fifty-two tax returns, constituted disreputable conduct under Circular 230, and his failure to research the legitimacy of the filing position specifically violated the Circular’s due diligence standards.

The ALJ also found Circular 230 violations in ATT’s use of a contingent fee structure and in the false statement to IRS Criminal Investigation regarding his fee structure. He was also found to have made false claims to the California Board of Accountancy that he ceased advising use of Form 2555 after becoming aware of the first IRS examination of his clients’ returns.

The ALJ also found that ATT violated Circular 230 by engaging in a pattern of delaying IRS examination and collection actions by repeatedly raising numerous frivolous arguments, long-rejected by the IRS and by case law. ATT’s litigation threats against IRS employees, as part of client settlement proposals, were also determined to be violations.

“The mere possession of a professional license does not give a practitioner the right to make his or her own rules, or to threaten IRS personnel doing their jobs,” Hawkins said.

The ALJ found other violations of Circular 230 including: ATT did not respond to OPR requests for information and he submitted a Form 2848, Power of Attorney, naming an unlicensed individual as a second “authorized” representative in a collection matter thereby aiding an ineligible person to practice before the IRS.

SECTION 10.36 Procedures to ensure compliance.

(a) Any individual subject to the provisions of this part who has (or individuals who have or share) principal authority and responsibility for overseeing a firm’s practice governed by this part, including the provision of advice concerning Federal tax matters and preparation of tax returns, claims for refund, or other documents for submission to the Internal Revenue Service, must take reasonable steps to ensure that the firm has adequate procedures in effect for all members, associates, and employees for purposes of complying with subparts A, B, and C of this part, as applicable. In the absence of a person or persons identified by the firm as having the principal authority and responsibility described in this paragraph,

the Internal Revenue Service may identify one or more individuals subject to the provisions of this part responsible for compliance with the requirements of this section.

(b) Any such individual who has (or such individuals who have or share) principal authority as described in paragraph (a) of this section will be subject to discipline for failing to comply with the requirements of this section if--

(1) The individual through willfulness, recklessness, or gross incompetence does not take reasonable steps to ensure that the firm has adequate procedures to comply with this part, as applicable, and one or more individuals who are members of, associated with, or employed by, the firm are, or have, engaged in a pattern or practice, in connection with their practice with the firm, of failing to comply with this part, as applicable;

(2) The individual through willfulness, recklessness, or gross incompetence does not take reasonable steps to ensure that firm procedures in effect are properly followed, and one or more individuals who are members of, associated with, or employed by, the firm are, or have, engaged in a pattern or practice, in connection with their practice with the firm, of failing to comply with this part, as applicable; or

(3) The individual knows or should know that one or more individuals who are members of, associated with, or employed by, the firm are, or have, engaged in a pattern or practice, in connection with their practice with the firm, that does not comply with this part, as applicable, and the individual, through willfulness, recklessness, or gross incompetence fails to take prompt action to correct the noncompliance.

(c) Effective/applicability date. This section is applicable beginning June 12, 2014.

Observation Supervisor Responsibilities



If you have or share principal authority and responsibility for overseeing your firm's tax practice, you must take reasonable steps to ensure that your firm has adequate procedures in place to raise awareness and to promote compliance with Circular 230 by your firm's members, associates, and employees and that all such employees are complying with the regulations governing practice before the IRS.

SECTION 10.37 **Requirements for written advice.**

(a) Requirements. (1) A practitioner may give written advice (including by means of electronic communication) concerning one or more Federal tax matters subject to the requirements in paragraph (a)(2) of this section. Government submissions on matters of general policy are not considered written advice on a Federal tax matter for purposes of this section. Continuing education presentations provided to an audience solely for the purpose of enhancing practitioners' professional knowledge on Federal tax matters are not considered written advice on a Federal tax matter for purposes of this section. The preceding sentence does not apply to presentations marketing or promoting transactions.

(2) The practitioner must--

- (i) Base the written advice on reasonable factual and legal assumptions (including assumptions as to future events);
- (ii) Reasonably consider all relevant facts and circumstances that the practitioner knows or reasonably should know;
- (iii) Use reasonable efforts to identify and ascertain the facts relevant to written advice on each Federal tax matter;
- (iv) Not rely upon representations, statements, findings, or agreements (including projections, financial forecasts, or appraisals) of the taxpayer or any other person if reliance on them would be unreasonable;
- (v) Relate applicable law and authorities to facts; and
- (vi) Not, in evaluating a Federal tax matter, take into account the possibility that a tax return will not be audited or that a matter will not be raised on audit.

(3) Reliance on representations, statements, findings, or agreements is unreasonable if the practitioner knows or reasonably should know that one or more representations or assumptions on which any representation is based are incorrect, incomplete, or inconsistent.

(b) Reliance on advice of others. A practitioner may only rely on the advice of another person if the advice was reasonable and the reliance is in good faith considering all the facts and circumstances. Reliance is not reasonable when--

- (1) The practitioner knows or reasonably should know that the opinion of the other person should not be relied on;
- (2) The practitioner knows or reasonably should know that the other person is not competent or lacks the necessary qualifications to provide the advice; or
- (3) The practitioner knows or reasonably should know that the other person has a conflict of interest in violation of the rules described in this part.

(c) Standard of review. (1) In evaluating whether a practitioner giving written advice concerning one or more Federal tax matters complied with the requirements of this section, the Commissioner, or delegate, will apply a reasonable practitioner standard, considering all facts and circumstances, including, but not limited to, the scope of the engagement and the type and specificity of the advice sought by the client.

(2) In the case of an opinion the practitioner knows or has reason to know will be used or referred to by a person other than the practitioner (or a person who is a member of, associated with, or employed by the practitioner's firm) in promoting, marketing, or recommending to one or more taxpayers a partnership or other entity, investment plan or arrangement a significant purpose of which is the avoidance or evasion of any tax

imposed by the Internal Revenue Code, the Commissioner, or delegate, will apply a reasonable practitioner standard, considering all facts and circumstances, with emphasis given to the additional risk caused by the practitioner's lack of knowledge of the taxpayer's particular circumstances, when determining whether a practitioner has failed to comply with this section.

(d) Federal tax matter. A Federal tax matter, as used in this section, is any matter concerning the application or interpretation of---

(1) A revenue provision as defined in Section 6110(i)(1)(B) of the Internal Revenue Code;

(2) Any provision of law impacting a person's obligations under the internal revenue laws and regulations, including but not limited to the person's liability to pay tax or obligation to file returns; or

(3) Any other law or regulation administered by the Internal Revenue Service.

(e) Effective/applicability date. This section is applicable to written advice rendered after June 12, 2014.

Observation Written Tax Advice



In providing written advice concerning any Federal tax matter, you must (i) base your advice on reasonable assumptions, (ii) reasonably consider all relevant facts that you know or should know, and (iii) use reasonable efforts to identify and ascertain the relevant facts. You cannot rely upon representations, statements, findings, or agreements that are unreasonable or that you know to be incorrect, inconsistent, or incomplete. You must not take into account the possibility that a tax return will not be audited or that a matter will not be raised on audit in evaluating a Federal tax matter (audit lottery). In providing your written advice, you may rely in good faith on the advice of another practitioner only if that advice is reasonable considering all facts and circumstances. You cannot rely on the advice of a person whom you know or should know is not competent to provide the advice or who has an unresolved conflict of interest as defined in §10.29.

SECTION 10.38 Establishment of Advisory Committees.

(a) Advisory committees.

To promote and maintain the public's confidence in tax advisors, the Internal Revenue Service is authorized to establish one or more advisory committees composed of at least five individuals authorized to practice before the Internal Revenue Service. Membership of an advisory committee must be balanced among those who practice as attorneys, accountants, enrolled agents, enrolled actuaries, enrolled retirement plan agents, and registered tax return preparers. Under procedures prescribed by the Internal Revenue Service, an advisory committee may review and make general recommendations regarding the practices, procedures, and policies of the offices described in §10.1.

(b) Effective date.

This section is applicable beginning August 2, 2011.

D. CIRCULAR 230: SUBPART C – SANCTIONS FOR VIOLATION OF THE REGULATIONS

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10.50 Sanctions

10.51 Incompetence and disreputable conduct

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10.53 Receipt of information concerning practitioner

SECTION 10.50 Sanctions.

(a) Authority to censure, suspend, or disbar.

The Secretary of the Treasury, or delegate, after notice and an opportunity for a proceeding, may censure, suspend or disbar any practitioner from practice before the Internal Revenue Service if the practitioner is shown to be incompetent or disreputable (within the meaning of Sec. 10.51), fails to comply with any regulation in this part (under the prohibited conduct standards of Sec. 10.52), or with intent to defraud, willfully and knowingly misleads or threatens a client or prospective client. Censure is a public reprimand.

