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Tax Practice: Hawkins Says OPR's New Structure Allows Focus Solely on Discipline

By Kathleen David

The Internal Revenue Service's Office of Professional Responsibility is better able to focus all its efforts on enforcement of Circular 230's standards of conduct for tax practitioners now that it is no longer responsible for enrollment, testing, and administrative processing, OPR Director Karen Hawkins said Feb. 17.

OPR is now organized into two teams, with a third possible after few more staff members join the unit by the end of March, Hawkins told the American Bar Association Tax Section meeting in San Diego.

All complaints about practitioner misconduct are referred to OPR, but practitioners' own tax compliance is checked in the Return Preparer Office, which will do soft letters to urge them into compliance. Only the uncooperative or belligerently noncompliant will be referred to OPR, which will proceed straight to discipline after one "last chance" letter.

Hawkins said she hopes the legacy she leaves at OPR—she committed to serve four years, ending in April 2013—will be an institutional attitude that OPR's work is promoting high standards and determining fitness to practice, not punishment. She also wants to institute extensive training for OPR staff, particularly concerning the Administrative Procedure Act.

726 Cases Referred to OPR Last Year.

For calendar year 2011, OPR took in 726 referrals that needed a close look to determine whether to open a case, Hawkins said. The year ended with seven disbarments after adjudication and 161 suspensions, of which 10 were by consent and 149 resulted from expedited proceedings after the practitioners' conviction of a crime or loss of license to practice. The office issued 280 reprimands, essentially a warning to practitioners whose improper conduct was an aberration, and closed 245 cases without sanction.

Hawkins said she is pleased to have the validation of the administrative law judges and appellate authorities who hear cases when practitioners do not settle with OPR, as they have adopted OPR recommendations in most cases. In several recent cases that OPR won by default or summary judgment at the ALJ level, Hawkins appealed to obtain decisions

by the appellate authority, as the final agency authority, clarifying the definition of willfulness and the statute of limitations for OPR to bring disciplinary action.

PTIN Data.

Hawkins told the meeting that although IRS issued 830,000 practitioner taxpayer identification numbers in 2011, it has received only 680,000 applications for renewal. Of the active PTIN holders, 42,000 are enrolled agents, 204,000 are CPAs, and 28,000 are attorneys.

Some of the 370,000 new PTIN holders who need to be tested to be officially registered tax return preparers have taken the exam but still await the result of testing, Hawkins said. She explained that the testing firm says it must have a certain number of completed examinations before it can establish a grading standard.