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Balancing Client Demands within a Complex Tax System

Finding your Ethical Compass

American Institute of Certified Public Accountants

[http://www.aicpa.org/INTERESTAREAS/TAX/RESOURCES/STANDARD
SETHICS/Pages/default.aspx](http://www.aicpa.org/INTERESTAREAS/TAX/RESOURCES/STANDARD
SETHICS/Pages/default.aspx)





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Today's Topics

- Review the ethical requirements for tax practitioners
- Explore 4 scenarios
- Additional Resources
- Questions?





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Ethical Requirements

- Internal Revenue Code
- Circular 230
- Applicable state laws, regulations
- Other Professional Standards
 - AICPA's Statements on Standards for Tax Services
 - NAEA's Rules of Professional Conduct





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Internal Revenue Code

- § 6107 - Tax return preparer must furnish copy of return to taxpayer and must retain a copy or list
- § 6694 - Understatement of taxpayer's liability by tax return preparer
- § 6713 and § 7216 - Disclosure or use of information by preparers of returns
- § 7525 - Confidentiality privileges relating to taxpayer communications





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Circular 230

- § 10.21 Knowledge of client's omission
- § 10.22 Diligence as to accuracy
- § 10.29 Conflicting interests
- § 10.34 Standards with respect to tax returns and documents, affidavits and other papers

Proposed changes 9/17/12:

- § 10.35 General Standard of Competence



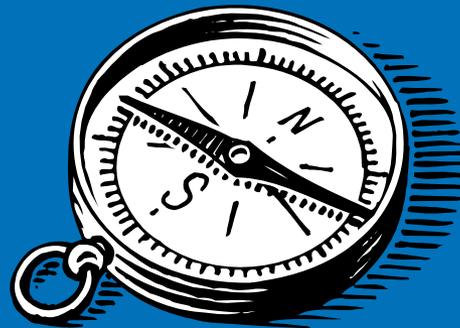


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Professional Standards

- AICPA's Statements on Standards for Tax Services
 - Enforceable tax ethical standards for AICPA members providing tax services
 - Formerly Statements on Responsibilities in Tax Practice





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AICPA's SSTSs

- SSTS No. 1, Tax Return Positions
- SSTS No. 2, Answers to Questions on Returns
- SSTS No. 3, Certain Procedural Aspects of Preparing Returns
- SSTS No. 4, Use of Estimates
- SSTS No. 5, Departure From a Position Previously Concluded
- SSTS No. 6, Knowledge of Error: Return Preparation and Administrative Proceedings
- SSTS No. 7, Form and Content of Advice to Taxpayers





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NAEA Rules of Professional Conduct

2. Members and Associates will maintain a confidential relationship between themselves and their clients or former clients, disclosing confidential information only when authorized or legally obligated to do so.
5. Members and Associates will not represent conflicting interests without express written consent of all parties after full disclosure.





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NAEA Rules of Professional Conduct

8. Members and Associates will take a position on a tax return favorable to their clients only if there is substantial authority that the position will be sustained on its merits, unless the position is disclosed and there is at least a reasonable basis for it.

13. Members and Associates will undertake only those tax matters which the Member or Associate, or the Member's or Associate's firm, can reasonably expect to complete with professional competence.





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Examples of Ethical Requirements

- Tax return reporting standard
- Confidentiality of client information
- Conflicts of interest
- Due diligence
- Knowledge of client's error
- Contingent fees
- Written tax advice





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Case #1:

Incorrect Information

- 2011 Joint return information:
 - Husband's W-2 \$115,000
 - Wife's Schedule C, net 88,000
- Included in the tax information for 2012, is a 1099-MISC for \$3,000 from tax year 2011
- It was not included in the income reported on the prior year (2011) return.
- Your client just wants to add it to this year's return instead of amending the prior year.

What question(s) do you need to ask?
Do you have any concerns?





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Knowledge of Client Error

- Common situations:
 - Error is discovered due to an IRS notice or corrected form (e.g., 1099 or K-1)
 - IRS identifies an error while return is under examination
 - You discover an error while reviewing of the prior return of a new client
- What if a client refuses to amend a return?
- Implications for new vs. existing clients
- When do you withdraw?





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Case #2: Conflict of Interest

- Joint return information:
 - Husband earns wages of \$460,000 (wife does not work outside the home)
 - Wife has interest income of \$24,000 from family inheritance (husband is not on the account)
 - They have 4 dependents under age 17
- Wife tells you she plans to file for divorce and plans to take the kids
- Husband asks you to help him convince her to sign a joint return this year

What question(s) do you need to ask?
Do you have any concerns?





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Conflicts of Interest

- Look closely – many potential landmines
- Joint returns
 - Divorce or separation
 - Communication limited to one spouse
 - Only one spouse signs engagement letter
- Business returns
 - Prepare returns for pass-through entity and one owner(s)
- IRS Examinations
 - A recommended position is now under review by IRS
 - Client questions a position raised in an exam





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Case #3: Due Diligence

- Client owns a landscaping business
- They do their accounting on QuickBooks
- His wife (a registered nurse) is the bookkeeper
- The business files as an S Corporation.
- The husband does not receive a salary.
- They have never used a CPA before.

**What question(s) do you need to ask?
Do you have any concerns?**





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Due Diligence

- It is OK to rely on client representations and information from 3rd parties
 - Must inquire about inconsistencies
 - Must consider implications of known information
- Procedures to document representations
 - Require completed and signed questionnaires on key issues
 - Use customized forms to document client understanding and compliance





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Case #4: New Client Service

- Client is an IT Consultant and you've done his personal return for 12 years.
- He is thinking of opening a restaurant and comes to you for advice, such as type of business entity, how to set up an accounting system, etc.
- Your practice is primarily consultants, doctors and architects.

**What question(s) do you need to ask?
Do you have any concerns?**





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Competency

- Practitioners must exercise competence when engaged in practice before the IRS
- This means you have all of the following:
 - Knowledge
 - Skill
 - Experience
- You can hire or partner with others
- Maintain competence through continued learning and professional development





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Resource List

- Circular 230:
 - <http://www.irs.gov/pub/irs-utl/pcir230.pdf>
- AICPA Statements on Standards for Tax Services:
 - <http://www.aicpa.org/interestareas/tax/resources/standardsethics/pages/default.aspx>
- AICPA Code of Conduct:
 - <http://www.aicpa.org/RESEARCH/STANDARDS/CODEOFCONDUCT/Pages/default.aspx>
- NAEA Code of Ethics and Rules of Professional Conduct:
 - http://portal.naeacentral.org/MemberPortal/About/Governance/Ethics_and_Professional_Conduct.htm





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Questions?



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