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5 Clues That You Might Have a Toxic Client

American Institute of Certified Public Accountants



<http://www.aicpa.org/INTERESTAREAS/TAX/Pages/TaxHomepage.aspx>



Today's Agenda

- Three-part discussion
 - 1) Boundaries & expectations
 - 2) Clues & indicators
 - 3) Terminate or rehabilitate
- Please ask questions as we go
- See *Resource Appendix* for relevant guidance

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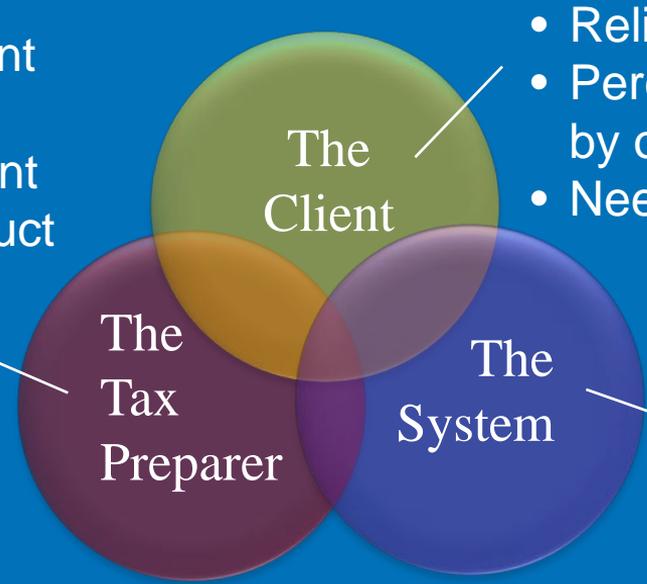
Your role as the trusted advisor

BOUNDARIES & LIMITATIONS



Client Service Framework

- Dependent on client for information
- Held to independent standards of conduct and competence



- Relies on tax preparer
- Perceptions easily influenced by others
- Needs change over time

- Dependent on:
- Taxpayer voluntary compliance
 - Integrity of tax preparers

Foundation = TRUST

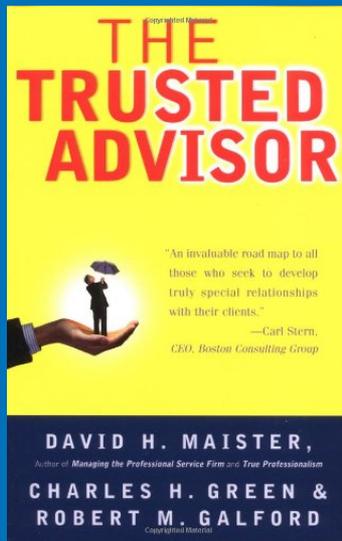


Being a Trusted Advisor



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“The trusted advisor is the person the client turns to when an issue first arises, often in times of great urgency: a crisis, a change, a triumph, or a defeat.”

- Trust entails risk
- Trust is different for the client
- Trust is a two-way relationship



The Trust Equation

$$\text{Trust} = \frac{\text{Credibility} + \text{Reliability} + \text{Intimacy}}{\text{Self-Orientation}}$$

Credibility → *Words*

I can trust what he says about...

Reliability → *Actions*

I can trust her to...

Intimacy → *Emotions*

I feel comfortable discussing this...

Self-orientation → *Motives*

I can trust that he cares about...



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Lessons from Cesar Milan



- Cesar trains humans (not dogs) on setting boundaries and limitations
- Clients are seeking guidance on all aspects of tax
- Important to set expectations

“The greatest problem in communication is the illusion that it has actually been accomplished.” ~unknown



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Stay on Your Side of the Fence

- Never be more invested than the client
- Tax preparation is an "intimate" business relationship
- Client must be invested in
 - You
 - Your approach





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Know What to Watch For

CLUES & INDICATORS



Trust In Action

- Continually engage with clients
- Listen consciously and actively
- Probe for clarification and watch for
 - Hidden assumptions
 - What is unspoken (omissions)

“Just because you can trust does not mean you can be trusted.

~David Maister (The Trusted Advisor)

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Can You Spot Trouble?

- We will walk through five client profiles
- Listen and ask yourself:
 - Can you trust this client?
 - Is this a risky client?
 - Do you see clues or indicators of potential trouble?