(b) Authority to disqualify.

The Secretary of the Treasury, or delegate, after due notice and opportunity for hearing, may disqualify any appraiser for a violation of these rules as applicable to appraisers.

(1) If any appraiser is disqualified pursuant to this subpart C, the appraiser is barred from presenting evidence or testimony in any administrative proceeding before the Department of Treasury or the Internal Revenue Service, unless and until authorized to do so by the Internal Revenue Service pursuant to §10.81, regardless of whether the evidence or testimony would pertain to an appraisal made prior to or after the effective date of disqualification.

(2) Any appraisal made by a disqualified appraiser after the effective date of disqualification will not have any probative effect in any administrative proceeding before the Department of the Treasury or the Internal Revenue Service. An appraisal otherwise barred from admission into evidence pursuant to this section may be admitted into evidence solely for the purpose of determining the taxpayer's reliance in good faith on such appraisal.

(c) Authority to impose monetary penalty

(1) In general.

(i) The Secretary of the Treasury, or delegate, after notice and an opportunity for a proceeding, may impose a monetary penalty on any practitioner who engages in conduct subject to sanction under paragraph (a) of this section.

(ii) If the practitioner described in paragraph (c)(1)(i) of this section was acting on behalf of an employer or any firm or other entity in connection with the conduct giving rise to the penalty, the Secretary of the Treasury, or delegate, may impose a monetary penalty on the employer, firm, or entity if it knew, or reasonably should have known, of such conduct.

(2) Amount of penalty. The amount of the penalty shall not exceed the gross income derived (or to be derived) from the conduct giving rise to the penalty.

(3) Coordination with other sanctions. Subject to paragraph (c)(2) of this section

(i) Any monetary penalty imposed on a practitioner under this paragraph (c) may be in addition to or in lieu of any suspension, disbarment or censure and may be in addition to a penalty imposed on an employer, firm or other entity under paragraph (c)(1)(ii) of this section.

(ii) Any monetary penalty imposed on an employer, firm or other entity may be in addition to or in lieu of penalties imposed under paragraph (c)(1)(i) of this section.

(d) Authority to accept a practitioner's consent to sanction. The Internal Revenue Service may accept a practitioner's office of consent to be sanctioned under §10.50 in lieu of instituting or continuing a proceeding under §10.60(a).

(e) Sanctions to be imposed. The sanctions imposed by this section shall take into account all relevant facts and circumstances.

(f) Effective/applicability date. This section is applicable to conduct occurring on or after August 2, 2011, except that paragraphs (a), (b)(2), and (e) apply to conduct occurring on or after September 26, 2007, and paragraph (c) applies to prohibited conduct that occurs after October 22, 2004.

SECTION 10.51 Incompetence and disreputable conduct.

(a) Incompetence and disreputable conduct. Incompetence and disreputable conduct for which a practitioner may be sanctioned under §10.50 includes, but is not limited to--

(1) Conviction of any criminal offense under the Federal tax laws.

(2) Conviction of any criminal offense involving dishonesty or breach of trust.

(3) Conviction of any felony under Federal or State law for which the conduct involved renders the practitioner unfit to practice before the Internal Revenue Service.

(4) Giving false or misleading information, or participating in any way in the giving of false or misleading information to the Department of the Treasury or any officer or employee

thereof, or to any tribunal authorized to pass upon Federal tax matters, in connection with any matter pending or likely to be pending before them, knowing the information to be false or misleading. Facts or other matters contained in testimony, Federal tax returns, financial statements, applications for enrollment, affidavits, declarations, and any other document or statement, written or oral, are included in the term “information.”

(5) Solicitation of employment as prohibited under §10.30, the use of false or misleading representations with intent to deceive a client or prospective client in order to procure employment, or intimating that the practitioner is able improperly to obtain special consideration or action from the Internal Revenue Service or any officer or employee thereof.

(6) Willfully failing to make a Federal tax return in violation of the Federal tax laws, or willfully evading, attempting to evade, or participating in any way in evading or attempting to evade any assessment or payment of any Federal tax.

Observation

Personal Tax Compliance Responsibilities



You are responsible for insuring the timely filing and payment of your personal income tax returns and the tax returns for any entity over which you have, or share, control. Failing to file 4 of the last 5 years income tax returns, or 5 of the last 7 quarters of employment/excise tax returns is per se disreputable and incompetent conduct for which a practitioner may be summarily suspended, indefinitely. The willful evasion of the assessment or payment of tax is also conduct which violates Circular 230.

(7) Willfully assisting, counseling, encouraging a client or prospective client in violating, or suggesting to a client or prospective client to violate, any Federal tax law, or knowingly counseling or suggesting to a client or prospective client an illegal plan to evade Federal taxes or payment thereof.

(8) Misappropriation of, or failure properly or promptly to remit, funds received from a client for the purpose of payment of taxes or other obligations due the United States.

(9) Directly or indirectly attempting to influence, or offering or agreeing to attempt to influence, the official action of any officer or employee of the Internal Revenue Service by the use of threats, false accusations, duress or coercion, by the offer of any special inducement or promise of an advantage, or by the bestowing of any gift, favor or thing of value.

(10) Disbarment or suspension from practice as an attorney, certified public accountant, public accountant or actuary by any duly constituted authority of any State, territory, or possession of the United States, including a Commonwealth, or the District of Columbia, any Federal court of record or any Federal agency, body or board.

(11) Knowingly aiding and abetting another person to practice before the Internal Revenue Service during a period of suspension, disbarment or ineligibility of such other person.

(12) Contemptuous conduct in connection with practice before the Internal Revenue Service, including the use of abusive language, making false accusations or statements, knowing them to be false or circulating or publishing malicious or libelous matter.

(13) Giving a false opinion, knowingly, recklessly, or through gross incompetence, including an opinion which is intentionally or recklessly misleading, or engaging in a pattern of providing incompetent opinions on questions arising under the Federal tax laws. False opinions described in this paragraph (a)(13) include those which reflect or result from a knowing misstatement of fact or law, from an assertion of a position known to be unwarranted under existing law, from counseling or assisting in conduct known to be illegal or fraudulent, from concealing matters required by law to be revealed, or from consciously disregarding information indicating that material facts expressed in the opinion or offering material are false or misleading. For purposes of this paragraph (a)(13), reckless conduct is a highly unreasonable omission or misrepresentation involving an extreme departure from the standards of ordinary care that a practitioner should observe under the circumstances. A pattern of conduct is a factor that will be taken into account in determining whether a practitioner acted knowingly, recklessly, or through gross incompetence. Gross incompetence includes conduct that reflects gross indifference, preparation which is grossly inadequate under the circumstances, and a consistent failure to perform obligations to the client.

NAEA Rule 14

Members and Associates will undertake only those tax matters which the Member or Associate, or the Member's or Associate's firm, can reasonably expect to complete with professional competence. Members and Associates will obtain sufficient relevant data to provide a reasonable basis for conclusions or recommendations as required to complete the task.

NAEA Rule 15

Members and Associates should be considerate and courteous in dealing with representatives of governmental agencies. In practice, Members and Associates are required to provide all information required by a statute or regulations when formally requested by the authorized governmental agency.

(14) Willfully failing to sign a tax return prepared by the practitioner when the practitioner's signature is required by the Federal tax laws unless the failure is due to reasonable cause and not due to willful neglect.

(15) Willfully disclosing or otherwise using a tax return or tax return information in a manner not authorized by the Internal Revenue Code, contrary to the order of a court

of competent jurisdiction, or contrary to the order of an administrative law judge in a proceeding instituted under §10.60.

(16) Willfully failing to file on magnetic or other electronic media a tax return prepared by the practitioner when the practitioner is required to do so by the Federal tax laws unless the failure is due to reasonable cause and not due to willful neglect.

(17) Willfully preparing all or substantially all of, or signing, a tax return or claim for refund when the practitioner does not possess a current or otherwise valid preparer tax identification number or other prescribed identifying number.

(18) Willfully representing a taxpayer before an officer or employee of the Internal Revenue Service unless the practitioner is authorized to do so pursuant to this part.

(b) Effective/applicability date. This section is applicable beginning August 2, 2011.

Case Study: Disreputable Conduct



While employed by a CPA firm, CPA prepared 17 income tax returns for clients who were not clients of the CPA firm. CPA used the employer's tax return preparation software and computer equipment to prepare these tax returns. CPA did not remove the employer's name from the paid preparer section of the tax returns prior to issuing these tax returns to clients. CPA billed the clients using invoices with CPA's name only and kept the fees received for these services.

CPA believed that these clients knew the CPA firm was not responsible for the tax returns even though the employer's name was displayed in the paid preparer section of the tax return.

SECTION 10.52 Violation subject to sanction.

