



IRS Nationwide TaxForum | 2019

It's 2019: What's Going on in
the Ethics Arena in This Post
Tax Cuts & Jobs Act World?





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Learning Objectives and Today's Agenda

- Increasing awareness of practice risks
- The crossing of practice and ethical lines
- Elevating the relevance of ethics in tax practice
- Ensuring your understanding of tax practice quality
- Advancing knowledge of ethical resources



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Complexities of TCJA

- Sec. 199A – Qualified business income
- Incorrect Schedule K-1s
- Elevated due diligence requirements
- Lack of guidance
- Pressure to do things in a manner similar to prior year
- State tax conformity
- Tax preparation software



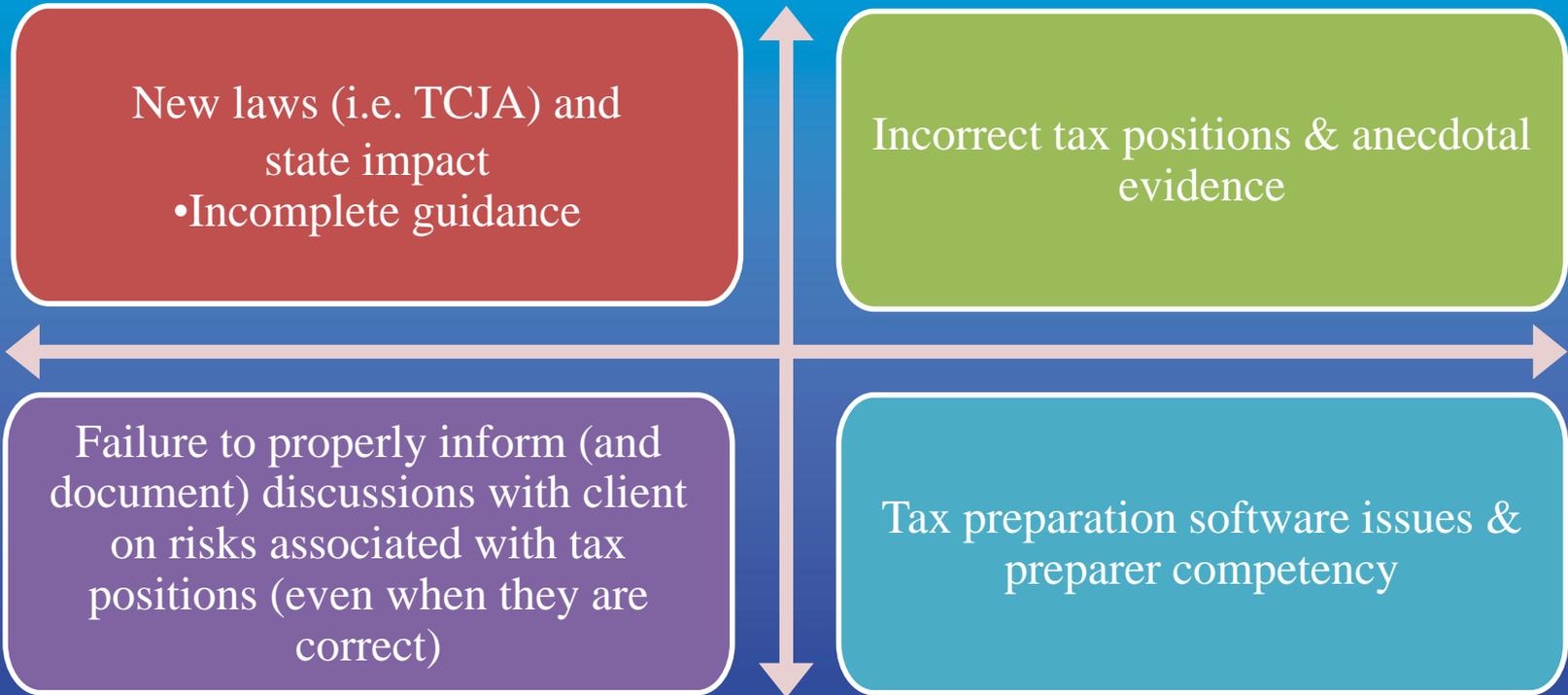
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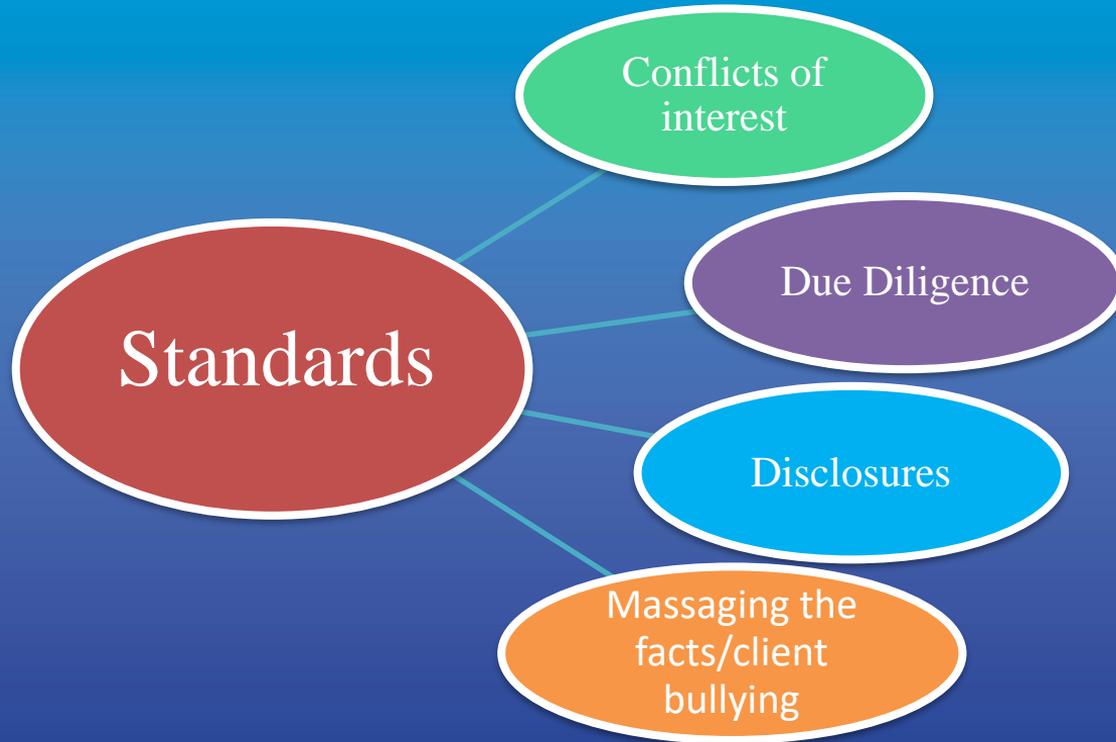
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Increasing Awareness of Practice Risks



