



Ethics & Circular 230

A taxpayer comes into the office and is told that the initial fee to resolve a tax issue is \$100. The taxpayer signs a form, hands the practitioner the money and leaves. When the practitioner goes to put the money away, she notices that there are two \$100 bills stuck together.

Must she share the extra money with her partners in the firm?

Ethics – Helps You to Sleep Well at Night

- Aristotle/Plato - Ethics is all about Achieving Happiness
- The Renaissance Philosophers – Stateless Anarchy vs Civil Rights
- Utilitarianism – The Welfare of All
- Existentialists – Strive to be Responsible
- Modern Moralists – Business Ethics in a Conscience-Focused Marketplace



Business Ethics

- The behavioral actions of a business
- Interactions with
 - Employees
 - Clients
 - Vendors
 - The Environment
 - The Media & General Public
- Your Business is fair, honorable, admired and appreciated



When the Examiner asks...

“Are you aware of any other errors?”

- You must fully disclose
- Document other errors and advisory opinions
- Include consequences of inactions
- A tax practitioner cannot close eyes on IRS Errors
 - Computational – must be corrected*
 - RO incorrectly summed a column of numbers
 - Clerical – must be disclosed*
 - The IRS sent a refund check for too much money
 - Conceptual
 - Incorrect Logic or mis-applied knowledge
- * If the taxpayer refuses to comply, terminate the engagement



Circular 230 Ethics

- The Tax Return is sustained on its own merits
- Frivolous Positions are prohibited
- §10.27 Unconscionable Fees
- §10.29 Conflict of Interest
- False & Misleading Statements
- Abusive Language
- Threatening Behaviors
- Willful Misconduct



Circular 230 Timeline

- 1884 – 31 USC §330(a)(1) regulates the practice of representatives
- 1913 – 16th Amendment
- 1921 – First Published as Treasury Department Circular 230
- 1953 – Imposes admission requirements
- 2005 – Last Serious Amendments – Written Advice, (aka the e-mail panic)
- 2011 – Modified for Registered Tax Return Preparers, §10.3 to §10.6
- 2013 – Loving Decision changed the scope of OPR's Authority
- 2014 – Most recent revision - Written Advice & Covered Opinions
- Since 2014 – No changes



Circular 230 Needs Updates

- 10.21 Knowledge of Client's Omission
 - Tax law changes after the work is completed
- 10.22 Diligence as to Accuracy
 - Social Media
- 10.28 Client Records
 - E-file and digital documents



Circular 230 is Outdated

- 10.29 Conflicting Interests
 - Minority partners' interests
- 10.37 Written Advice
 - Texts & Emails
 - Social Media
- Overall Shortcomings
 - Data Protection
 - Record Retention



31 USC §330

The Secretary of the Treasury may regulate the practice of representatives of persons before the Department. Representatives are required to demonstrate good character, good reputation, necessary qualifications, and competency.

Circular 230 is from Title 31 of the US Code, The Money & Banking Section. The Tax Code is Title 26.)



What's “Practice” Before the IRS, p2 & 3

- Not tax preparation
- Matters administered by the IRS
- Representing the non-compliant
 - The non-filers & stop-filers
 - Collections
 - Audit & Exams
 - Appeals
- Representing the Compliant
 - Advocating a tax position
 - Written Advice
 - Communications include phone conversations, emails and texts
 - CPA – Consulting, Planning & Advising



Practitioners

- Agree to adhere to C230 & therefore subject to Circular 230
 - All EA's
 - Anyone submitting Form 2848
- Liable for violations
- Must exercise Due Diligence
- *Ridgely v Lew*, 7/16/14, US District Court for DC



Tax Practitioner Ethical Items

- Responsibilities
- Best Practices
- Tax Preparation Standards
- Duties & Restrictions
- Taxpayer Omissions, Errors & non-Compliance
- Preparer Due Diligence
- Conflicts of Interest
- Solicitations
- Regulation Violations



