

IRS News Release

Media Relations Office

Washington, D.C.

Media Contact: 202.622.4000

www.irs.gov/newsroom

Public Contact: 800.829.1040

IRS, Treasury Clarify Circular 230 Written Opinion Standards

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WASHINGTON — The Internal Revenue Service and the Treasury Department today issued revisions to the new Treasury Department Circular 230 standards for written tax advice that were announced late last year.

Practitioners and professional organizations have expressed support for the effort to enhance public confidence in tax professionals. At the same time, they have asked for clarification in several areas to ensure that the standards for written tax advice apply in a manner consistent with their intent. The revisions announced today respond to those requests.

“The guidance issued today provides useful clarification to the major changes we announced earlier,” said IRS Commissioner Mark W. Everson. “These revisions respond to concerns raised by practitioners without weakening the underlying standards.”

Three of the five revisions issued today expand on the definition of “excluded advice” that is not subject to the detailed covered opinion standards of Circular 230. These revisions apply to:

- Advice from in-house tax professionals to their employers;
- Situations in which the advice is provided after the client files the relevant tax return; and
- “Negative advice,” wherein an advisor tells a client a transaction will not provide the purported tax benefit.

Advice that is excluded from the covered opinion standards by these revisions will continue to be subject to the general requirements for other written advice.

The revised covered opinion standards also provide a definition of “the principal purpose” of tax avoidance that excludes transactions claiming tax benefits that are consistent with the statute and Congressional purpose. In addition, today’s revisions relax specific requirements for the format of disclosures that are required for

certain written tax advice. These requirements maintain the expectation that the disclosures will put taxpayers on notice of any limitations on their ability to rely on written advice.

The written opinion standards and the changes announced today will apply to written advice rendered after June 20, 2005.