



IRS Nationwide
TaxForum

| 2017

Preparer Risk:
When a Practice Problem
Becomes an Ethics Problem





IRS

Tax
Forum

IRS Nationwide

2017

Learning Objectives

- Increasing awareness of practice risks
- Recognizing the crossing of practice and ethical lines
- Advancing knowledge of ethical resources
- Elevating the relevance of ethics in tax practice
- Sensitizing you to tax practice quality
- Promoting the importance of liability insurance



IRS

Tax Forum

IRS Nationwide

2017

Ethics: Relevance In Practice

- Duties to the public, the profession, the tax system and as a professional
- Practice with greater confidence
- Opportunities to build your practice and attract ethical employees and clients
- Avoid penalties and censure for you and clients
- Avoid malpractice claims
- Avoid loss of your practice or livelihood



IRS

Tax
Forum

IRS Nationwide

2017

Ethics: Source Material

- Circular 230
- AICPA's Code of Conduct and Statements on Standards for Tax Services (SSTSs)
- NAEA's Code of Ethics & Rules of Professional Conduct
- ABA Model Rules of Professional Conduct
- Internal Revenue Code penalty provisions
- Applicable state laws and regulations



IRS

Tax Forum

IRS Nationwide

2017

Example No. 1

Charitable contributions (both cash and non-cash)

Considerations:

- Understanding the rules
- Informing the client about the rules and requirements
- Understanding your client
- SSTS No. 3; Level of due diligence
- New vs existing clients
- Can you sign the return?



IRS

Tax Forum

IRS Nationwide

2017

Example No. 2

S Corp client provides records to prepare the 2016 Form 1120S; the two shareholders were not paid compensation

Considerations:

- IRC sections 6662 and 6694
- Reasonable compensation
- Year-round interaction with client
- Were there any payments to the shareholders?
- Explaining the ramifications to the client
- Advising changes going forward



IRS

Tax Forum

IRS Nationwide

2017

Example No. 3

New client who has multiple interests in foreign businesses that requires specific filings and elections; preparer has limited knowledge of these circumstances

Considerations:

- Can you accept the engagement?
- Education, internal referral, external referral
- Fees vs risks
- FBAR and Form 8938
- Circular 230, §10.35



IRS

Tax
Forum

IRS Nationwide

2017

Example No. 4

In preparing 2016 return, you notice some Schedule C or E income was omitted from client's 2015 return

Considerations:

- Written documentation
- Amended returns and penalties
- Need for additional due diligence
- Continuing relationship with client
- SSTS No. 6



IRS

Tax Forum

IRS Nationwide

2017

Example No. 5

Schedules C, E, F, and Forms 1065, 1120, 1120S, etc. contain a question regarding the filing of required Forms 1099

Considerations:

- Due diligence
- Conversation with client about consequences
- Signing of tax return with question not answered
- SSTS No. 2



IRS

Tax
Forum

IRS Nationwide

2017

Recap of Ethical Issues Discussed

- Due diligence
- Written documentation
- Continuing client relationship
- Knowledge of client error
- Competence to accept an engagement
- Signing of tax return with question(s) not answered



IRS

Tax Forum

IRS Nationwide

2017

**Treasury Department
Circular No. 230
(Rev. 6-2014)**

Catalog Number 16586R
www.irs.gov

**Regulations Governing Practice before
the Internal Revenue Service**

Department
of the
Treasury

**Internal
Revenue
Service**

**Title 31 Code of Federal Regulations,
Subtitle A, Part 10,
published (June 12, 2014)**



IRS

Tax Forum

IRS Nationwide

2017

November 2009

1-7

Statements on Standards for Tax Services

Issued by the Tax Executive Committee

AICPA®

AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS

**Statement on Standards for Tax Services No. 1,
*Tax Return Positions***

**Statement on Standards for Tax Services No. 2,
*Answers to Questions on Returns***

**Statement on Standards for Tax Services No. 3,
*Certain Procedural Aspects of Preparing Returns***

**Statement on Standards for Tax Services No. 4,
*Use of Estimates***

**Statement on Standards for Tax Services No. 5,
*Departure From a Position Previously Concluded in
an Administrative Proceeding or Court Decision***

**Statement on Standards for Tax Services No. 6,
*Knowledge of Error: Return Preparation and
Administrative Proceedings***

**Statement on Standards for Tax Services No. 7,
*Form and Content of Advice to Taxpayers***



IRS

Tax
Forum

IRS Nationwide

2017

Approved August 2014

Code of Ethics and Rules of Professional Conduct

Code of Ethics

1. Members and associates will, in personal and public life, strive to enhance the status of enrolled agents (EA) and promote their qualifications to serve the public.
2. Members and associates will demonstrate honesty, integrity, and objectivity in all their professional actions and relationships.
3. Members and associates will continually strive to improve upon their competence to practice by keeping informed and educated about tax practice and representation.
4. Members and associates will maintain the confidentiality of professional relationships.
5. Members and associates will support efforts to advance the reputation and prestige of the EA license.
6. Members and associates will comply with the most current provisions of Treasury Department Circular 230 and the NAEA Code of Ethics and Rules of Professional Conduct.
7. Members and associates will not knowingly misrepresent or omit information when preparing or approving and filing tax returns, documents, affidavits, and other papers relating to Internal Revenue Service (IRS) matters. If a client insists on the misrepresentation or omission, the Member or Associate should withdraw and refuse to prepare the return or other documents.

Rules of Professional Conduct

1. Members and associates will adhere to all laws and regulations that provide equal opportunity for all clients and employees regardless of race, color, religion, gender, national origin, age, handicap, sexual orientation, or any other legally protected



IRS

Tax Forum

IRS Nationwide

2017

Questions?