Practitioner Scope of Responsibilities

- Limits of the Unenrolled
 - Tax Return Preparation
 - Filing Claims for Refunds
 - Preparing documents as requested by the IRS
 - Prohibited from Representation
- Annual Filing Season Program Preparers
 - Audit Representation, since 2016
 - Taxpayer must be present
 - Annual Filing Season Program Preparer must have signed the return
 - IRS Rev Proc 2014-42



Unenrolled Practitioners

- Including Annual Filing Season Program Preparers
- Prohibited from Representation
 - Of Appeals
 - Before Revenue Officers
 - In Matters of Collection



Chief Counsel Notice CC-2017-007, Communications with Unenrolled Return Preparers in Docketed Tax Court Cases, April 18, 2017

- Supplements CC-2014-003, Communications with Pro Se Petitioners and Form 2848 Representative in Tax Court Litigation, May 15, 2014
 - Chief Counsel Attorneys are encouraged to interact to the maximum extent possible
- Taxpayer Representatives may provide information to develop the facts of the case and to facilitate the proceeding in the presence of the petitioner
- Without Tax Court Authorization, a tax representative
 - Cannot negotiate
 - Cannot sign any documents
 - Cannot participate in a Branerton conference

Branerton Conference, US Tax Court Guidelines

- IRM 35.4.6.4.2, Stipulation of Facts and Formal Discovery
- Branerton Corp v. Commissioner, 61 TC 691, (1974)
- In-person meeting with petitioner & IRS counsel
- Trial preparation activities
- Serve notices to appear
- Create a plan of presentation
- Proceedings communications with the Court



Practice Before the IRS

- Integrity → Honesty & Candor
- The IRS assumes that a practitioner can be trusted
- The IRS assumes that the practitioner is skilled
 - Thus, Reasonable Basis
 - Technology skills



Hardship is More than an Inconvenience

- Family death
- Incarceration
- Inability to get records
- Fires, Floods & Disasters
- Combat Zone
- Addictions
- Mental Illness
- Medical Disabilities
- Unexpected Hospitalization
- Divorce, maybe



§10.33 Best Practices, p3

- Client Communications
- Establishing Facts
- Providing Sage Advice
- Practice Before the IRS



Communicating with Clients, p3

- Engagement Agreement
 - Client must know
 - Where they stand
 - What to expect from the IRS
 - What to expect of the tax representation services for which they've paid
 - The practitioner must know the purpose of the Client's engagement
- Delineate the Deliverables
 - Must be easily identified by both parties



The Written Advice Engagement Letter

- An agreement about the scope of work, the fee and terms of service
- Defines the professional relationship
- Perceived as a malpractice defense
- Delineate what services will NOT be provided
- Include
 - Dispute resolution provisions
 - Filing an extension
 - Audit disclaimer
 - Data retention policy
 - FBAR Compliance
 - Existence of Crypto
 - Contemporaneous Records



This letter confirms the terms of your tax engagement and outlines the services that will be provided.

Our Business will

- prepare your federal and state income tax returns
- depend on you to provide the information needed to prepare complete and accurate returns
- ask for clarification of some items but will not audit or verify the data you submit
- provide a checklist to help you collect the data required for your return
- help you avoid overlooking important information
- keep the information you provide confidential
- restrict access to your information
- maintain physical, electronic and procedural safeguards to protect your information
- perform accounting services only as needed to prepare your tax returns
- retain copies of your records and the tax return is retained electronically for seven years

Our business will not include procedures to find defalcations or other irregularities. This engagement should not be relied upon to disclose errors, fraud, or other illegal acts. You will be informed of any material errors, fraud, or other illegal acts that is discovered.

The law imposes penalties when taxpayers underestimate their tax liability. Please contact me if you have concerns about such penalties.

Should instances of unclear tax law, or of potential conflicts in the interpretation of the law arise, reasonable courses of action and the risks and consequences of each will be outlined.

The fee is based upon the complexity of the return and is agreed upon in advance of any work. The number of hours it will take to complete the return is not guaranteed but the hourly rate is \$_____ / hour.