Ask questions as we go



#1 The Mouse

- Timid and shy
 - Afraid to ask questions
 - Doesn't want to challenge authority (yours or IRS')
- Very conservative and doesn't "break the rules"
 - Intimidated by "red flags"
 - Difficult to convince her that something is ok if her friends, family or cable news tell her otherwise

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#2 The Socialite

- Always trying to keep up with everyone else
 - Tends to be a busy body
 - Tends not to reveal her true feelings or beliefs
- Easily influenced by trends and popular ideas
 - Doesn't necessarily stand behind her decisions when challenged
 - Can be fickle (tends to change her opinion to be consistent with friends, family & others around her)

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#3 The Co-Conspirator

- Always looking for an angle or strategy
 - Thinks that there is a better, cheaper, etc., way
 - Worries that they aren't taking full advantage of available loopholes
- Open to hearing new ideas
- Tends to ask leading questions
- Keeps information close to the chest



#4 The Know-It-All

- Considers themselves "well-informed" of tax issues and strategies
 - Always wants to chat about the latest idea or strategy they heard about
 - Loves to debate tax issues & policy
- Doesn't hesitate to push back or challenge your ideas or suggestion
- Has a fairly high risk tolerance

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#5 The Fire Captain

- Always in a rush
 - Comes in late with incomplete information
 - Expects calls to be returned immediately
- Often asks for favors because they don't have the time to do it themselves
- Doesn't like to plan, prefers to live "in the now"

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Which is the toxic client?

- Was there more than one?
- Do any other profiles come to mind?
 - The Martyr
 - The Caregiver
 - The Control Freak
 - The Ninja
- Do these profiles remind you of a client?



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Know Your Options

TERMINATE OR REHABILITATE



Managing Risk

- Must balance the wants and needs of the client against ethics and standards
- Different considerations for prospective vs. returning clients
- Requires ongoing monitoring

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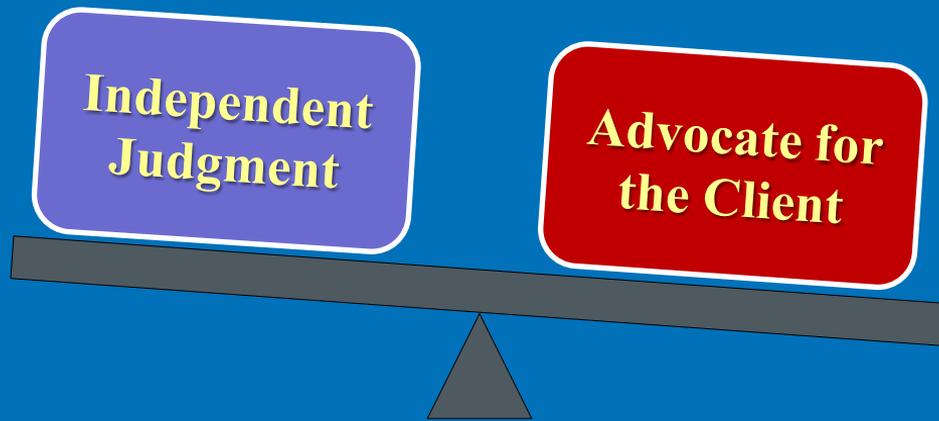


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Objectivity vs. Advocacy



Know when to say no!

Know when to walk away!



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Evaluating Prospective Clients

- Purpose is to identify potential risks
- Avoids risk of dabbling
- Ensure you have relevant experience and sufficient resources



Client Acceptance Process

- Define ideal client
- Develop criteria
- Use New Client Acceptance Forms
- Evaluate all prospective clients
- Require engagement letters



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Other Considerations

- Client meetings should be considered a 2-way interview
- Watch for conflicts of interest – both actual and potential
- Consider financial stability of client
- Develop a process for price shopping calls



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Evaluating Continuing Clients

- Develop criteria to determine when to rehabilitate vs. terminate
- Regularly perform evaluations (annually?)
- Establish client termination procedures
- No “one size fits all” approach



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Common Termination Triggers

- Change in client situation or needs
- Recurring problems
- Difference of opinion
- Inability to pay
- Change in firm circumstances

Can you think of others?



Follow-Through!!