(a) A practitioner may be sanctioned under Sec. 10.50 if the practitioner

(1) Willfully violates any of the regulations (other than §10.33) contained in this part; or

(2) Recklessly or through gross incompetence (within the meaning of §10.51(a)(13)) violates §§10.34, 10.35, 10.36 or 10.37.

(b) Effective/applicability date. This section is applicable to conduct occurring on or after September 26, 2007.

SECTION 10.53 Receipt of information concerning practitioner.

(a) Officer or employee of the Internal Revenue Service.

If an officer or employee of the Internal Revenue Service has reason to believe that a practitioner has violated any provision of this part, the officer or employee will promptly make a written report of the

suspected violation. The report will explain the facts and reasons upon which the officer's or employee's belief rests, and must be submitted to the office(s) of the Internal Revenue Service responsible for administering or enforcing this part.

(b) Other persons.

Any person other than an officer or employee of the Internal Revenue Service having information of a violation of any provision of this part may make an oral or written report of the alleged violation to the office(s) of the Internal Revenue Service responsible for administering or enforcing this part or any officer or employee of the Internal Revenue Service. If the report is made to an officer or employee of the Internal Revenue Service, the officer or employee will make a written report of the suspected violation, and submit the report to the office(s) of the Internal Revenue Service responsible for administering or enforcing this part.

(c) Destruction of report.

No report made under paragraph (a) or (b) of this section shall be maintained unless retention of such record is permissible under the applicable records control schedule as approved by the National Archives and Records Administration and designated in the Internal Revenue Manual. Reports must be destroyed as soon as permissible under the applicable records control schedule.

(d) Effect on proceedings under subpart D.

The destruction of any report will not bar any proceeding under subpart D of this part, but precludes the Director of the Office of Professional Responsibility's use of a copy of such report in a proceeding under subpart D of this part.

(e) Effective/applicability date. This section is applicable beginning August 2, 2011.

THE TAXPAYER BILL OF RIGHTS

In 2014, the IRS took administrative action to issue a Taxpayer Bill of Rights. While impressive looking on its face, the new Bill of Rights is simply a restatement of previously existing rights into a single document. The IRS has issued Publication 1 that is summarized as follows.

- The right to be informed.
- The right to quality service.
- The right to pay no more than the correct amount of tax.
- The right to challenge the IRS's position and be heard.
- The right to appeal an IRS decision in an independent forum.
- The right to finality.
- The right to privacy.

- The right to confidentiality.
- The right to retain representation.
- The right to a fair and just tax system.

Although, these rights are not new, they merit attention here since taxpayers may perceive them as new rights.

CHAPTER 1: TEST YOUR KNOWLEDGE

The following questions are designed to ensure that you have a complete understanding of the information presented in the chapter (assignment). They are included as an additional tool to enhance your learning experience and do not need to be submitted in order to receive CPE credit.

We recommend that you answer each question and then compare your response to the suggested solutions on the following page(s) before answering the final exam questions related to this chapter (assignment).

1.	Which of the following would be considered “practicing before the IRS” and subject to Circular 230: A. an individual that participates in rulemaking B. a fiduciary C. a CPA representing a taxpayer D. an individual appearing on their own behalf
2.	Under Circular 230 Section 10.27, a practitioner is prohibited from charging certain fees. Which of the following fees is prohibited: A. fixed fees for specific routine services (e.g., \$300 for a Form 1040A) B. a flat percentage fee based on the amount of refund on a Form 1040 C. hourly rates D. a range of fees for particular services with a higher fee charged for more complex situations
3.	Circular 230 Section 10.30 places numerous restrictions on solicitation and advertising. Which of the following is correct: A. a copy of all direct mail advertisements must be retained for at least 36 months B. hourly fee information must be included in all advertisements C. although ads may include a fee schedule, rates can be changed at any time D. when accepting a new client, the practitioner must give the client a good faith estimate of the cost of the services contemplated

CHAPTER 1: SOLUTIONS AND SUGGESTED RESPONSES

Below are the solutions and suggested responses for the questions on the previous page(s). If you choose an incorrect answer, you should review the pages as indicated for each question to ensure comprehension of the material.

1.	A. Incorrect. Section 10.7 of Circular 230 states that individuals participating in rulemaking are not considered “practicing before the IRS.” B. Incorrect. A fiduciary is considered to be the taxpayer and not a representative of the taxpayer. Therefore, they are not “practicing before the IRS.” C. CORRECT. A CPA representing a taxpayer would be considered “practicing before the IRS.” D. Incorrect. Provided an individual can present satisfactory identification, individuals may appear on their own behalf before the IRS and not have it considered “practicing before the IRS.”
2.	A. Incorrect. Circular 230 Section 10.27 does not limit a practitioner’s ability to charge fixed fees for specific routine services. B. CORRECT. A practitioner charging a flat percentage fee based on the amount of refund on a Form 1040 is an example of the type of contingent fee prohibited in Circular 230 Section 10.27. C. Incorrect. Hourly rates are not limited by Circular 230 Section 10.27. D. Incorrect. Practitioners are not prohibited from charging different rates depending on the complexity of the issue.
3.	A. CORRECT. Circular 230 Section 10.30 requires the practitioner to retain a copy of the actual communication from a direct mail advertisement for a period of at least 36 months from the date of the last use. B. Incorrect. Hourly fees may be, but are not required to be, included in all advertisements. C. Incorrect. Circular 230 Section 10.30 restricts a practitioner from changing the schedule of fees within 30 calendar days of the last date on which the schedule was published. D. Incorrect. Circular 230 Section 10.30 does not mandate the use of good faith estimates when practitioners meet prospective clients.

CHAPTER 2: NAEA CODE OF ETHICS AND RULES OF PROFESSIONAL CONDUCT

Chapter Objectives

After completing this chapter, you should be able to:

- Recognize the ethical framework applicable to EAs.

The National Association of Enrolled Agents (NAEA) has issued two sets of ethical guidance for Enrolled Agents. The Code of Ethics is a broad conceptual framework of ethical concepts. The Rules of Professional Conduct are more specific in that each rule tends to relate to a specific action. The rules follow closely and expand upon the legal requirements of Circular 230.

I. CODE OF ETHICS

1. Members and Associates will, in personal and public life, strive to enhance the status of enrolled agents (EA) and promote their qualifications to serve the public.
2. Members and Associates will demonstrate honesty, integrity, and objectivity in all their professional actions and relationships.
3. Members and Associates will continually strive to improve upon their competence to practice by keeping informed and educated about tax practice and representation.
4. Members and Associates will maintain the confidentiality of professional relationships.
5. Members and Associates will support efforts to advance the reputation and prestige of the EA license.
6. Members and Associates will comply with the most current provisions of Treasury Department Circular 230 and the NAEA Code of Ethics and Rules of Professional Conduct.
7. Members and Associates will not knowingly misrepresent or omit information when preparing or approving and filing tax returns, documents, affidavits, and other papers relating to Internal Revenue Service (IRS) matters. If a client insists on the misrepresentation or omission, the Member or Associate should withdraw and refuse to prepare the return or other documents.

II. RULES OF PROFESSIONAL CONDUCT

1. Members and Associates will adhere to all laws and regulations that provide equal opportunity for all clients and employees regardless of race, color, religion, gender, national origin, age, handicap, sexual orientation, or any other legally protected class.
2. Members and Associates will be considerate and courteous in dealing with other Members and Associates. All interactions are to be professional and civil. Members and Associates may not attack or insult other Members and Associates. Disrespectful and abusive comments and communications will not be tolerated.
3. Members and Associates will maintain a confidential relationship between themselves and their clients or former clients, disclosing confidential information only when authorized or legally obligated to do so. Members and Associates will instruct employees that information acquired in their duties is confidential and will ensure that confidentiality is maintained.
4. Members and Associates will promptly submit requested information to the IRS and will not interfere with lawful efforts by the IRS to obtain any record or information, unless the Member or Associate believes, in good faith and on reasonable grounds, that the information is privileged.
5. Only Members may designate themselves “Member(s) of the National Association of Enrolled Agents.” Only Associates may designate themselves as “Associate(s) of the National Association of Enrolled Agents.”
6. Members and Associates will not represent conflicting interests without express written consent of all parties after full disclosure.
7. Members and Associates will not allow their related business interests to affect representation of a client and must immediately disclose their interest when referring a client to another firm or enterprise for services.
8. Members and Associates will refuse any gift, favor, or hospitality that would influence or appear to influence their actions.
9. Members and Associates will take a position on a tax return favorable to their clients only if there is substantial authority that the position will be sustained on its merits, unless the position is disclosed and there is at least a reasonable basis for it. If applicable law is unsettled, or the application of law to the facts in a given situation is uncertain, Members and Associates must explain the probable effects of various alternatives to their clients who make the final decision as to the position taken.
10. Members and Associates will not knowingly, directly or indirectly, professionally Associate with an individual who has been suspended or disbarred.

