

CC-2022-003

December 07, 2021

**Subject:** Civility

**Cancel Date:** Until further notice

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## PURPOSE

This notice reaffirms our office's commitment to the values of civility and respect, thanks our employees for modeling these values, and provides additional information. The principles outlined in this notice apply to all Chief Counsel employees, both attorneys and non-attorneys alike.

## DISCUSSION

The Office of Chief Counsel is committed to creating an environment conducive to civility, which includes mutual respect, politeness, and fairness. Acting civilly and treating others with dignity and respect is foundational to public service generally and to the Office of Chief Counsel specifically. Civility begins with each of us. It includes these core values: communicating courteously and listening with respect, especially when we disagree; recognizing the contributions of others and valuing their opinions; acting with integrity and empathy; and demonstrating and promoting fair and just treatment. These values apply to our interactions with each other, regardless of job title or position in the office. They also apply to our interactions with taxpayers, taxpayers' representatives, the judiciary, and the public.

As Chief Counsel employees, we recognize the importance of earning and retaining the public's trust and confidence. When dealing with unrepresented taxpayers and especially those in underserved communities, it is particularly important to have patience, humility, and empathy. We endeavor to understand and respect their viewpoints and resolve their matters without bias or judgment. Our sole objective is to reach the correct result.

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Acting with civility and treating others with respect furthers confidence in the legal system, thus enhancing the quality of justice.<sup>1</sup> Attorneys are familiar with the preamble to the American Bar Association's Model Rules of Professional Conduct, which states that "[a] lawyer, as a member of the legal profession, is a representative of clients, an officer of the legal system and a public citizen having special responsibility for the quality of justice." The preamble advises attorneys to demonstrate respect for those who serve in the legal system, and to zealously protect and pursue a client's legitimate interests "while maintaining a professional, courteous and civil attitude toward all persons involved in the legal system."

The Model Rules reflect these principles. Attorneys are undoubtedly familiar with the following examples:

- Rule 1.3, comment 1 (the "duty to act with reasonable diligence does not require the use of offensive tactics or preclude the treating of all persons involved in the legal process with courtesy and respect")
- Rule 3.1 (only meritorious claims and contentions)
- Rule 3.3 (candor to the tribunal)
- Rule 3.4 (fairness to the opposing party and counsel)
- Rule 3.5 (no conduct intended to disrupt a tribunal)
- Rule 4.1 (truthfulness in statements to others)
- Rule 4.3 (make reasonable efforts to correct an unrepresented person's misunderstanding of the attorney's role)
- Rule 4.4 (protect rights of third persons in connection with means of representation, obtaining evidence, and inadvertent receipt of information)
- Rule 8.4 (defining "conduct that is prejudicial to the administration of justice" as misconduct).

The ABA has emphasized the importance of civility and respect and encouraged attorneys to "abide by higher standards of conduct than the minimum required by" the Model Rules.<sup>2</sup> The Office of Chief Counsel is committed to that higher standard of conduct. Indeed, that standard is reflected in our mission to serve taxpayers "fairly and with integrity by providing correct and impartial interpretation of the internal revenue laws" and to apply the tax law "with integrity and fairness to all."<sup>3</sup> In our work, treating taxpayers with civility and respect enhances their confidence in the tax administration system.

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<sup>1</sup> Model Rules of Prof'l Conduct, Preamble [6] (2020). See also John M. Burman, *Ethically Speaking: Dealing with an Opposing Party Who is Proceeding Pro Se*, Wyoming Lawyer (June 2008) ("we are all, lawyers and judges alike, part of the system. How we behave and treat others will have a lasting impact. It will determine whether the unrepresented persons with whom we interact respect the system or despise it. . . . The quality of justice depends, in significant part, on how participants, whether represented or not, are treated.")

<sup>2</sup> ABA Commission on Professionalism, ". . . In the Spirit of Public Service:" *A Blueprint for the Rekindling of Lawyer Professionalism* (1986).

<sup>3</sup> Chief Counsel Mission Statement (CCDM 30.1.1.1); IRS Mission Statement.

A number of courts and state bar associations have adopted guidelines on professionalism, civility, and courtesy to protect and promote the integrity and respectability of the legal profession and the fair and efficient administration of justice.<sup>4</sup> A key theme of these guidelines is for attorneys to conduct themselves with professional integrity and personal dignity and to treat everyone with whom they interact with respect and courtesy. The guidelines generally include such examples as meeting deadlines, communicating civilly and forthrightly, and agreeing to reasonable extension requests that are consistent with the client's interests and the attorney's sound judgment. Of special note is the commitment to support and advocate for the fair and equal treatment of all persons in the Connecticut Lawyers' Principles of Professionalism:

I will support and advocate for fair and equal treatment under the law for all persons, regardless of race, color, ancestry, sex, pregnancy, religion, national origin, ethnicity, disability, status as a veteran, age, gender identity, gender expression or marital status, sexual orientation, or creed and will always conduct myself in such a way as to promote equality and justice for all.

While many of the guidelines on professionalism and civility focus on work-related conduct, the Professionalism Expectations adopted by The Florida Bar recognize the importance of conduct outside of work as well, with an expectation that attorneys "be civil and courteous in all situations, both professional and personal, and avoid conduct that is degrading to the legal profession."

All Chief Counsel employees should remember that civility extends beyond the workplace. Employees have a First Amendment right to express their views as private citizens about matters of public concern. We should, however, take care to avoid suggesting that our personal views are those of the IRS or Chief Counsel. Further, both the Department of the Treasury Employee Rules of Conduct at 31 C.F.R. § 0.218 and the Office of Personnel Management, Employee Responsibilities and Conduct at 5 C.F.R. § 735.203 prohibit employees from engaging in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the government. Chief Counsel employees should remain aware that actions, including actions outside of work, can reflect on our organization and create perceptions – both positive and negative – of the IRS and Counsel.

In sum, maintaining civility and treating everyone with dignity, respect, and courtesy, even when disagreements or others' uncivil conduct make doing so challenging, is of paramount importance to fulfilling our responsibility as Chief Counsel employees.

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<sup>4</sup> See, e.g., preamble to the D.C. Bar Voluntary Standards of Civility in Professional Conduct ("[i]ncivility to opposing counsel, adverse parties, judges, court personnel, and other participants in the legal process demeans the legal profession, undermines the administration of justice, and diminishes respect for both the legal process and the results of our system of justice"); introduction to the California Attorney Guidelines of Civility and Professionalism ("civility, professional integrity, personal dignity, candor, diligence, respect, courtesy, and cooperation" are all essential to the fair administration of justice).

This notice is not intended to, and does not, create any substantive or procedural right or benefit against the United States, its officers, employees, agents, or any other person.

**CONTACT INFORMATION**

Questions regarding this notice should be directed to Procedure and Administration, Branch 1 at (202) 317-6845 or Branch 2 at (202) 317-6844.

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(Procedure & Administration)