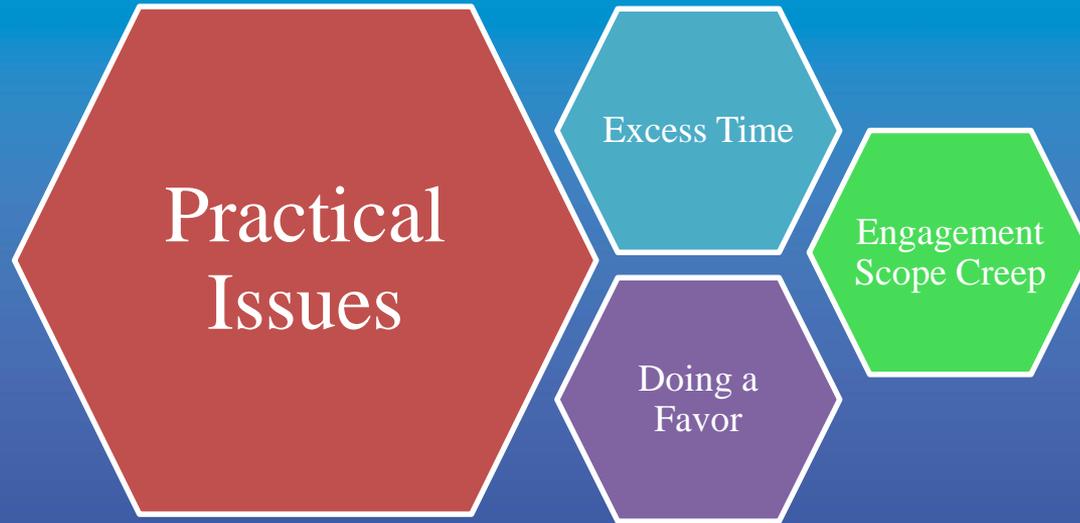


The Crossing of Practice and Ethical Lines





The Crossing of Practice and Ethical Lines



Elevating the Relevance of Ethics in Tax Practice

Why is it relevant?

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 engagements that go astray

Avoid loss of your practice or livelihood



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Elevating the Relevance of Ethics in Tax Practice

Importance of the Rules

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graph TD; A[Importance of the Rules] --- B[Knowledge of the rules – Tone at the Top]; A --- C[Training & Education]; A --- D[Communication with clients and colleagues];
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Knowledge of the rules – Tone at the Top

Training & Education

Communication with clients and colleagues



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Ensuring Your Understanding of Tax Practice Quality

- Adopting a Quality Control System
 - Competence
- Elements of the System
 - Leadership
 - Ethics
 - Client Acceptance
 - Human Resources
 - Engagement Performance
 - Monitoring



Advancing knowledge of ethical resources

Take time to use the tools available

Subscription based (BNA, CCH, etc.)

Membership based (AICPA, ABA, NAEA, NATP, various state based professional organizations, etc.)

Public access (IRS.gov, various state revenue authority websites)

Non-authoritative - various professional firm (public accounting & law firms) resources

Professional liability insurance assistance



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Relevant Ethical Rules & Resources

[Internal Revenue Code](#) and [Circular 230](#)

AICPA [Code of Professional Conduct](#) & the [Statements on Standards For Tax Services](#) (SSTSs)

NAEA [Code of Ethics and Rules of Professional Conduct](#)

ABA [Model Rules of Professional Conduct](#)

[State Board of Accountancy](#) Rules

[State Department of Revenue](#) Rules



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Resource Materials





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Tax Ethics & Professional Responsibilities Resource Center

The AICPA Tax Section's Tax Ethics & Professional Responsibilities Resource Center contains professional standards for tax practitioners, as well as practice aids to help members maintain the highest level of ethical standards.

Featured Tax Section Resources



Statements on Standards for Tax Services (SSTs)



Tax Practice Quality Control Guide (PDF)
(open to Tax Section)



Sec. 7216 Sample Consent Forms (Word)
(open to Tax and PFP Section)

Resources

Open to everyone

- Attorney Client Privilege and Use of Kovel Arrangements
- Circular 230 Guidance
- Sec. 7216 Guidance

AICPA Tax Ethics Resources

www.aicpa.org/interestareas/tax/resources/standardsethics.html



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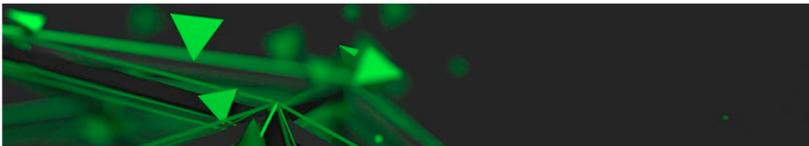
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Code of Professional Conduct



AICPA Code of Professional Conduct

www.aicpa.org/research/standards/codeofconduct.html



Statements on Standards for Tax Services

The AICPA's Statements on Standards for Tax Services (SSTs) are enforceable tax practice standards for members of the AICPA. The SSTs apply to all members regardless of the jurisdictions in which they practice and the types of taxes with respect to which they are providing services. The SSTs and interpretations delineate members' responsibilities to taxpayers, the public, the government, and the profession. They are intended to be part of an ongoing process of articulating standards of tax practice for members.