11. Members and Associates will avoid any appearance of impropriety when paying or accepting a commission to obtain a client, or to refer products or services.
12. Members and Associates who are engaged simultaneously in another occupation will conduct themselves in such a manner that no conflict of interest exists when rendering professional tax service or professional advice. No Member or Associate will accept or pay a commission for the sale or referral of products or services to a client unless they are properly licensed and all facts are fully disclosed in writing to the client. No Member or Associate will pay a commission or referral fee to an employee for the sale or referral of products or services to a client unless the employee is properly licensed and the facts are fully disclosed in writing to the client.
13. Members and Associates will not solicit clients in any manner prohibited by the most current provisions of Circular 230, including advertising or other forms of solicitation that present a false, misleading, or deceptive appearance.
14. Members and Associates will undertake only those tax matters which the Member or Associate, or the Member's or Associate's firm, can reasonably expect to complete with professional competence. Members and Associates will obtain sufficient relevant data to provide a reasonable basis for conclusions or recommendations as required to complete the task.
15. Members and Associates should be considerate and courteous in dealing with representatives of governmental agencies. In practice, Members and Associates are required to provide all information required by a statute or regulations when formally requested by the authorized governmental agency.
16. Members and Associates will not suggest or give the impression they can obtain special consideration from governmental agencies or their representatives because of prior IRS employment.
17. Members and Associates will advise a client, preferably in writing, if they suspect the client may not have complied with the revenue laws or may have made an error in, or omission from, a return, document, affidavit, or other paper the client is required by law to execute.
18. Members and Associates will not represent a client, or will withdraw from client representation that has commenced, if:
 - a) The representation will result in the violation of the rules of professional conduct or the law,
 - b) The Member's or Associate's physical or mental condition materially impairs his/her ability to represent the client,
 - c) The client persists in a course of action involving the Member's or Associate's services that the Member or Associate believes is criminal or fraudulent,

- d) The client has used the Member's or Associate's services to perpetrate a crime or fraud, or
 - e) The Member or Associate is discharged.
19. Members and Associates may withdraw from representing a client if:
- a) The client insists on pursuing an objective that the Member or Associate considers imprudent,
 - b) The client fails substantially to fulfill an obligation to the Member or Associate regarding the Member's or Associate's services and has been given reasonable warning that the Member or Associate will withdraw unless the obligation is fulfilled,
 - c) The representation will result in an unreasonable financial burden on the Member or Associate,
 - d) The representation has been rendered unreasonably difficult by the client, or
 - e) Other good cause for withdrawal exists.
20. If representation is terminated, a Member or Associate will take reasonable steps to protect the former client's interests including providing reasonable notice to allow retention of another practitioner, surrendering papers and property to which the client is entitled, and refunding unearned advance fees.
21. Members and Associates will return to the client or former client all records or other data the client provided.
22. Tax preparation or representation services will be offered as authorized by the most current provisions of Circular 230.

CHAPTER 2: TEST YOUR KNOWLEDGE

The following questions are designed to ensure that you have a complete understanding of the information presented in the chapter (assignment). They are included as an additional tool to enhance your learning experience and do not need to be submitted in order to receive CPE credit.

We recommend that you answer each question and then compare your response to the suggested solutions on the following page(s) before answering the final exam questions related to this chapter (assignment).

1.	Which of the following is true regarding the ethical guidance issued by the National Association of Enrolled Agents (NAEA): A. the NAEA has issued three sets of ethical guidance B. the Rules of Professional Conduct are a broad conceptual framework C. the Code of Ethics is more specific than the Rules of Professional Conduct D. the Rules of Professional Conduct follow closely and expand upon the legal requirements of Circular 230
2.	In which of the following circumstances does the NAEA Code of Ethics allow a member to not represent a client, or withdraw from client representation that has commenced: A. if the member is discharged B. if representation will result in violation of the law C. if the member's physical or mental condition materially impairs their ability to represent the family D. all of the above

CHAPTER 2: SOLUTIONS AND SUGGESTED RESPONSES

Below are the solutions and suggested responses for the questions on the previous page(s). If you choose an incorrect answer, you should review the pages as indicated for each question to ensure comprehension of the material.

1.	A. Incorrect. The NAEA has issued two, not three, sets of ethical guidance for Enrolled Agents. B. Incorrect. The Code of Ethics is a broad conceptual framework while the Rules of Professional Conduct are more specific. C. Incorrect. The Code of Ethics is not more broad than the Rules of Professional Conduct. The Code is broad by intent. D. CORRECT. The Rules of Professional Conduct follow closely, and expand upon, the legal requirements of Circular 230.
2.	A. Incorrect. The NAEA Code of Ethics allows a member to not represent a client, or terminate representation, if the member is discharged. However, this is not the only correct selection. B. Incorrect. If the representation will result in violation of the rules of professional conduct or the law, the member is permitted to not represent a client but this is not the only correct selection. C. Incorrect. The NAEA Code of Ethics states that if a member's physical or mental condition materially impairs their ability to represent a client, that the member may opt to not represent the client, although this is not the only correct selection. D. CORRECT. There are many allowable circumstances under the NAEA Code of Ethics in which a member is allowed to not represent a client. Acceptable reasons include, but are not limited to, if a member is discharged, fears that representation will violate the law, or is physically or mentally unfit.

CHAPTER 3: IRS PRACTICE ISSUES

Chapter Objectives

After completing this chapter, you should be able to:

- Recognize various types of fraud and scams that are investigated by the IRS.

I. INTERNAL REVENUE SERVICE CRIMINAL INVESTIGATION DIVISION

The American system of taxation is based on the premise that all income is taxable (which includes illegally earned income). In many instances, proving that a taxpayer willfully attempted to hide income from the Federal Government is an integral part of proving other criminal activity including fraud, money laundering or Bank Secrecy Act violations. Criminal Investigation continues to fulfill the important role of helping to ensure the integrity and fairness of our nations' tax system.

IRS-CI is the criminal investigative arm of the IRS, responsible for conducting financial crime investigations, including tax fraud, narcotics trafficking, money-laundering, public corruption, healthcare fraud, identity theft, and more. IRS-CI special agents are the only federal law enforcement agents with investigative jurisdiction over violations of the Internal Revenue Code, obtaining a more than a 90 percent federal conviction rate. The agency has 20 field offices located across the U.S. and 12 attaché posts abroad.

Criminal Investigation (CI) classifies its investigations into the following program and emphasis areas.

Abusive return preparer enforcement

Return preparer fraud generally involves the orchestrated preparation and filing of false income tax returns (in either paper or electronic form) by unscrupulous preparers who may claim, for example: inflated personal or business expenses, false deductions, unallowable credits or excessive exemptions.

Abusive tax schemes

Abusive tax scheme originally took the structure of abusive domestic and foreign trust arrangements. However, these schemes have evolved into sophisticated arrangements that take advantage of the financial secrecy laws of some foreign jurisdictions and the availability of credit/debit cards issued from offshore financial institutions.

Bankruptcy fraud

One of Criminal Investigation's goals in bankruptcy fraud investigations is to increase voluntary compliance with federal tax laws through the prosecution of those committing significant crimes in the

bankruptcy arena. Since the IRS is often a major creditor in many bankruptcy proceedings, it is important that we protect the interests of the IRS.

Corporate fraud

Corporate fraud frequently involves violations of the Internal Revenue Code (IRC) through falsification of corporate and individual tax returns and CI has exclusive investigatory jurisdiction over criminal violations of the IRC.

Employment tax enforcement

Employment tax evasion schemes can take a variety of forms. Some of the more prevalent methods of evasion include pyramiding, employee leasing, paying employees in cash, filing false payroll tax returns or failing to file payroll tax returns. Evading employment taxes can have serious consequences for employers and the employees.

Financial institution fraud

Criminal Investigation focuses on tax and money laundering violations involving fraud against banks, savings and loan associations, credit unions, check cashers, money remitters, and other financial institutions. Currency Transaction Reports and Suspicious Activity Reports continue to be effective investigative tools in the financial world.

Gaming

Illegal gaming operations, including bookmaking, numbers, Internet and some charitable gaming operations, continue to be areas of compliance concern. Criminal Investigation continues to play an enforcement role in the illegal gaming industry and to support regulatory and legislative initiatives aimed at eliminating an environment conducive to illegal gambling.

General fraud investigations

Criminal Investigation special agents investigate violations of the tax laws and related financial crimes. Taxpayers who chose to willfully and intentionally not comply with their legal responsibility to file required tax returns and/or pay taxes pose a serious threat to tax administration and the American economy.

