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# An Overview of Circular 230 and the Office of Professional Responsibility (OPR)

For New Tax Professionals

Karen L. Hawkins, Director, OPR





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# Statutory Authority

- 31 U.S.C. §330 (1884)
- Regulate the practice of representatives of persons before the Department of the Treasury
- Authorizes determinations of practitioner “fitness” to practice





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# “Fitness to Practice”

- Good character
- Good reputation
- Necessary qualifications
- Competent





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# Regulatory Authority

- 31 C.F.R. Subtitle A, Part 10 (1886)
- Treasury Circular No. 230 (1921)
- 31 C.F.R. 10.1(a)(1)
- Delegation Order 25-16





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# Where Can I Find It ?

- [www.irs.gov/pub/irs-pdf/pcir230.pdf](http://www.irs.gov/pub/irs-pdf/pcir230.pdf)
- Substantial revisions as of June 3, 2011. Effective August 2, 2011
- NPRM – September, 2012; Hearing December, 2012; Final - ???





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# What's in It?

- Authority to Practice (Licensing, renewals, continuing education)
- Duties and Restrictions Relating to Practice (Ethics/Conduct)
- Sanctions for Violations (“Rules of Engagement”)
- Disciplinary Procedures (Due Process)





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# OPR Mission

“Interpret and apply the standards of practice for tax professionals in a fair and equitable manner”





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# “Practice”

- All matters
- Presentation to the IRS
- Relating to a taxpayer’s rights, privileges, or liabilities
- All matters under laws or regulations administered by the IRS
- Preparing, filing, corresponding, communicating, written or oral advice, representing





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# DISCIPLINE OPTIONS

- Negotiations or Administrative Proceedings
- Reprimand/Soft Letter (Private)
- Censure
- Suspension
- Disbarment
- Monetary Sanction (Individuals and Firms)





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# Burden of Proof

- Monetary penalty, disbarment, or suspension in excess of 6 months = “Clear & Convincing” evidence.
- Less than “Beyond a Reasonable Doubt” (criminal convictions), but more than “Probable Cause” (search warrants) or “Preponderance of Evidence (injunctions).”





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# Burden of Proof - Willfulness

- Usually, Practitioner's misconduct must be "willful."
- Willfulness =
  - Cir 230 Regulation imposed a duty;
  - Practitioner knew of this duty, and
  - Practitioner voluntarily and intentionally violated that duty.
- Does not require evil motive or intent.
- Willful blindness qualifies.



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# More Info?

- Office of Professional Responsibility  
1111 Constitution Ave. N.W.  
SE:OPR Rm. 7238  
Washington, D.C. 20224
- Information on OPR, Circular 230 and Discipline visit:  
<http://www.irs.gov/Tax-Professionals/Circular-230-Tax-Professionals>





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# APPENDIX





- **1.2.52.15 (07-16-2012) Delegation Order 25-16**

- **Authority of the Office of Professional Responsibility to Perform Certain Functions Concerning Practice before the Internal Revenue Service**
- **Authority:** To exercise responsibility for all matters related to practitioner conduct, discipline and practice before the Internal Revenue Service (IRS) under 31 CFR part 10 (Circular 230), unless otherwise delegated.

This authority includes but is not limited to:

- Receiving and processing referrals regarding allegations of misconduct under Circular 230; initiating all disciplinary proceedings against individuals or entities relating to allegations or findings of practitioner misconduct consistent with the applicable disciplinary rules under Circular 230;
- Making final determinations on appeal from return preparer eligibility or suitability decisions; imposing and releasing expedited practitioner suspensions; recommending and imposing all sanctions for violations under Circular 230 and accepting consents to be sanctioned under the same;
- Making determinations on whether to appeal Administrative Law Judge decisions and orders in Circular 230 proceedings; issuing special orders as proper and necessary under Circular 230 and reviewing and determining petitions seeking reinstatement to practice.

**Note:**

- This authority does not include the authority to redetermine or collect a practitioner's tax liability.
- **Delegated To:** Director, Office of Professional Responsibility.
- **Redelegation:** This authority may be redelegated to IRS Office of Professional Responsibility employees.
- **Sources of Authority:** 31 USC 330; 31 CFR part 10.
- To the extent that the authority previously exercised consistent with this order may require ratification, it is hereby affirmed and ratified.
- **Signed:** Douglas H. Shulman, Commissioner, Internal Revenue

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# OPR Guidance

- Rights and Responsibilities of practitioners in Disciplinary Cases: <http://www.irs.gov/pub/irs-utl/rightsandresponsibilitiesofpractitioners.pdf>
- Guidance on Restrictions During Suspension or Disbarment: [http://www.irs.gov/pub/irs-utl/guidance\\_on\\_restrictions\\_during\\_suspension\\_or\\_disbarment.pdf](http://www.irs.gov/pub/irs-utl/guidance_on_restrictions_during_suspension_or_disbarment.pdf)
- Information (resources) for Tax Professionals: <http://www.irs.gov/Tax-Professionals/Enrolled-Agents/Information-for-Tax-Professionals>





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# OPR Guidance (cont)

- Circular 230 Webinar-  
Soup to Nuts:  
<http://www.irsvideos.gov/Circular230OverviewWebinar/>
- FBAR Responsibility:  
[http://www.irs.gov/pub/irs-utl/fbar\\_document\\_on\\_irs\\_gov\\_ver\\_08-04-10.pdf](http://www.irs.gov/pub/irs-utl/fbar_document_on_irs_gov_ver_08-04-10.pdf)





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# Relevant Recent OPR Cases

- Tewolde: <http://www.irs.gov/uac/Newsroom/IRS-Office-of-Professional-Responsibility-Disbars-Return-Preparer-Accused-of-Filing-False>Returns>
- Bryson: [http://www.irs.gov/pub/irs-utl/bryson\\_decision\\_redacted-version%201.pdf](http://www.irs.gov/pub/irs-utl/bryson_decision_redacted-version%201.pdf)
- Tiongson: [http://www.irs.gov/pub/irs-utl/Tiongson%20-%20IRS\\_Decision%20on%20Tiongson%20Motion%20for%20Default%20\(FINAL\)%20-%204-3-13.pdf](http://www.irs.gov/pub/irs-utl/Tiongson%20-%20IRS_Decision%20on%20Tiongson%20Motion%20for%20Default%20(FINAL)%20-%204-3-13.pdf)
- Walker: <http://www.irs.gov/pub/irs-utl/Walker%20FAD%202-18-13.pdf>





# Relevant Recent OPR Cases (cont)

- Bohn: <http://www.irs.gov/pub/irs-utl/Morton%20Bohn%20SJ%20Order%20-FINAL%20Redacted.pdf>
- Gee: [http://www.irs.gov/pub/irs-utl/opr-edgar\\_h\\_gee\\_jr-final\\_order.pdf](http://www.irs.gov/pub/irs-utl/opr-edgar_h_gee_jr-final_order.pdf)
- Tedder: <http://www.irs.gov/pub/irs-utl/GTedder%20Default%20Order%20-%20Redacted%20Version.pdf>

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