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Tax **FORUM**
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Preparer Penalties - Are You at Risk?

Presented by:

National Society of Accountants

1010 N. Fairfax Street

Alexandria, VA 22314

800-966-6679

www.nsacct.org



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Commissioner's Quote



Prepared Remarks of IRS Commissioner Doug Shulman before the AICPA, Washington, DC IR-2012-89, Nov. 7, 2012

... "I am always looking for points of leverage – and our tax return preparer initiative is just that. In essence, we shifted from a retail to a wholesale approach. We shifted resources from dealing with taxpayers one-by-one, to dealing with the *intermediaries* who deal with hundreds or thousands of taxpayers at a time. That's what I mean by leverage."



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The Tax Preparer Risk



- The Taxpayer Accuracy Penalty
- §6662
 - 20% of the understatement
 - Negligence or disregard of rules or regulations
 - failure to keep adequate records
 - use ordinary and reasonable care in preparing a return



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The Tax Preparer Risk



- The Taxpayer Accuracy Penalty
- §6662
 - Substantial understatement of income tax—generally an understatement that is more than 10% of the correct tax and greater than \$5,000.





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The Tax Preparer Risk



- The Taxpayer Accuracy Penalty
- §6662
 - Substantial valuation misstatement—generally a valuation that is 150% or more of the determined value and causes a tax understatement of more than \$5,000. (Penalty is 40% in the case of gross valuation misstatement.)



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The Tax Preparer Risk



- The Taxpayer Accuracy Penalty
- §6662
 - Substantial estate or gift tax valuation understatement— valuation that is 65% or less of the determined value and causes a tax understatement of more than \$5,000.



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The Tax Preparer Risk



- The Taxpayer Accuracy Penalty
- §6662
 - Disallowance of claimed tax benefits due to a transaction lacking economic substance





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The Tax Preparer Risk



- The Taxpayer Accuracy Penalty
- §6662
 - Undisclosed foreign financial asset understatement (penalty increased from 20% to 40%)





IRC §6694



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- §6694(a)
 - Unreasonable Positions
 - Small Business Tax Act of 2007
 - Greater of \$1,000 or 50% of income derived from preparing the return.





IRC §6694



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- §6694(b)
 - Willful or reckless conduct
 - Greater of \$5,000 or 50% of income derived from preparing the return





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IRC §6695



- The \$50 level with \$25,000 max per year
 - (a) – Failure to furnish copy to taxpayer
 - (b) – Failure to sign return
 - (c) – Failure to furnish identifying number



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IRC §6695



- The \$50 level with \$25,000 max per year
 - (d) – Failure to retain copy or list
 - (e) – Failure to file correct information returns





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IRC §6695



- The \$500 level with no maximum
 - (f) – Negotiation of check
 - (g) – Diligence for eligibility of EIC
 - Treasury Reg §1.6695-2





IRC §6700



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- Promoting Abusive Tax Shelters
 - \$1,000 each occurrence
 - Or 100% of income derived if less





IRC §6701



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- Aiding and Abetting Understatement
 - \$1,000 per taxpayer (\$10,000 for corporations) per taxable period.





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IRC §6713



- Disclosure or Use of Information
 - Any Tax Return Preparer
 - Any Tax Return
 - Civil Penalty — \$250 for each disclosure or use up to \$10,000 per year





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IRC §7206



- Fraud and False Statements
 - FELONY!
 - Not more than \$100,000
 - \$500,000 for corporation
 - Imprisonment of not more than 3 years (or both)



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IRC §7207



- Fraudulent Returns, Statements or Other Documents
 - Misdemeanor
 - Not more than \$10,000
 - \$50,000 if a corporation
 - Imprisonment of not more than 1 year (or both)



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IRC §7216



- Criminal Penalty Provisions
- Disclosure or Use of Taxpayers Information
- Fine of not more \$1,000
- Imprisonment of not more then 1 year or both
- Rev Proc 2013-14 (January 1, 2014)





IRC §7407



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- Judicial Actions
 - Specifically against Tax Preparers
 - Any Conduct subject to penalty under §6694 or §6695
 - In extreme cases could lose the ability to act as a Tax Preparer!





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IRC §7408



- Judicial Actions
 - Against any person
 - Conduct in violation of Circular 230
 - Any Conduct subject to penalty under §6700, §6701, §6707 and §6708



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Self Rental Tax Traps - Are you in Danger?is your Client?

Wednesday, Room 1 @ 10:10
Thursday, Room 1 @ 9:05





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For More Information

National Society of Accountants

More information is available including additional materials at:

Booth in Vendor Hall

Or Table in Lobby

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