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# Key Circular 230 Provisions

## What Every Tax Return Preparer Needs to Know

7/12/2012



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# The Statute

31 U.S.C. §330 (1884)

regulates the practice of representatives  
of persons before the Department of the  
Treasury





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# The Regulations

31 C.F.R. Part 10 (cir. 1886)

Treasury Circular No. 230 (1921)

- Authority to Practice
- Duties and Restrictions Relating to Practice
- Sanctions for Violations
- Disciplinary Procedures





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# Circular 230

Where can I find it? Online at  
[www.irs.gov/pub/irs-pdf/pcir230.pdf](http://www.irs.gov/pub/irs-pdf/pcir230.pdf)

Substantial revisions effective 8/2/11  
Form 2848 attestation.

Agency “Rules of Engagement”





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# “Practice”

All matters administered by the  
IRS

Preparing, filing, corresponding,  
communicating, written or oral  
advice, and representing

Tax Return Preparation and  
Collection Representation





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Diligence as to Accuracy (10.22)

Assistance From/To Disciplined  
Practitioner (10.24)

Conflicting Interests (10.29)

Taxpayer Refunds (10.31)

Due Diligence Standards for Returns and  
Other Docs (10.34)





# Key Circular 230 Provisions - Cont.

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Procedures to Ensure Compliance  
(10.36(b))

Giving False or Misleading Info to IRS  
(10.51(a)(4))

Assisting, Counseling, encouraging  
Taxpayer Violations of Tax Law or  
Taxpayer Evasion (10.51(a)(7))

Contemptuous conduct (10.51(a)(12))





# Complaints About Tax Professionals?

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Office of Professional Responsibility

1111 Constitution Ave. N.W.

SE:OPR Rm. 7238

Washington, D.C. 20224

For more info on OPR, Circular 230 and  
Disciplined Practitioners visit:

<http://www.irs.gov/>

Select “Tax Professionals”

Then “Circular 230 Tax Pros”





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# Relevant Circular 230 Resource Material

Appendix





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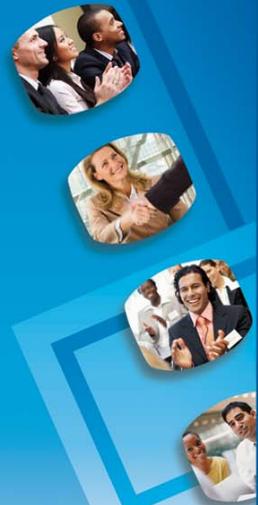
# The Law

31 U.S.C. §330 (1884)

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Treasury Circular No. 230 (1921)

Online at [www.irs.gov/pub/irs-pdf/pcir230.pdf](http://www.irs.gov/pub/irs-pdf/pcir230.pdf)





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# Diligence as to Accuracy (10.22)

Must exercise Due Diligence in:

- Preparing, approving and filing tax returns, documents, affidavits etc. relating to IRS matters.
- Determining correctness of oral/written representations made to the client or to Treasury personnel.

Reliance on Another's Work Product?  
With Reasonable Care.

Know Your Client.

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# Standards for Tax Returns

## Section 10.34(a)

May not sign a tax return or advise a position on a tax return, willfully, recklessly, or through gross incompetence if:

- Lacks reasonable basis
- Unreasonable position (6694(a)(2))
- Willful attempt to understate liability (6694(b)(2)(A))
- Reckless, intentional disregard of rules and regulations (6694(b)(2)(B))

Patterns matter

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# Standards for Documents and Other Papers- 10.34(b)

May not advise taking Positions that are Frivolous.

May not advise Submissions:

- to delay or impede tax administration
- that are frivolous
- Containing or omitting information that demonstrates an intentional disregard of rules or regulations.

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# Penalties and Client Reliance- 10.34(c), (d)

Must Advise Client of Potential Penalties and their Avoidance through Disclosure (10.34(c))

Reliance on Client Information in good faith, without verification, is OK, but...

- Cannot ignore implications of other information furnished
- Cannot ignore actual knowledge
- Must make reasonable inquiries for incorrect, inconsistent information (10.34(d))

No Willful Blindness.

No “Don’t ask, don’t tell”.

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# Conflicting Interests- 10.29

One client interest directly adverse to another  
Significant risk of material limitation

– By Responsibilities to

Another client,

Former client,

Third person

**OR PERSONAL INTEREST OF THE  
PRACTITIONER**





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# Conflicts (cont.)

May represent if:

- Reasonable belief in ability to provide competent, diligent representation to each affected client
- Not legally prohibited
- EACH affected client waives conflict, gives **INFORMED** consent – in writing at the time conflict is known





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# Giving False or Misleading Info (10.51(a)(4))

No participating in any way in giving false/misleading info to the Dept. of Treasury or any officer/employee thereof

Includes:

- Testimony
- Federal tax returns
- Financial statements
- Applications
- Affidavits, declarations, and any other document or statement, written or oral





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# Willfully Assisting an Illegal Plan to Evade Taxes or Payment (10.51(a)(7))

Willfully assisting, counseling, encouraging, suggesting to a client/prospective client:

- An illegal plan to evade Federal taxes or payment thereof
- Violation of any Federal tax law





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# False Opinions 10.51(a)(13)

Knowingly, recklessly or through gross incompetence

- Intentionally or recklessly misleading
- Pattern of incompetent opinions
- Concealing matters required to be revealed

Reckless:

- Highly unreasonable omission
- Extreme departure from standard of care
- Patterns matter

Gross Incompetence:

- Grossly Indifferent Conduct, Inadequate Preparation
- Consistent Failure Regarding Obligations to Client

