

Tax Notes Today

June 18, 2012

HAWKINS DESCRIBES CIRCULAR 230'S JURISDICTION OVER IN-HOUSE PRACTITIONERS

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In-house practitioners of companies should realize that under some circumstances, they may be subject to the reach of Circular 230, IRS Office of Professional Responsibility Director Karen Hawkins said June 15.

Those practitioners, regardless of their level in the corporate hierarchy, may fall within the jurisdiction of Circular 230 if they have been given a power of attorney to interact with the IRS on behalf of the company, Hawkins said at New York University's annual Tax Controversy Forum in New York. A corporate employee advocating or defending positions on a tax return must have a power of attorney, she said.

During the course of an exam, the IRS and the company may engage in correspondence, and while that correspondence may designate individuals as contacts within the company who may interact with the IRS exam team, that level of designation may not be sufficient to fall under Circular 230, Hawkins said. That means that the designated person must have the power of attorney signed by a duly elected officer of the company, she said. (For prior coverage, see *Doc 2010-12380* or [2010 TNT 108-4](#).)

"I don't care if they're the chair or director of the tax department or an officer of the corporation -- they must have a power of attorney," Hawkins said. "The minute you present that power of attorney, you are subject to Circular 230."

Hawkins declined to comment on the merits of a suit challenging the IRS's ability to enforce rules requiring individuals to take a competency exam and continuing education courses to become registered return preparers. (For the complaint in *Sabrina Loving v. IRS*, No. 1:12-cv-00385 (D.D.C. 2012), see *Doc 2012-5226* or [2012 TNT 49-14](#). For the government's response, see *Doc 2012-12590* or [2012 TNT 114-12](#). For prior coverage, see *Doc 2012-5217* or [2012 TNT 49-3](#).)

There already has been an unsuccessful challenge to the new preparer tax identification number registration rules, Hawkins said. The IRS has enormous discretion on how it performs its duties, as long as it stays within the bounds of the statute, she said, adding, "I think you can read the statute in a way that gives the IRS the authority to do what it's doing."