

Issue Number: 2026-16. Safeguard Your Credential: Understanding IRS Rules and the Risks of Misrepresentation

Overview

Professional and occupational licenses are hard earned because they bear the imperator of usually a state or local (including municipal) agency or other authority. And because in many fields, licensees are entrusted with highly important client or customer (or patient) interests, such physical or mental health and wellbeing, financial security, protection of privacy or property, or the success of business ventures.

As to the federal tax space, two state-licensed professions predominate: law and accounting. The third group of tax professionals (who generally pursue the career or vocation specifically to service taxpayers) are IRS enrolled agents (EAs). To obtain their professional designations, these individuals must demonstrate specific and adequate educational and character qualifications (meet admission criteria), coupled with testing based knowledge (passage of exams). Attorneys, certified public accounts (CPAs), and EAs are eligible “practitioners” under Circular 230, [*Regulations Governing Practice before the Internal Revenue Service*](#), which our office, the Office of Professional Responsibility (OPR), administers and enforces. Circular 230 defines the term “practitioner” as used throughout the regulations (as well as “practice”). See Circular 230 section 10.2(a)(1), (a)(2), and (a)(5) (defining “attorney,” “certified public accountant,” and “practitioner,” respectively); section 10.3, *Who may practice*, pars. (a) - (c).¹

For many readers a large volume of their caseloads may be devoted to a broad array of clients’ tax needs and at various phases, both before and after any interaction with the IRS. As such, they regularly represent taxpayers² and otherwise practice before the IRS, which can include preparing and filing amended returns and claims for refund, submitting applications and requests (for example, seeking collection alternatives or for private letter rulings), and rendering written tax advice to support clients’ tax positions. If you fit that profile, then naturally a top priority is the maintenance and continuation of your credential in active status and good standing. So that you can rely on it and its attendant IRS practice privileges. And avoid a predicament in which either (1) you halt some, maybe most, business activity or (2) economic circumstances unfortunately compel you to misrepresent your authority to clients or the Service. Staying on track involves compliance with the internal revenue laws, state laws and regulations applicable to your profession, and state bar or board of accountancy ethics codes or rules of professional conduct. As well as adherence to Circular 230’s duties and restrictions (prescribed in Subpart B) and avoidance of disreputable conduct (prohibited by section 10.51 (of Subpart C)).³

¹ See also 5 USC 500(b) and (c) (concerning, in order, attorneys and CPAs).

² As a representative appointed on a [Form 2848](#), Power of Attorney and Declaration of Representative, or in a power-of-attorney authorization generated by [Tax Pro Account](#).

³ The regulations are divided into five lettered subparts:

This article is not intended as an exhaustive discussion of the different hazards and ramifications of attempting to utilize a lapsed license or a temporary or permanent loss of one. But the discussion points some of the possible scenarios and their repercussions under Circular 230.

Taxpayer Protection Efforts – Tricksters Pretending to Be Officially Recognized Tax Practitioners

Before describing a few applicable Circular 230 sections, it is important to be aware of and keep in mind that the IRS overall and its business units, among them, the Return Preparer Office (RPO), offer some useful guidance for taxpayers (and tax pros who assist them) to exercise caution when they encounter someone in the commercial tax industry who proposes a plan or transaction that appears too good to be true. Specifically, the IRS warns taxpayers about unscrupulous individuals who falsely promote abusive tax avoidance schemes as legitimate and falsify their own qualifications. The agency does so through postings to IRS.gov, such as:

- [Report tax fraud, a scam or law violation](#), which advises, “If you suspect identity theft, tax fraud, evasion, scams, schemes, or other violations of tax law, report it to the IRS.” The page has several options for “What are you reporting?”, including “Tax preparer misconduct or fraud,” which, in turn, lists seven types, among which is “Misrepresenting credentials.”

In those instances, a report can be filed with the RPO on Form 14157, Return Preparer Complaint, which has a line for “Preparer's professional status” (in the form’s first section, “Return Preparer Information”) that includes checkboxes for “Attorney,” “Certified Public Accountant,” and “Enrolled Agent.” Lower down on the form are checkboxes for different complaint types, one being general “Preparer Misconduct,” encompassing, “Failed to provide copy of return, return records, sign returns or remit payments for taxes due; misrepresentation of credentials; agreed to file return but did not; filed return without authorization or consent.” RPO routinely forwards forms it receives to the OPR for evaluation and possible action when the report’s subject is a Circular 230 practitioner.

- [Make a complaint about a tax return preparer](#), which informs taxpayers that they “can report a tax return preparer for improper tax preparation practices, such as: . . . Falsely claiming to be an attorney, certified public accountant, enrolled agent, enrolled retirement plan agent, or enrolled actuary.”