Under a 1999 resolution of AICPA Council, the Tax Executive Committee was authorized to promulgate professional practice standards with respect to tax services. These enforceable SSTs apply to all tax services, and are designed to:

- Identify and develop appropriate standards in providing tax services and promote their uniform application by CPAs.
- Increase the understanding of CPA responsibilities by Treasury and IRS officials and encourage the development of similar standards for their personnel.
- Foster increased public compliance with and confidence in our tax system through awareness of good standards of tax practice.
- Enhance the CPA professional designation.

The SSTs were originally issued in 2000 and were updated in 2009. The full text of the current SSTs are available below, along with additional guidance and answers to common questions.

Upcoming revisions to the SSTs

The AICPA's SSTs Revision Task Force is reviewing and revising its SSTs to reflect the new ways tax practitioners work and is looking for insights into where practitioners think the future of tax will lead. If you have a comment or suggestion on how we can best update the SSTs, please contact Henry Grzes at Henry.Grzes@aicpa-cima.com.

Tax Standards

- SSTs (full document): (PDF)
- SSTs No. 1, *Tax Return Positions*: (PDF)
- SSTs No. 2, *Answers to Questions on Returns*: (PDF)
- SSTs No. 3, *Certain Procedural Aspects of Preparing Returns*: (PDF)
- SSTs No. 4, *Use of Estimates*: (PDF)
- SSTs No. 5, *Departure From a Position Previously Concluded in an Administrative Proceeding or Court Decision*: (PDF)
- SSTs No. 6, *Knowledge of Error: Return Preparation and Administrative Proceedings*: (PDF)
- SSTs No. 7, *Form and Content of Advice to Taxpayers*: (PDF)

Interpretations

- Interpretations of SSTs No. 1, *Tax Return Positions* (full document): (PDF)
- Interpretation No. 1-1, *Reporting and Disclosure Standards*, of SSTs No. 1: (PDF)
- Interpretation No. 1-2, *Tax Planning*, of SSTs No. 1: (PDF)

AICPA Statements on Standards for Tax Services



Client Termination Checklist

Client Name and Number: _____

Prepared by: _____ Date: _____

| | <u>Initials</u> | <u>Date</u> | <u>Comments</u> |
|---|-----------------|-------------|-----------------|
| 1) If client terminated the relationship with us, have CPA in charge follow up with a phone call to understand why and document reasons. | _____ | _____ | _____ |
| 2) Determine if work in progress (WIP) is billable. If yes, prepare final bill for client. If no, clear all WIP in billing system. | _____ | _____ | _____ |
| 3) Once it is determined that there is no additional time to be charged to the account, make the client inactive in billing software so that no additional time can be charged to the client. | _____ | _____ | _____ |
| 4) Remove the client from any client communications systems (constant contact, newsletters, data mining, etc.). | _____ | _____ | _____ |
| 5) Cancel any outstanding projects in project tracker system. | _____ | _____ | _____ |
| 6) Revoke all POA's we have for the client with the IRS and/or state department of revenue(s). | _____ | _____ | _____ |
| 7) If current tax year return is not done yet, delete out of tax system. If current year tax return is already done, mark client to be excluded from proforma to next year's tax program. | _____ | _____ | _____ |
| 8) Send letter (see sample letter) via email & regular mail (certified, return receipt requested) to the client with the following information (if applicable): | _____ | _____ | _____ |
| a. The reasons for the termination of the relationship (if we are firing them) or acknowledgement that the client has terminated services and perhaps state the reasons they gave | _____ | _____ | _____ |
| b. Outstanding amount due and final bill | _____ | _____ | _____ |
| c. Any outstanding issues/projects | _____ | _____ | _____ |

