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# Addendum: 2014 Ethics and Circular 230

## Revision 1:

On June 12, 2014 several changes were made to Circular 230

### Page 20-21

The following summary of Circular 230 changes was added:

### Circular 230 Updates

On June 12, 2014, the following revisions to Circular 230 became effective.

- The complex rules governing covered opinions under §10.35 were eliminated. All written tax advice is now subject to one standard under §10.37. Because §10.35 eliminated covered opinions, Circular 230 was revised to eliminate cross-references to covered opinions.
- The requirements for written advice under §10.37 were expanded. Practitioners must base all written advice on factual and legal assumptions, exercise reasonable reliance and consider all relevant facts that are known or should be known.
- The requirements under §10.36 for procedures to comply with opinion writing and tax return preparation were broadened. Any practitioner subject to Circular 230 must take steps to ensure the entire firm is Circular 230 compliant regarding Subparts A, B and C.
- The requirement that practitioners must exercise competence when representing an individual before the IRS was clarified. Competence requires the appropriate level of knowledge, skill, thoroughness and preparation necessary for the issue engaged in.
- The requirements prohibiting practitioners from endorsing or negotiating any check for a federal tax liability issued by the IRS under §10.31 were clarified. The intent is to encompass any form of payment, specifically electronic and any person who represents a person before the IRS, not just tax practitioners.
- The categories of violations under §10.82 were expanded. Practitioners who willfully fail to comply with their own federal tax filing obligations are subject to disciplinary proceedings.
- Circular 230 was clarified that the Office of Professional Responsibility has exclusive responsibility for matters related to practitioner discipline, including disciplinary proceedings and sanctions.

This new guidance supersedes Notice 2005-47 rendering it obsolete.



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The Office of Professional Responsibility (OPR), currently reads “responsibility for discipline.”

It should read:

“The Office of Professional Responsibility (OPR), which has the responsibility for matters related to practitioner conduct and the *exclusive* responsibility for discipline (including disciplinary proceedings and sanctions).”

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The following note was added at the end of the Unenrolled Tax Return Prepares section.

**NOTE:** IRS issued Rev. Proc. 2014-42 establishing a voluntary, Annual Filing Season Program, (AFSP), effective for fiscal year 2015. The intent of the AFSP is to encourage unenrolled return preparers or those who are not attorneys, CPAs or EAs, to increase their tax knowledge and gain a better understanding of tax law. Unenrolled tax preparers who take a refresher course and continuing education may receive a Record of Completion. After receiving the Record of Completion, the unenrolled taxpayer can represent taxpayers in front of the IRS for whom they have prepared and signed a tax return or claim for refund.

Rev. Proc. 2014-42 modifies and supersedes Rev. Proc. 81-38. Unenrolled preparers may no longer rely on Rev. Proc. 81-38 to represent taxpayers during an examination of a tax return or claim for refund prepared or signed after December 31, 2015. Until then they may.

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§10.35 was removed from Diligence as to Accuracy §10.22. The paragraph now reads as follows.

“Except as provided in §§10.34 and 10.37”



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Negotiation of Taxpayer Checks §10.31 section currently stated:

A practitioner who prepares tax returns cannot endorse or otherwise negotiate any check issued to a client by the government in respect of a federal tax liability.

It now reads as follows.

“A practitioner who prepares tax returns cannot endorse or otherwise negotiate any check issued to a client by the government in respect of a federal tax liability. This includes, directing or accepting payments 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 with.”

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