A Rules Governing Authority to Practice

B Duties and Restrictions Relating to Practice Before the Internal Revenue Service

C Sanctions for Violation of the Regulations

D Rules Applicable to Disciplinary Proceedings

E General Provisions

- [IRS reminds taxpayers: Watch out for preparers promising quick cash, fast refunds under new One, Big, Beautiful Bill tax changes.](#) This Fact Sheet urged taxpayers to choose a tax return preparer with care and to be extra wary of dishonest preparers who might try to exploit them by making false refund promises in connection with provisions of the OBBB. One tip for selecting a preparer was to “Do your research”:

Check the Better Business Bureau website for information about the preparer. Look for disciplinary actions and the license status for credentialed preparers. For CPAs, check the State Board of Accountancy's website, and for attorneys, check with the State Bar Association. For enrolled agents, go to Verify the Status of an Enrolled Agent or check the IRS Directory of Federal Tax Return Preparers. [Embedded links omitted.]

Our office likewise frequently delves into this subject matter area with guidance and resources (like this article) for IRS personnel and the tax professional community. We have published Business Unit News encouraging employees, especially those who frequently work with representatives (often in examinations or collection cases), to independently verify a representative's eligibility to practice and their professional designation and licensing jurisdiction entered on a Form 2848. And identified the internal and external sources for verification.

Further, across various venues and means of communication, we consistently emphasize the difference between tax return preparation and “practice” before the IRS and the distinction between licensed or enrolled practitioners and individuals, including unenrolled return preparers, authorized to engage in “limited” representation subject to certain conditions.

In addition, the OPR uses messages focused on how tax professionals hold themselves out to current or prospective clients. For example, among the OPR's online [Frequently asked questions \(FAQs\)](#) is Question 15, “What advertising and commercial solicitation are permissible for practitioners to use?” Followed by a detailed answer explaining that a practitioner can market and display their level of experience, years in practice, areas of specialization, accomplishments, and the services they offer, but the descriptions must conform to section 10.30. The section prohibits the use of “any form of public communication or private solicitation” that contains a statement or claim that is “false, fraudulent, or coercive” or is “misleading or deceptive.” A secondary restriction specific to EAs is that they cannot use the term “certified” or imply an employer-employee relationship with the IRS. As indicated below, section 10.30 ties into one of the items in section 10.51(a), which is a non-exclusive list of prohibitions (eighteen) barring “Incompetence and disreputable conduct.”

Circular 230 Violations and OPR Enforcement

Most of the investigatory cases the OPR opens are based on referrals from IRS employees and their managers of apparent Circular 230 transgressions, typically sent using the prescribed form, 8484, Suspected Practitioner Misconduct Report for the Office of Professional Responsibility,

accompanied by supporting documentation.⁴ While each referral involves its own facts and circumstances that implicate different rules governing practice, there are certain ones listed in section 10.51(a) and other sections that can be relevant to a practitioner's misrepresentation of their professional status:

- 10.51(a)(4) (knowingly giving “false or misleading information” to the IRS);
 - ▲ The “term ‘information’” includes “[f]acts or other matters contained in testimony, Federal tax returns, financial statements, applications for enrollment, affidavits, declarations, and any other document or statement, written or oral.”
- 10.51(a)(5) (advertising and solicitation of employment prohibited by section 10.30 or conveyed through the use of false or misleading information or “intimating” the ability to improperly obtain special consideration or action from the IRS);
- 10.51(a)(10) (disbarment, suspension, or revocation from practice as a lawyer, CPA, or actuary by a state or federal authority or federal court);
- 10.51(a)(11) (knowingly aiding or abetting another person to practice before the IRS during their period of suspension, disbarment, or ineligibility)
 - Relatedly, section 10.24 (disallowing a practitioner from (i) accepting any assistance with a federal tax matter from another practitioner under suspension or disbarment from IRS practice or (ii) assisting the suspended or disbarred individual in any manner of practice);
- 10.51(a)(18) (willfully representing a taxpayer before the IRS unless authorized to do so); and
- 10.22(a)(1)-(3) (failure to exercise due diligence in submitting documents to the IRS or in determining the correctness of representations made to the IRS or to clients).

Violations of these sections are cause for the imposition of disciplinary sanctions. The available sanctions prescribed in the Circular 230 regulations and in the statute that they implement (31 USC 330) are, besides **suspension** and **disbarment** from practice mentioned earlier:

- **censure** (a public reprimand),
- **monetary penalties**,⁵ and,
- **disqualification** of appraisers.

NOTE: Appraisers are not Circular 230 “practitioners” but are nonetheless regulated by the circular insofar as they produce appraisals used for federal tax purposes.

⁴ The form contains a section for the “Reason for the referral,” with a list of checkboxes for several different categories of misconduct, one of which is “Suspected submitting of false or misleading documents to the IRS by a practitioner on behalf of a taxpayer.”

⁵ Firms that conduct practice before the IRS (regardless of their size or how they are organized (as corporations, partnerships, LLCs, etc.)) can also be liable for monetary penalties in certain circumstances. The entities can be held vicariously liable for violations of Circular 230 committed by their employees, associates, or other members.