Healthcare fraud

Multi-agency healthcare fraud investigations and prosecutions show that perpetrators of these schemes financially benefited from their fraudulent activities in false billings, mental health, nursing home fraud, chiropractic fraud, durable medical equipment fraud, staged accidents, pharmaceutical diversion, and patient referral (kickbacks) schemes. In these investigations, Criminal Investigation follows the money trail and considers both tax and money laundering perspectives.

Identity theft schemes

IRS Criminal Investigation (CI) detects and investigates tax fraud and other financial fraud, including fraud related to identity theft.

International investigations

International tax compliance is a top priority of the IRS. Complex international tax avoidance schemes and cross-border transactions have heightened the IRS' concern about tax compliance. Individuals may attempt to use foreign accounts, trusts, and other entities to commit criminal violations of U.S. tax laws as well as narcotics, money laundering and Bank Secrecy Act (BSA) violations.

Money laundering and Bank Secrecy Act (BSA)

Money laundering is a very complex crime involving intricate details, often involving numerous financial transactions and financial outlets throughout the world. Criminal Investigation has the financial investigators and expertise that is critical to "follow the money trail."

Narcotics-related investigations

Criminal Investigation's contribution to the war on narcotics is vital but sometimes difficult to recognize, because the work of IRS special agents usually doesn't make the headlines. The long hours of tracking down and documenting financial leads allows an investigation to go right to the door of the leader of the narcotics organization, which contributes to the disrupting and dismantling the country's major drug and money laundering organizations.

Non-filer enforcement

There have always been individuals who, for a variety of reasons, argue taxes are voluntary or illegal. The courts have repeatedly rejected their arguments as frivolous and routinely impose financial penalties for raising such frivolous arguments. Take the time to learn the truth about frivolous tax arguments.

Public corruption crimes

Public corruption investigations encompass a wide variety of criminal offenses including bribery, extortion, embezzlement, illegal kickbacks, entitlement and subsidy fraud, bank fraud, tax fraud, and money laundering. Criminal Investigation concentrates its resources on the tax and money laundering aspects of these investigations in cooperation with other federal, state, and local law enforcement agencies. The expertise used in investigations has established our reputation as one of the leaders in the fight against corrupt public officials.

Questionable Refund Program (QRP)

QRP is a nationwide, multifunctional program designed to identify fraudulent returns, to stop the payment of fraudulent refunds and to refer identified fraudulent refund schemes to be investigated and prosecuted criminally.

II. OFFICE OF PROFESSIONAL RESPONSIBILITY (OPR) FREQUENTLY ASKED QUESTIONS

What sanctions are authorized by Circular 230 and to whom do they apply?

Circular 230 sanctions are a censure (essentially a public reprimand), suspension from practice before the IRS, disbarment from practice before the IRS, monetary penalties, and “disqualification” as an appraiser.

- Suspensions may be for a fixed term or indefinite, and even if for a fixed term, a practitioner must petition and be granted reinstatement by the OPR before practice privileges are restored. When a practitioner is suspended for a fixed term, the individual may not petition to be reinstated to practice before the end of the term.
- Disbarment restricts any practice before the IRS for a minimum of five years. A disbarred practitioner may not petition for reinstatement for five years. (Petitions for reinstatement are subject to the requirements in section 10.81 of Circular 230.)
- Monetary penalties may be imposed on practitioners who engages in conduct subject to one of the other sanctions. A monetary penalty may be imposed against an individual practitioner or a firm (or other entity), or both, and can be in addition to any censure, suspension or disbarment. The amount of the penalty or penalties (if imposed on a practitioner and a firm) may be up to the amount of gross income derived or to be derived from the conduct giving rise to the penalty or penalties.
- Disqualification of an appraiser precludes the appraiser from submitting any further appraisals in connection with federal tax matters and from presenting evidence or testimony in any proceeding before the Treasury Department or the IRS. A taxpayer may not rely for federal tax purposes on an appraisal by a disqualified appraiser that was rendered after the disqualification.

Before any of these sanctions is imposed, the practitioner, firm, or appraiser is provided with:

1. notice and an opportunity to respond and provide supporting evidence,
2. an opportunity for a conference with the OPR, and
3. an opportunity for a formal disciplinary proceeding before an administrative law judge (ALJ). However, in the case of an expedited suspension (see Q7), the opportunity for a formal proceeding arises after the OPR has imposed the suspension.

If discipline is not appropriate (or possible), the OPR may issue a private reprimand or a cautionary “soft letter,” each of which closes the OPR’s case after the practitioner has been given due process. A reprimand is a letter informing the recipient that the OPR has concluded that they violated one or more sections of Circular 230 and admonishes the person for the misconduct and warns them not to engage in further violations. An initial “soft letter” advises a practitioner of the information referred to the OPR as potential Circular 230 misconduct and that the practitioner can submit a written response and any

supporting documentation. A closing soft letter notifies the practitioner that the OPR is not taking any further action on the referral (including after consideration of any response to the initial letter) and that the matter is closed. Closures with a soft letter are also private, but unlike a reprimand letter, a closing soft letter does not reach a conclusion as to whether a violation was committed.

III. IRS “DIRTY DOZEN” TAX SCAMS FOR 2025

In an effort to help taxpayers from becoming victims of tax fraudsters, the IRS publishes annually a “Dirty Dozen” list which are known, current, and popular tax scams. This list offers a warning to taxpayers, businesses, and tax professionals to watch out for common schemes that threaten both tax and financial information.

Last year, the tax community launched a related effort called the Coalition Against Scam and Scheme Threats (CASST) following a surge in social media-fueled scams.

The 2025 IRS Dirty Dozen list highlights the following 12 pervasive threats:

1. Email Phishing Scams

The IRS continues to see a barrage of email and text scams targeting taxpayers and others. Taxpayers and tax professionals should be alert to fake communications from entities posing as legitimate organizations in the tax and financial community, including the IRS, state tax agencies, and tax software companies. These messages arrive in the form of unsolicited texts or emails to lure unsuspecting victims into providing valuable personal and financial information that can lead to identity theft. There are two main types:

- **Phishing:** An email sent by fraudsters claiming to come from the IRS. The email lures the victims into the scam with a variety of ruses, such as enticing victims with a phony tax refund or threatening them with false legal or criminal charges for tax fraud.
- **Smishing:** A text or smartphone SMS message where scammers often use alarming language such as, “Your account has now been put on hold,” or “Unusual Activity Report,” with a bogus “Solutions” link to restore the recipient’s account. The promise of unexpected tax refunds is another potential tactic used by scam artists.

Never click on any unsolicited communication claiming to be the IRS, as it may surreptitiously load malware. It may also be a way for malicious hackers to load ransomware that keeps the legitimate user from accessing their system and files.

What to do

Individuals should never respond to tax-related phishing or smishing or click on the URL link. Instead, report all unsolicited email - including the full email headers - claiming to be from the IRS or an IRS-related function to phishing@irs.gov. If someone experienced any monetary losses due to an IRS-related scam incident, they should report it to the Treasury Inspector General for Tax Administration (TIGTA), the Federal Trade Commission (FTC), and the Internet Crime Complaint Center (IC3).

If a taxpayer receives an **email** claiming to be from the IRS that contains a request for personal information, taxes associated with a large investment, inheritance, or lottery:

- Don't reply.
- Don't open any attachments. They can contain malicious code that may infect the computer or mobile phone.
- Don't click on any links. If a taxpayer inadvertently clicked on links in a suspicious email or website and entered confidential information, visit the IRS' identity protection page.
- Send the full email headers or forward the email as-is to phishing@irs.gov. Don't forward screenshots or scanned images of emails because this removes valuable information.
- Delete the original email.

If a taxpayer receives a **text** claiming to be from the IRS that contains a request for personal information, taxes associated with a large investment, inheritance, or lottery:

- Don't reply.
- Don't open any attachments. They can contain malicious code that may infect the computer or mobile phone.
- Don't click on any links. If a taxpayer clicked on links in a suspicious SMS and entered confidential information, they should visit Identity Theft Central.
- Report the message to 7726 (SPAM).

Include both the Caller ID and the message body in an email and send to phishing@irs.gov. Copy the Caller ID from the message by pressing and holding on the body of the text message, then select Copy, and paste into the email. If the taxpayer is unable to copy the Caller ID or message body, forward a screenshot of the message.

- Delete the original text.

2. Bad Social Media Advice

Another growing concern in 2025 continues to involve incorrect tax information on social media that can mislead honest taxpayers with bad advice, potentially leading to identity theft and tax problems. Social media platforms routinely circulate inaccurate or misleading tax information, including on TikTok where people share wildly inaccurate tax advice. Some involve urging people to misuse common tax documents like Form W-2

The IRS and CASST warns people not to fall for such scams and urges them to follow trusted social media advice from the IRS, tax professionals, and other reputable sources. The IRS reminds taxpayers who knowingly file fraudulent tax returns that they could potentially face significant civil and criminal penalties.