AICPA Tax Section Client Termination Checklist

Date _____

Client Name
Street Address
City, State Zip

Dear _____,

We hereby inform you that we have decided to terminate¹ our professional relationship with [you or your organization or your company] effective [immediately or as of (insert date)] and will no longer render professional services to you or your company as of this date².

Our reasons for disengaging at this time include the following:³

- [we do not feel that we can continue to provide your company with the level of services that you require]
- [your continued failure to pay for our services on a timely basis]
- [a conflict of interest in our services to your company and other clients whom we serve]
- [other _____]

We wish to remind you that you have unpaid invoices totaling \$[amount] copies of which are enclosed for your review. This does not include the invoice for our services rendered since [date] in the amount of \$0.00 which is also enclosed. We expect payment in full of all of these invoices within [X] days of acknowledgement of this disengagement letter. If payment is not received by our office within [X] days after acknowledgement of this letter, additional charges may apply. If you are not in a position to make immediate payment, please call us so that we may discuss an extended payment arrangement.

You also agree that you will reimburse us for all costs or expenses incurred by us as the result of receiving a subpoena or other legal proceedings which require our response thereto. This time will be charged at our normal hourly rates plus reasonable out of pocket expenses including but not limited to attorney's fees (optional).

You should take immediate steps to retain a new accounting firm as there are a number of matters that require immediate attention. Among those matters, but not limited to, are the following⁴:

- 1.
- 2.

It is important to note that the above matters are time sensitive. Any delay in addressing these issues may cause you to incur penalties or other costs for which we are not liable.

¹ Consider reaching out to your malpractice carrier or legal counsel before terminating a client (e.g., sensitive clients).

² Depending on the length of the relationship and reasons for termination, you may wish to include additional language (i.e. business evolution, changing nature of the practice, deteriorating professional relationship, lack of timely payment, etc.)

³ To limit "discoverability" of the potential for prospective litigation or other claims pursued by the ex-client, its creditors, successor accountant, or State Board of Public Accountancy, you may want to consider omitting this section altogether.

⁴ After detailing the items that require "immediate attention" (uncompleted work) you may wish to consider including another paragraph which states the work that has been completed, so that all projects which the CPA has been engaged to complete are included.

AICPA Tax Section Client Termination Letter



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**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

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

www.irs.gov/pub/irs-pdf/pcir230.pdf



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NAEA

POWERING AMERICA'S TAX EXPERTS

NATIONAL ASSOCIATION
OF ENROLLED AGENTS

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

[www.naea.org/sites/default/files/
Code%20of%20Conduct%20Appr
oved%20August%202014.pdf](http://www.naea.org/sites/default/files/Code%20of%20Conduct%20Approved%20August%202014.pdf)



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National Association of Tax Professionals

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Standards of Professional Conduct

The Board of Directors of the National Association of Tax Professionals has adopted a set of standards governing members' professional conduct.

The purpose of these standards is to establish a threefold responsibility of our members.

Our first responsibility is to our clients. Members should make every effort to protect the interests of the client and advise the client when the client is taking the wrong course of conduct. The client is responsible for any decisions made when the tax return is prepared. When the client signs the tax return, it has the force of an affidavit.

The second responsibility is to the member. Members should conduct their practice so that it will not jeopardize their professional reputation or self-respect. The member should not be unreasonable in requiring proof of statements made by the taxpayer.

The third responsibility is to the government. In this respect, a member should always bear in mind the member is governed by the law.

www.natptax.com/AboutNATP/WhatisNATP/Pages/StandardsOfProfessionalConduct.aspx



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Thank you



AICPA[®]