For reference, see section 10.50 (describing each sanction); section 10.52(a)(1) (stating, in relevant part, that a practitioner may be sanctioned under 10.50 “if the practitioner . . . Willfully violates any of the regulations”); section 10.60 (authorizing the institution of a formal sanctions proceeding against “a practitioner (or employer, firm or other entity, if applicable)” for having “violated any provision of the laws governing practice before the” IRS or “the regulations” in Circular 230).

Regarding the term “willfully,” which is used explicitly in several places, like section 10.51(a)(18) and section 10.52(a)(1) (see above), it means a voluntary and intentional disregard of a known legal duty. BLACK’S LAW DICTIONARY (12th ed. 2024), *Willfulness* (also defining “willful misconduct” as “Misconduct committed voluntarily and intentionally”).⁶ Unauthorized IRS practice or attempted practice due to an inactive or a temporarily or permanently “lost” license or enrollment for what is essentially noncompliance with licensure rules and requirements, meets the threshold standard of willfully (and, by extension, of course, for the related words of “willful” and “willfulness”).

- As to EAs, inactivation and termination of enrollment are addressed in section 10.6(j).

Evidence of willfulness is particularly prominent if the individual submits a Form 2848. In Part II of the form, the appointed representative declares:

- I am authorized to represent the taxpayer identified in Part I for the matter(s) specified there; and
- I am one of the following:
 - a** Attorney—a member in good standing of the bar of the highest court of the jurisdiction shown below.
 - b** Certified Public Accountant—a holder of an active license to practice as a certified public accountant in the jurisdiction shown below.
 - c** Enrolled Agent—enrolled as an agent by the IRS per the requirements of Circular 230.

Conclusion

As a closing to this article, we thought it would be constructive to illustrate the material covered with a real-world example. A 2014 case alleging violations of section 10.51(a)(4) (giving

⁶ See also *Owrutsky v. Brady*, 925 F.2d 1457 (4th Cir. 1991) (holding that there was “substantial evidence to support a determination of willfulness” by an attorney who judicially challenged his disbarment from practice before the IRS for “willfully” failing to file personal tax returns for six years in violation of Circular 230; thereby aligning the Circular 230 standard with caselaw defining “willfully” as used in IRC criminal tax sections, such as RC 7201, to mean “a voluntary, intentional violation of a known legal duty” (not requiring malice) (internal citation and quotation marks omitted)); 57A Am. Jur. 2d Negligence § 246, *Definition of “willful misconduct”* (“The term ‘willful misconduct’ is not immutably defined, but takes its meaning from the context and purpose of its use; . . . [A] willful act is one done deliberately, purposely, and intentionally, and usually, not accidentally. Willful misconduct is an intentional deviation from a clear duty or from a definite rule of conduct, a deliberate purpose not to discharge some duty necessary to safety, or purposely doing some wrongful acts with knowledge or appreciation of the likelihood of resulting injury.” (Internal footnotes omitted.)).

knowingly false information to the IRS) that was decided and affirmed in the OPR's favor: *Director, OPR v. Charles Edgar*, Complaint No. 2013-00004, Initial Decision and Order, (Nov. 8, 2013); *Director, OPR v. Edgar*, Complaint No. 2013-00004, Decision on Appeal, (Apr. 18, 2014).⁷

The case was a formal administrative proceeding instituted pursuant to the procedures in Circular 230's Subpart D (disciplinary proceeding rules).

On February 21, 2013, the OPR filed its complaint (as the "complainant") with an administrative law judge (ALJ), through the OPR's counsel of record. The complaint charged that Mr. Edgar committed willful misconduct contrary to the section 10.51 provision by filing false Forms 2848 with the IRS. At the time of filing of the complaint, Mr. Edgar (the "respondent") was a former CPA whose license was revoked by the Massachusetts Board of Registration in Public Accountancy about five months prior to his submission of the forms. On them he selected the CPA designation and attested that he was a CPA duly qualified to practice in Massachusetts.

The ALJ who presided over the case agreed with the OPR's claims that Mr. Edgar violated section 10.51(a)(4) by clear and convincing evidence, the applicable standard. Because the seriousness of the offenses demonstrated that Mr. Edgar was unfit to continue as a practitioner before the IRS, the ALJ ordered him disbarred from practice. On review, the appellate authority (as the Treasury Secretary's delegate) upheld the decision and the sanction, resulting in final agency action on the case.

This case was not a standalone one, as there has also been some other caselaw brought under section 10.51(a)(4), which proceeded through administrative litigation, of a practitioner having willfully misrepresented their true credential status to the IRS.

It can be a costly mistake for professionals regulated by Circular 230 to misrepresent their eligibility or authority to practice, whether to their current clients (or new ones they hope to gain), to the IRS, their colleagues and peers, or others. The falsehoods, depending on their scale and severity, can materially (and even irrevocably) damage practitioners' credibility and reputations and ultimately their success. Please don't let that happen to you.

If you have questions about this article, please contact our office by phone at 202-317-6897 or eFax at 855-814-1722.

⁷ Copies of both decisions are [publicly available](#) on irs.gov. They can be located by the complaint number.