3. IRS Individual Online Account Help From Scammers

An IRS Online account allows taxpayers access to information about their tax account. They can log in and get the latest on their payment history, current balance, see copies of select IRS notices, and more. Unfortunately, it is a useful and easy tool that scammers target.

Swindlers can pose as a “helpful” third party and offer to help create a taxpayer’s IRS Individuals Online Account at IRS.gov. While they may make it seem like a complicated task needing their assistance, in reality, no help is needed, and the IRS even offers tips on how to sign up and avoid scams. Taxpayers can and should establish their own Online Account through IRS.gov.

Scammers often ask for the taxpayer’s personal information including address, Social Security number or Individual Taxpayer Identification number (ITIN), and photo identification. So ... watch out! Third parties making these offers can sell the information or steal and use a taxpayer’s personal information to obtain loans and open credit accounts and even try to submit fraudulent tax returns in the victim’s name to get a big refund.

4. Fake Charities

Bogus charities are a perennial problem that can intensify whenever a crisis or natural disaster strikes. Scammers set up these fake organizations to take advantage of the public’s generosity. They seek money and personal information, which can be used to further exploit victims through identity theft.

Taxpayers who give money or goods to a charity might be able to claim a deduction on their federal tax return if they itemize deductions, but charitable donations only count if they go to a qualified tax-exempt organization recognized by the IRS. Individuals intending to donate can utilize the Tax-Exempt Organization Search (TEOS) tool on IRS.gov to ensure legitimacy.

Here are some helpful tips to avoid getting scammed:

- **Don’t give in to pressure.** Scammers often create situations to get people to make payments. Genuine charities are always grateful for donations. Donors should take their time and research before making a charitable contribution.
- **Exercise caution when making donation payments.** Avoid any charity that requests gift card numbers or wire transfers. It’s better to pay by credit card or check after ensuring the charity’s authenticity.
- **Verify the legitimacy of the charity.** Scammers often use similar-sounding names for charities to confuse people. Before donating, potential donors need to ask the fundraiser for the charity’s name, website, and mailing address so they can independently verify its authenticity. Use the special IRS TEOS tool to verify if an organization is a legitimate tax-exempt charity.
- **Avoid sharing too much information.** Scammers are always on the lookout for both money and personal data. Never disclose Social Security numbers, credit card numbers, or personal identification numbers. Only provide bank or credit card details after confirming the charity’s legitimacy.

5. False Fuel Tax Credit Claims

A major concern during the past year involved taxpayers who were misled into believing they were eligible for the Fuel Tax Credit. The credit is meant for off-highway business and farming use and is not available to most taxpayers. However, unscrupulous tax return preparers and promoters, including people on social media, continue enticing taxpayers into inflating their refunds by erroneously claiming the credit. The IRS has seen an increase in the promotion of filing certain refundable credits using Form 4136, *Credit for Federal Tax paid on Fuels*.

Falsely claiming the Fuel Tax Credit is a fraudulent practice with severe consequences, including civil and criminal penalties. Taxpayers must exercise caution when filing their tax returns and ensure that they only claim credits to which they're entitled. The IRS urges people to get more information and ensure they are properly claiming this credit.

6. Credits for Sick Leave and Family Leave

This specialized credit was available for self-employed individuals for 2020 and 2021 during the pandemic; the credit is not available for later tax years. The IRS is seeing repeated instances where taxpayers are using Form 7202 *Credits for Sick Leave and Family Leave for Certain Self-Employed Individuals*, to incorrectly claim a credit based on income earned as an employee and not as a self-employed individual.

7. Bogus Self-Employment Tax Credit

Social media advice continues to circulate about a non-existent "Self-Employment Tax Credit" that's misleading taxpayers into filing false claims. Promoters market it as a way for self-employed people and gig workers to get big payments for the COVID-19 pandemic period. Similar to misleading marketing around the Employee Retention Credit, there is inaccurate information being circulated that suggests many people qualify for the tax credit and payments of up to \$32,000 when they actually do not.

In reality, the underlying credit being referred to in social media is not called the "Self-Employment Tax Credit," it's a much more limited and technical credit called the Credits for Sick Leave and Family Leave. Many people simply do not qualify for these credits, and the IRS is closely reviewing claims coming in under this provision, so taxpayers filing claims do so at their own risk.

"This is another misleading social media claim that's fooling well-meaning taxpayers into thinking they're due a big payday," said IRS Commissioner Danny Werfel. "People shouldn't be misled by outlandish claims they see on social media. Before paying someone to file these claims, taxpayers should consult with a trusted tax professional to see if they meet the very limited eligibility scenarios."

8. Improper Household Employment Taxes

Taxpayers "invent" fictional household employees and then file Schedule H (Form 1040), *Household Employment Taxes*, to claim a refund based on false sick and family medical leave wages they never paid.

The IRS, along with the Security Summit partners in the tax industry and the states, are actively watching for this scheme.

9. The Overstated Withholding Scam

This is a recent scheme circulating on social media encouraging people to fill out Form W-2, *Wage and Tax Statement*, or other forms like Form 1099-NEC and other 1099s with false income and withholding information.

In this overstated withholding scheme, scam artists suggest people make up large income and withholding amounts, as well as the fictional employer supplying those amounts. Scam artists then instruct people to file the bogus tax return electronically in hopes of getting a substantial refund due to the large amount of fraudulent withholding.

If the IRS cannot verify the wages, income, or withholding credits entered on the tax return, the tax refund will be held pending further review. Taxpayers should always file a complete and accurate tax return. They should only use legitimate information returns, such as an employer issued Form W-2, to complete returns correctly.

There are multiple variations of the overstated withholding credit scheme, including those involving Forms W-2 and W-2G; Forms 1099-R, 1099-NEC, 1099-DIV, 1099-OID, and 1099-B, as well as the Alaskan Dividend Fund, Schedule K-1 with Withholding Reported, and Unspecified Source of Withholding Credit Claimed.

Note



Another example of bad advice circulating on social media involves Form 8944, *Preparer e-file Hardship Waiver Request*. Wildly inaccurate claims made about this form include its use by taxpayers to receive a refund from the IRS, even if the taxpayer has a balance due. This is false information. Form 8944 is for tax professional use only.

While Form 8944 is a legitimate IRS tax form, it is intended for tax return preparers who are requesting a waiver so they can file tax returns on paper instead of electronically. It is not a form the average taxpayer can use to avoid tax bills.

Taxpayers who intentionally file forms with false or fraudulent information can face serious consequences, including potentially civil and criminal penalties.

10. Misleading Offers in Compromise

The Offers in Compromise (OIC) program is an important and legitimate IRS program that helps people settle their federal tax debts when they are unable to pay in full.

However, “mills” (which sometimes make exaggerated claims through radio and TV ads about settling tax debts inexpensively) can aggressively promote Offers in Compromise in misleading ways to people

who clearly don't meet the qualifications, frequently costing taxpayers thousands of dollars for a service they could have obtained directly from the IRS.

In determining eligibility, the IRS considers the taxpayer's unique situation. The OIC agreement occurs directly between the taxpayer and the IRS. A taxpayer can check their eligibility for free using the IRS Offer in Compromise Pre-Qualifier tool.

Note



While some people will not qualify for an OIC, most taxpayers do qualify for an IRS payment plan (or installment agreement) and can use the online payment agreement (OPA) to set it up to pay off a balance over time. Individual taxpayer payment plan options online include:

- **Short-term payment plans:** For taxpayers who have a total balance of less than \$100,000 in combined tax, penalties, and interest. This plan gives them an extra 180 days to pay the balance in full.
- **Long-term payment plans:** Qualifying taxpayers can make monthly payments for up to 72 months.

Taxpayers receive immediate notification of whether the IRS has approved their payment plan when they apply online. More details can be found on IRS.gov and Tax Topic No. 202, *Tax Payment Options*.

11. Ghost Tax Return Preparers

Most tax preparers provide outstanding and professional service. However, people should be careful of shady tax professionals and watch for common warning signs, including charging a fee based on the size of the refund.

A major red flag or bad sign is when the tax preparer is unwilling to sign the return. Avoid these “ghost” preparers, who will prepare a tax return but refuse to sign or include their IRS Preparer Tax Identification Number (PTIN) as required by law. Taxpayers should never sign a blank or incomplete return. A problem is that after the tax return is prepared, these “ghost preparers” can simply disappear, leaving well-meaning taxpayers to deal with the consequences.

Tips for taxpayers: Warning signs to look out for

Most tax return preparers provide honest, high-quality service. But some may cause harm through fraud, identity theft, and other scams. Paid preparers must sign and include a valid preparer tax identification number (PTIN) on every tax return. A ghost preparer is someone who doesn't sign tax returns they prepare. These unethical tax return preparers should be avoided, especially if they refuse to sign a complete paper tax return or digital form when filing electronically.