If complications are discovered in the process of preparing your tax return, the fee may need to be adjusted. You will be contacted if the fee is revised. Invoices are due and payable upon presentation. To the extent permitted by state law, an interest charge may be added to all accounts not paid within forty-five (45) days.

Your original records are returned to you at the end of this engagement. You should securely store these records, along with all supporting documents, canceled checks, etc., as these items may later be needed to prove accuracy and completeness of a return.

If your tax return is selected for audit by the IRS or by the state tax authorities, services are available to represent you or to prepare materials for a response to the correspondence. An additional cost is assessed for this work

Please promptly contact this business if you receive any letters from the IRS or any other tax agency. Corrections are made at no additional fee and penalties paid, if the business is at fault. The business is not responsible for any additional taxes owed.

The engagement tax preparation concludes with the delivery of the completed returns to you (if paper-filing), or your signature and our subsequent submittal of your tax return (if e-filing). If an e-file attempt is unsuccessful, you will be informed within 72 hours and will be responsible to file by paper with the appropriate taxing authorities. Our assistance is available.

Review all tax-return documents carefully before signing them.

This letter can apply to future years of tax preparation services unless the agreement is terminated or amended in writing.

To affirm that this letter correctly summarizes your understanding of the arrangements for this work, please sign the enclosed copy of this letter in the space indicated and return it to me in the envelope provided, or electronically.

I appreciate your confidence in me. Please call if you have any questions.

Thank you,

I M Knotacrook, tax preparer

Tax Preparation > Data Entry

- Head of Household – TCJA requirements
- Dependent Children – 7M children disappeared from tax returns after 1986
- EITC – 25% error rate
- Business Activity – 21M Schedule C's
- No bank records
- Rounded numbers
- Same amounts as last year
- They ask, “Will I get audited?”
- Schedule C loss reduces wage income



The April 10th New Client

- High Wage W-2, \$350,000
- Schedule C filer, Consulting - \$3,000 income
- Schedule C expenses, (SALY)
 - Rent 2,400
 - Cell phone \$1,200
 - License & Dues \$400
 - Office Supplies \$150
 - Auto Mileage 2,500
 - Meals \$700
 - Computer \$1,000



Establishing Facts: What gets Discarded

- What my whomever said
- The Excuse of COVID
- The Apology Discount
- I didn't know that was income, (or not a deduction)
- I don't have this kind of money
 - After I pay for rent, the car and food, there is nothing left
 - I need this money to pay for the wedding
- It was the prior preparer's fault



IRS Examination Issues

- IRM 4.10.3.5.3.1 – Reconcile assets on the tax return with what is present
- IRM 4.10.3.5.5.1.1 – Determine exclusive use of the business in the home
- Analysis of Income and Expenses, ATG Activities Not Engaged In For Profit, Publication 5558, page 59 – compares/trends six years
- To develop a potential fraud case, ATG Activities Not Engaged In For Profit, Publication 5558, page 56, the examiner should interview the tax preparer about the workpapers and records that were used to prepare the return



Dismantling Cohan v IRS 2nd Circuit, 1930

- WWI Entertainment Legend with no books and a few receipts
- Claimed large deductions for travel, meals and entertainment
- The Court justifies estimates
- Inexactitude is no longer a tax deduction
 - Fuhrman v IRS, TC Memo 2011-236 – A non-contemporaneous analysis was disallowed. Understatement penalties were assessed
 - Franklin v IRS, TC Memo 2020-127 – could not distinguish between personal and business. All expenses were disallowed
 - Swyers v IRS, TC Memo 2021-40 – Deductions are not allowed without adequate records. Understatement penalties were assessed



Establishing the Facts, §162, p3

- Deductions allowed ordinary & necessary expenses when carrying out a business or trade
- No Business Deductions
 - Lobbying the Public
 - Influencing Legislation
 - Dues to non-profits that lobby
 - Fines & Penalties
 - Treble Damages from an Anti-Trust Lawsuit
 - Foreign Broadcasts
 - Repurchase of Stock
 - Certain Highly Compensated Employees



