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CASE STUDIES IN ETHICS: AN INTERACTIVE APPROACH

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Overview of Ethical Conduct for ASPPA Members

- Governed by the ASPPA Code of Professional Conduct
- Also could be governed by Circular 230 and one or more other Codes of Professional Conduct



CODE OF ETHICS

ASPPA Code of Professional Conduct



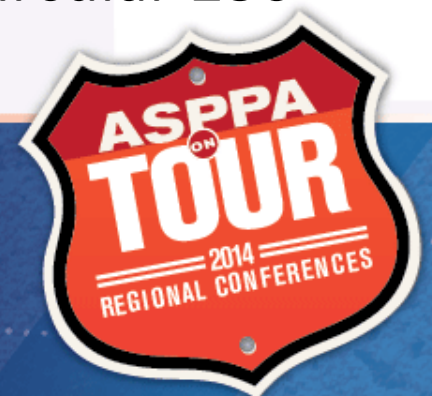
ASPPA Code of Professional Conduct

- Revised July 1, 2013 by a multi-disciplinary ASPPA Task Force
- Key changes to the Code
 - Edited for consistency and clarity, including a new section of definitions
 - Sections were reordered alphabetically to eliminate the appearance that any section is more important than another



ASPPA Code of Professional Conduct

- A new section titled “Communications” was added to highlight the responsibilities for clarity and appropriateness of all professional communications
- The section on “Courtesy and Cooperation” was extensively revised
 - Subjects every member to the Circular 230 standard for the return of client records necessary to comply with their federal tax obligations
 - Even if they aren’t directly subject to Circular 230



ASPPA Code of Professional Conduct

- Under the section “Additional Obligations,” members must promptly reply to inquiries from ASPPA regarding possible violations of the Code



ASPPA Code of Professional Conduct

- Advertising
 - All communications of any medium, which influences any person of their need for professional services
 - Members may not engage in advertising with respect to professional services where they know or should know it is false



ASPPA Code of Professional Conduct

- Compliance
 - Members should be knowledgeable about the Code and keep current with revisions
 - Where a conflict with the Code exists, the law or government sanctioned code takes precedence (i.e., Circular 230)



ASPPA Code of Professional Conduct

- Confidentiality
 - Must not disclose confidential information to third parties without their client's consent
 - Generally confidential information is something that is not in the public domain
 - There could be an exception if compelled by law to disclose



ASPPA Code of Professional Conduct

- Conflicts of Interest
 - Arise out of a duty of loyalty to clients
 - Generally don't represent a client or engage in any action that actually or potentially adversely:
 - Affects another client
 - Is inconsistent with your own personal interest



ASPPA Code of Professional Conduct

- Conflicts of Interest
 - Conflicts may be waived if disclosed and the practitioner believes they can act fairly
 - Even avoid the appearance of a conflict –
 - when there isn't an actual conflict
 - Consistent with Section 10.29 of Circular 230



ASPPA Code of Professional Conduct

- Control of Work Product
 - A member shall not perform professional services, if they believe
 - Work product could be materially altered
 - Used to violate or evade the law
 - Take reasonable steps to ensure materials are fairly presented and the source is identified



ASPPA Code of Professional Conduct

- **Courtesy and Cooperation**
 - Members should perform with courtesy and cooperate with others in their clients' best interests
 - Members must generally return client records that are necessary to comply with federal tax law



ASPPA Code of Professional Conduct

- **Courtesy and Cooperation**
 - When a client gives their consent, a member shall cooperate in assembling and transmitting data and documents subject to receiving reasonable compensation for such work as required by Section 10.28 of Circular 230



ASPPA Code of Professional Conduct

- Professional Qualification
 - Must have sufficient basic and continuing education
 - Must have the requisite training and experience
 - Consistent with proposed Section 10.35 of Circular 230 which requires that a practitioner have the requisite competence to practice before the IRS.



**Treasury Department
Circular No. 230
(Rev. 8-2011)**

Catalog Number 16586R
www.irs.gov

**Regulations Governing Practice before
the Internal Revenue Service**

Circular 230

Department
of the
Treasury

**Title 31 Code of Federal Regulations,
Subtitle A, Part 10,
published (June 3, 2011)**

**Internal
Revenue
Service**



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Overview of Circular 230

- Section 10.8(c) prescribes
 - Any individual who for compensation
 - Prepares (or assists)
 - All or a substantial portion
 - A document pertaining to tax liability
 - Submitted to IRS
 - Subject to Circular 230
 - Duties and restrictions (Subpart B)
 - Violation sanctions (Subpart C)



Circular 230 – Subpart B

Section 10.20

- Information to be Furnished to IRS
 - Practitioner must promptly submit requested information
 - Unless privileged



Circular 230 – Subpart B

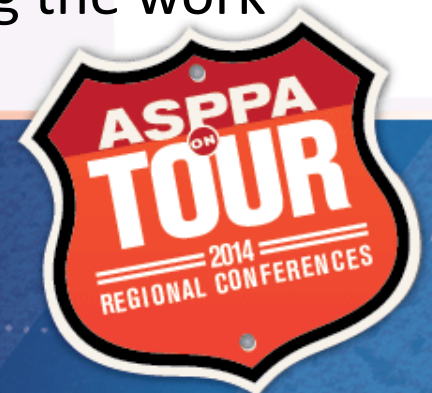
Section 10.21

- Knowledge of Error or Omission
 - Must promptly advise client of
 - Error or omission or non-compliance
 - Consequences of such items

Circular 230 – Subpart B

Section 10.22

- Diligence to Determine Accuracy
 - Practitioner must exercise due diligence
 - Preparing IRS returns and documents
 - Determining correctness of representations made to IRS or client
 - Work product of others
 - Utilize reasonable care in evaluating the work product



Circular 230 – Subpart B

Section 10.34

- Preparation Standards
 - Practitioner may not willfully or incompletely sign a return or advise client
 - Lacks a reasonable basis
 - Willfully attempts to understate the tax
 - Intentionally disregards rules and regulations



Circular 230 – Subpart B

Section 10.34

- Preparation Standards
 - Practitioner may not advise or allow a client to submit a document or paper to IRS that is
 - Frivolous
 - Intentionally disregards rules and regulations



Circular 230 – Subpart B

Section 10.34

- Preparation Standards
 - Practitioner may generally rely on information furnished by client without verification
 - Cannot ignore what is actually known
 - Must make inquiry if information appears to be –
 - Incorrect
 - Incomplete
 - Inconsistent with another fact



Circular 230 – Subpart B

Section 10.36

- Procedures to Ensure Compliance
 - Practitioner with principal responsibility for overseeing firm's practice
 - Must ensure Circular 230 compliance procedures are in place for all members
 - Disciplinary action possible





Case Studies