Taxpayers are also encouraged to check the tax preparer's credentials and qualifications to make sure they are capable of assisting with the taxpayer's needs. The IRS offers resources for taxpayers to

educate themselves on types of preparers, representation rights, as well as a Directory of Federal Tax Return Preparers with Credentials and Select Qualifications to help choose which tax preparer is the best fit.

Some of the warning signs of a bad preparer include:

- **Shady fees.** Taxpayers should always ask about service fees. Shady tax preparers can ask for a cash-only payment without providing a receipt. They are also known to base their fees on a percentage of the taxpayer's refund.
- **False income.** Untrustworthy tax preparers may also invent false income to try to get their clients more tax credits or claim fake deductions to boost the size of the refund.
- **Wrong bank account.** Taxpayers should also be wary of a tax preparer attempting to convince them to deposit the taxpayer's refund in their bank account rather than the taxpayer's account.

Good preparers ask to see all relevant documents like receipts, records, and tax forms. They also ask questions to determine the client's total income, deductions, tax credits, and other items.

Taxpayers should never hire a preparer who e-files a tax return using a pay stub instead of a Form W-2. This is also against IRS e-file rules.

File accurately and check eligibility for credits and deductions

Taxpayers are ultimately responsible for all the information on their income tax return, regardless of who prepares it. Taxpayers can visit IRS.gov to find answers to tax-related questions and access tools like the Interactive Tax Assistant, which provides answers to several tax law questions specific to individual circumstances.

Filing electronically reduces tax return errors, and people can take advantage of free online and in-person tax preparation options if they qualify through programs like IRS Free File and the Volunteer Income Tax Assistance and Tax Counseling for the Elderly.

12. New Client Scams and Spear Phishing

In 2025, the IRS continues to see the "new client" scam, which involves spear phishing attempts that target tax pros. Cybercriminals impersonate new, potential clients to trick tax professionals and other businesses into responding to their emails. Once the tax pro responds, the scammer sends a malicious attachment or URL that can compromise the preparer's computer systems and allow the attacker to access sensitive client information.

Phishing is a term given to emails or text messages designed to get users to provide personal information, and spear phishing is a phishing attempt tailored to a specific organization or business. Tax professionals frequently find themselves a target of this type of scam.

Spear phishing holds greater potential for harm because a successful spear phishing attack can ultimately steal client data and the tax pro's identity, allowing the thief to file fraudulent returns using the stolen information.

The IRS warns tax professionals about spear phishing because if a tax preparer falls victim to a data breach, the potential for harm is much greater. A successful spear phishing attack can lead to the theft of client data and the identity theft of the tax preparer. This could potentially enable the attacker to file fraudulent returns.

How to avoid being a victim of spear phishing:

- Never click suspicious links or download attachments from unknown senders, including potential clients.
- Call the potential client to confirm the email is from them.
- Send only password-protected and encrypted documents through email.
- Protect email accounts with strong passwords and two-factor authentication.
- Use security software products with anti-phishing tools.
- Be vigilant year-round, not just during tax filing season.

Businesses and individuals, including tax pros, should always be cautious and look out for any suspicious requests or unusual behavior before sharing any sensitive information or responding to an email. Warning signs include poorly constructed sentences and unusual word choices. Be aware that by gaining access to a hacked email account, scammers can locate a genuine email from a previous victim's email account sent to their tax professional.

A Baker's Dozen: Watch Out for Other Abusive Schemes

The IRS also reminds taxpayers that beyond the Dirty Dozen, there are a wide array of other abusive schemes and bogus tax avoidance strategies that can mislead well-intentioned taxpayers. These can involve different types of trusts, offshore schemes, and even individual retirement arrangements. Examples of such include:

Tax traps designed for wealthy individuals by dishonest promoters and shady tax practitioners

Taxpayers with high incomes can be tempting targets for a variety of schemes and aggressive tax strategies designed to reduce taxes. These can take many different forms, ranging from inflated art donation deductions to aggressive charitable remainder annuity trusts and detailed shelters that maneuver to delay paying gains on property.

- **Improper art donation deductions:** There are ways for taxpayers to properly claim donations of art. But some unscrupulous promoters use direct solicitation to promise values of art that are too good to be true. These promoters encourage taxpayers to buy various types of art, often at a "discounted" price. This price may also include additional services from the promoter, such as storage, shipping, and arranging the appraisal and

donation of the art. The promoter promises the art is worth significantly more than the purchase price. These schemes are designed to encourage purchasers to donate the art after waiting at least one year and to claim a tax deduction for an inflated fair market value, which is substantially more than they paid for the artwork. Promoters may suggest taxpayers donate art annually and allow them to buy a quantity of art that guarantees a specific deductible amount. Promoters may even arrange for certain charities to take the donations. The IRS has a team of professionally trained appraisers in art appraisal services who provide assistance and advice to the IRS and taxpayers on valuation questions in connection with personal property and works of art.

- **Charitable remainder annuity trust:** Charitable remainder trusts (CRAT) are irrevocable trusts that let people donate assets to charity and draw annual income for life or for a specific time period. The IRS examines charitable remainder trusts to ensure they correctly report trust income and distributions to beneficiaries, file required tax documents, and follow applicable laws and rules. A CRAT pays a specific dollar amount each year. Unfortunately, these trusts are sometimes misused to eliminate capital gain.

Here's how it works. The appreciated property is transferred to a CRAT. Taxpayers wrongly claim the transfer of the appreciated assets to the CRAT, which gives those assets a step-up in basis to fair market value as if they had been sold to the trust. The CRAT then sells the property but does not recognize gain due to the claimed step-up in basis. The CRAT then uses the proceeds to purchase a single premium immediate annuity (SPIA). The beneficiary then reports, as income, only a small portion of the annuity received from the SPIA. Through a misapplication of the law relating to CRATs, the beneficiary treats the remaining payment as an excluded portion representing a return of investment for which no tax is due. Taxpayers who seek to achieve this inaccurate result do so by misapplying the rules.

- **Monetized installment sales:** In these frequently shady deals, promoters look for taxpayers seeking to defer the recognition of gain upon the sale of appreciated property and then organize an abusive shelter through selling them monetized installment sales. These transactions occur when an intermediary purchases appreciated property from a seller in exchange for an installment note, which typically provides for payments of interest only, with principal being paid at the end of the term. In these arrangements, the seller gets the lion's share of the proceeds but improperly delays the gain recognition on the appreciated property until the final payment on the installment note, often slated for many years later.

Bogus tax avoidance strategies include syndicated conservation easements, and micro-captive insurance

- **Syndicated conservation easements:** A conservation easement is a restriction on the use of real property. Generally, taxpayers may claim a charitable contribution deduction for the fair market value of a conservation easement transferred to a charity if the transfer meets Internal Revenue Code section 170 requirements.

In abusive arrangements, promoters are syndicating conservation easement transactions that purport to give an investor the opportunity to claim charitable contribution deductions and corresponding tax savings that significantly exceed the amount the investor invested. These abusive arrangements, which generate high fees for promoters, attempt to game the tax system with grossly inflated tax deductions.

As part of recent legislation, Congress amended section 170 to curb certain abusive conservation easement transactions. The IRS is committed to ensuring compliance with the conservation easement deduction law as amended and will continue to keep an eye on transactions that are “too good to be true.”

- **Micro-captive insurance arrangements:** Also called a small captive, a micro-captive is an insurance company whose owners elect to be taxed on the captive’s investment income only. Abusive micro-captives involve schemes that lack many of the attributes of legitimate insurance. These structures often include implausible risks, failure to match genuine business needs, and in many cases, unnecessary duplication of the taxpayer’s commercial coverages. In addition, the “premiums” paid under these arrangements are often excessive, reflecting non-arm’s length pricing.

Abusive micro-captive transactions continue to be a high-priority enforcement area for the IRS. The agency has prevailed in all micro-captive tax court and appellate court cases decided on their merits since 2017.

Schemes involving international elements

The Foreign Account Tax Compliance Act (FATCA) plays a key part in combating tax evasion by U.S. persons holding accounts and other financial assets offshore. It requires most U.S. taxpayers holding financial assets outside the United States to report those assets to the IRS. It also requires certain foreign financial institutions to report directly to the IRS about financial accounts held by U.S. taxpayers. These institutions include not only banks, but also other financial institutions, such as investment entities, brokers, and certain insurance companies. Reporting requirements carry penalties for failure to file.

Unscrupulous promoters continue to lure U.S. persons into placing their assets in offshore accounts and structures, saying they are out of reach of the IRS. These assertions are not true. The IRS can identify and track anonymous transactions of foreign financial accounts.

Many of these schemes are promoted and advertised online, but all these schemes have one thing in common - they promise tax savings that are “too good to be true” and will likely cause legal harm to taxpayers who use them.