- Easier to keep an existing client than find a new client
- Acknowledge hesitation to evaluate
 - Time consuming
 - Lack of objectivity
- Sense of allegiance to long time clients

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Session Recap

- Trust is fundamental
- Set boundaries and expectations
- Engage clients and monitor for risk factors
- Establish procedures for client acceptance and client continuance
- Know when to walk away

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QUESTIONS





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These slides have been included as supplemental information only. Speakers may reference information contained in this Appendix, but these slides will not be included in the live presentation. The Appendix includes a list of additional resources, hyperlinks and other information.

RESOURCE APPENDIX

Circular 230 (Select Provisions)



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- §10.21 Knowledge of client's omission
- §10.22 Diligence as to accuracy
- §10.33 Best practices for tax advisors
- §10.34 Standards with respect to tax returns and documents, affidavits and other papers
- §10.35 General Standard of Competence
- §10.37 Requirements for other written advice

§10.21 – Knowledge of client’s omission



- If practitioner is aware of non-compliance with rule or law, error or omission, they must:
 - advise the client promptly of the fact of such non-compliance, error, or omission
 - advise the client of the consequences as provided under the Code and regulations
- Exercise professional judgment

§10.22 – Diligence as to accuracy



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- Must exercise due diligence in preparing or approving tax returns and other documents
- Applies to oral or written representations to Treasury or client
- Reliance on others requires practitioner to “[take] proper account of the nature of the relationship between the practitioner and the person.”
- See also §10.34 and §10.37

§10.33 – Best practices for tax advisors



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- Should provide clients with the highest quality representation
- Best practices include:
 - Communicating clearly
 - Establishing relevant facts, evaluating reasonableness of assumptions and arriving at conclusions supported by the law and the facts
 - Advising clients about import of conclusions reached
 - Acting fairly and with integrity in practice before IRS



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§10.34 – Standards with respect to tax returns and documents, affidavits and other papers

- Practitioner may not sign a return that they know, or should have known, includes a position that lacks reasonable basis or includes an unreasonable position
- A pattern of conduct will be taken into consideration in determining if practitioner acted willfully, recklessly or through gross incompetence (see also §10.35)
- May rely on information provided by client, but
 - may not ignore known information
 - must inquire about inconsistencies or incorrect information

§10.35 – Competence



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- Must possess the necessary competence to engage in practice before the Internal Revenue Service
- For any service rendered, competence requires the appropriate level of
 - Knowledge
 - Skill
 - Thoroughness
 - Preparation
- May be acquired by study or hiring experts

§10.37 – Requirements for written advice



- Must base written advice on reasonable factual and legal assumptions
- Consider all relevant facts and circumstances that practitioner knows or reasonably should know
- Use reasonable efforts to ascertain the facts
- May not rely upon client representations (or any other person) if reliance would be unreasonable

AICPA Statements on Standards for Tax Services

(NOTE: → indicates relevant guidance)



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

SSTS No. 2, Answers to Questions on Returns



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- Should make a reasonable effort to obtain from the taxpayer the information necessary to provide appropriate answers to all questions on a tax return before signing as preparer.
- Not all questions are of equal importance but
 - Question may be useful in determining taxable income.
 - Answer may require additional disclosure.
 - A member often must sign a preparer's declaration stating that the return is true, correct, and complete.

SSTS No. 3, Certain Procedural Aspects of Preparing Returns



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- Practitioner may rely on 3rd party information
 - Cannot ignore implications of information furnished
 - Must inquire if information is incorrect, incomplete or inconsistent with other known facts
- Must inquire if client can meet documentation and substantiation requirements (e.g., contributions)
- Should consider information actually known, even if from another/related taxpayer
- Must resolve all concerns or questions

SSTS No. 4, Use of Estimates



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- May use estimates to prepare a tax return if it is not practical to obtain exact data
- Important to determine that estimates are reasonable based on the facts and circumstances
- Should not present numbers to imply a greater accuracy than actually exists
- Note, appraisals or valuations are not considered estimates for purposes of this statement



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SSTS No. 6, Knowledge of Error: Return Preparation and Administrative Proceedings

- Promptly inform client upon becoming aware of an error in a previously filed return
- Should advise client of potential consequences of the error and recommend corrective measures to be taken
- NOT allowed to inform the taxing authority without the taxpayer's permission, except when required by law
- If the client declines to take corrective measures recommended, the member should consider withdrawing from engagement or continuing the client relationship



Hyperlinks



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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>