- **Misusing a tax treaty with Maltese individual retirement arrangements:** This scheme involves U.S. citizens or residents attempting to avoid U.S. tax by contributing to foreign individual retirement arrangements in Malta or another country. These countries allow for contributions in a form other than cash and do not limit the amount of contributions by reference to employment or self-employment activities. By improperly asserting this as a “pension fund” for U.S. tax treaty purposes, the U.S. taxpayer improperly claims an

exemption from U.S. income tax on gains and earnings in, and distributions from, the foreign individual retirement arrangement.

- **Digital assets:** A digital asset is a digital representation of value that is recorded on a cryptographically secured, distributed ledger or any similar technology. Common digital assets include:
 - Convertible virtual currency and cryptocurrency
 - Stablecoins
 - Non-fungible tokens (NFTs)

Unscrupulous promoters often recommend digital assets as being untraceable and undiscoverable by the IRS. However, the truth is that the IRS can identify and track anonymous transactions of digital assets around the globe. For federal tax purposes, digital assets are treated as property. General tax principles applicable to property transactions apply to transactions using digital assets.

More information on past schemes is available in the special Dirty Dozen section on IRS.gov.

Note



While the Dirty Dozen list is not a legal document or a formal listing of agency enforcement priorities, it is intended to alert taxpayers and the tax professional community about various scams and schemes.

Report abusive tax schemes and tax return preparers

In support of the Dirty Dozen awareness effort, the IRS also encourages people to report individuals who promote improper and abusive tax schemes, as well as tax return preparers who deliberately prepare improper returns.

To report an abusive tax scheme or a tax return preparer, people should use the online Form 14242 *Report Suspected Abuse Tax Promotions or Preparers*, or mail or fax a completed download Form 14242 PDF and any supporting material to the IRS Lead Development Center in the Office of Promoter Investigations.

CHAPTER 3: TEST YOUR KNOWLEDGE

The following question is designed to ensure that you have a complete understanding of the information presented in the chapter (assignment). It is included as an additional tool to enhance your learning experience and does not need to be submitted in order to receive CPE credit.

We recommend that you answer the question and then compare your response to the suggested solution on the following page before answering the final exam question(s) related to this chapter (assignment).

1.

How can taxpayers protect themselves from ghost tax return preparers:

- A. confirm that the preparer will sign the return and include their PTIN
- B. agree to sign a blank return which will allow the preparer to fill in the information and complete the return at a later date
- C. allow the tax preparer to deposit any refund into their own personal account for faster processing
- D. choose a preparer that guarantees a large refund before reviewing any documents

CHAPTER 3: SOLUTION AND SUGGESTED RESPONSES

Below is the solution and suggested responses for the question on the previous page. If you choose an incorrect answer, you should review the page(s) as indicated for the question to ensure comprehension of the material.

- | | |
|----|--|
| 1. | <p>A. CORRECT. Ghost tax preparers often refuse to sign the return, leaving taxpayers liable for any issues. Legitimate tax preparers will sign the return and include their PTIN as required by law.</p> <p>B. Incorrect. A legitimate tax preparer will never ask a client to sign a blank return. This provides an opportunity for fraud to be committed by a ghost preparer.</p> <p>C. Incorrect. Valid refunds should be deposited into the taxpayer's account, not the preparer's account.</p> <p>D. Incorrect. Legitimate preparers would not promise a large refund without reviewing all the documents first to determine if and what a refund may actually be.</p> |
|----|--|

GLOSSARY

Client's records - Any accounting or other records belonging to the client that were given to the member by, or on behalf of, the client.

Conflict of interest - A conflict of interest may occur if a member performs a professional service for a client or employer, and the member or his or her firm has a relationship with another person, entity, product, or service that could, in the member's professional judgment, be viewed by the client, employer, or other appropriate parties as impairing the member's objectivity.

Contingent fee - A fee for performing any service in which the amount of the fee (or whether a fee will be paid) depends on the results of the service.

Firm - A form of organization permitted by state law or regulation whose characteristics conform to resolutions of Council that is engaged in the practice of public accounting, including the individual owners thereof.

Integrity - An element of character fundamental to professional recognition. It is the quality from which public trust derives and the benchmark against which a member must ultimately test all decisions.

Objectivity - The principle of objectivity imposes the obligation to be impartial, intellectually honest, and free of conflicts of interest. Objectivity is a state of mind, a quality that lends value to a member's services.

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FINAL EXAM COPY

The following exam will not be graded. It is attached only for your convenience while you read the course text. To access the exam to be submitted for grading, go to your account and select Take Exam.

1. Bob Jones, Inc. is a new small business client that has asked you to prepare its current year tax return. Upon interviewing the client, you determine that the client has not filed several prior year tax returns. According to Circular 230, what should you do:

- A.** advise the client promptly of the fact of noncompliance
- B.** notify the IRS of this failure
- C.** advise the client promptly of the fact of noncompliance and notify the IRS if the client refuses to file
- D.** ignore the fact of non-filing provided the current year return is filed timely

2. Which of the following is true regarding when a contingent fee is permitted by the IRS:

- A.** contingent fees are permitted as long as AICPA standards are followed
- B.** contingent fees may be charged on an original return when the practitioner reasonably anticipates that the return position will be substantially reviewed by the IRS prior to filing of the return
- C.** contingent fees are allowed for services rendered in connection with the IRS' challenge to an original tax return
- D.** contingent fees are never allowed

3. In preparing the tax return for Nash Plumbing, Inc., you notice a large deduction for "consulting services." You ask your client to explain this deduction, and he explains it represents tuition paid for his son to attend college. You know that no 1099 or W-2 was issued for these services nor is any of this income reflected on your client's personal tax return or his son's. Your client states that "everyone" in this industry does this. This deduction is equivalent to 20% of the net income. Which of the following is correct regarding your ability to sign the tax return for Nash Plumbing, Inc. per Circular 230 Section 10.34:

- A.** you may sign the return since the return meets the "nonfrivolous standard"
- B.** the client's assertion that the deduction is industry practice is frivolous. Accordingly, the position does not meet Section 10.34 and you may not sign the return
- C.** you may sign the return only if the deduction is clearly identified on the return as "consulting expense paid to son" or some similar disclosure
- D.** you may sign the return since everything on the return is the representation of the client

4. According to Circular 230, Section 10.36, which of the following is correct regarding procedures to ensure compliance:

- A.** it places the first layer of responsibility on the IRS as part of a regulatory environment
- B.** it provides that only firms, and not individuals of a firm, can be subject to disciplinary action for failing to comply with Circular 230
- C.** the provision is ineffective
- D.** it makes an individual of a firm into an enforcer of Circular 230

5. A practitioner may give written advice concerning one or more federal tax matters. All of the following are requirements of such practitioners except:

- A.** the practitioner must base the written advice on reasonable factual and legal assumptions
- B.** the practitioner must reasonably consider all relevant facts and circumstances that the practitioner knows or reasonably should know
- C.** the practitioner must use reasonable efforts to identify and ascertain the facts relevant to written advice on each federal tax matter
- D.** the practitioner must provide a reasonable estimate of the cost of the written advice prior to performing any such work

6. Which of the following is not a component of the Taxpayer Bill of Rights:

- A.** the right to have a refund issued within 10 days
- B.** the right to privacy
- C.** the right to pay no more than the correct amount of tax
- D.** the right to appeal an IRS decision in an independent forum

7. Which of the following is not among the NAEA Code of Ethics:

- A.** members and associates will, in personal and public life, strive to enhance the status of enrolled agents (EAs) and promote their qualifications to serve the public
- B.** members and associates will demonstrate honesty, integrity, and objectivity in all their professional actions and relationships
- C.** members and associates will maintain the confidentiality of professional relationships
- D.** members and associates will notify their clients when they can obtain special consideration from governmental agencies or their representatives

8. A fake charity scam is the process of which of the following:

- A.** a taxpayer incorrectly claiming charitable donations on their return
- B.** individuals setting up phony charities to steal money or personal information
- C.** the IRS auditing tax-exempt organizations
- D.** a legitimate nonprofit receiving donations through an online campaign / platform

9. What is the primary goal of the overstated withholding scam:

- A.** to help taxpayers legally maximize legitimate deductions and credits.
- B.** to provide guidance on how to correctly file Form W-2 and 1099s
- C.** to encourage taxpayers to report false income and withholding amounts to receive a larger refund
- D.** to encourage taxpayers to file accurate tax returns in a timely fashion

10. Which of the following is an example of a spear phishing scam targeting tax professionals:

- A.** an email from a potential new client asking for help with a return which includes an unsolicited attachment or URL link in the email
- B.** a long-time, established client sending an email requesting an in-person tax consultation
- C.** a secure email exchange using encrypted files between a tax professional and a verified client
- D.** all of the above