Establishing the Facts, §212

- Deductions for the Production of Income
- Ordinary & Necessary Expenses are Allowed



Establishing Facts - §274

- Disallowance of Expenses
 - §274(a)(1)(A) - Any activity that's entertainment, amusement or recreation
 - §274(a)(1)(B) - The expense of the facility where the activity took place
 - §274(a)(2)(A) - Dues to any such activity
 - §274(a)(3) - Dues to any club organized solely for a social purpose
 - §274(a)(4) - Qualified Transportation Fringe Benefits
 - §274(b)(1) - Business Gifts have a \$25 deduction limit
- §274(d) – Substantiation Required
 - No deduction or credit without adequate records that corroborate the amount, time, place, date, description and business purpose for meals, use of personal property & gifts



Charitable Contribution Deduction, §170

- No Deduction is allowed under this subsection, unless
 - A cancelled check is retained with other reliable evidence
 - All non cash gifts require a receipt from the donee
 - Contribution of \$250 or more
 - Substantiated by contemporaneous written acknowledgement by the donee
 - A cancelled check is insufficient by itself
 - Non cash gifts over \$500 require additional detail on Form 8283
 - Gifts over \$5,000 require a qualified appraisal



§10.37 Written Advice ::= Federal Tax Matter

- Covered Opinion Rules Eliminated in 2014 changes
- No Written Advice Opt-out
- Email, Texts, Conversations and formal documents are tax advice
- Social Media posts are tax advice
- Non-Practitioners cannot provide tax advice
- Practitioners must
 - Base the advice on facts and reasonable assumptions
 - Exert reasonable effort to obtain the facts
 - The audit lottery is prohibited, but the hazards of a settlement is allowed
 - Never relay on unreasonable statements – appraisals, findings or forecasts



The Outdated & Overstated Disclosure

Hi John,

Can't make the game. Sorry. Hope you will have enough players tonight.

-Lizzy

IRS Circular 230 Disclosure:

Any federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of avoiding penalties that may be imposed under the Internal Revenue Code or for promoting, marketing, or recommending to another party any transaction or matter addressed herein.

Any federal tax advice contained in this communication (including any attachments or enclosures) is not intended or written to be used, and cannot be used, for the purpose of avoiding penalties that may be imposed under the Internal Revenue Code. This advice was written to support the promotion or marketing of the transaction addressed herein. Each taxpayer should seek advice based on the taxpayer's particular circumstances from an independent tax advisor.

There may be instances when the requested written advice will need to meet strict compliance requirements imposed by Circular 230. If our clients would like to proceed with such, our firm will undertake extensive factual due diligence inquiries and evaluations prior to issuing such written tax advice.

The Email Disclosure Rule, since 2014

- Unrestrained disclaimers on every practitioner communication render the disclaimer useless
- The presence of a Circular 230 disclaimer does not protect the message and messenger from tax penalties and prosecution
- Written advice standards apply to tax advice with and without a Circular 230 disclaimer
- Tax Advice is a formal document and informal emails, phone conversations, and text messaging





§10.34(c) – Advising Clients About Penalties, p6

- A practitioner must inform the client of any penalties that are likely to apply with respect to a position on a tax return if the practitioner prepare or signed the tax return
 - IRC §6651 – Late File & Late Pay
 - IRC §6654 – Underpayment of Estimated Tax or Lack of Proper Withholding
- The Tax Practitioner must inform the client of any opportunity to avoid such penalties
- No willful blindness



§10.30 Solicitations, p8

- A copy must be retained for at least 36 months after the last distribution
 - This is your pre-season client communication
 - Website and Social Media Solicitation – Take Screen Shots
 - Retain the audio/video recording
- If a third party source posts inaccurate information, the practitioner must publish a retraction/correction

Marketing the CAN-SPAM Act of 2003, (Controlling the Assault of Non-Solicited Pornography and Marketing Act)



- Commercial Electronic Mail Messaging Standards
- Subject to FTC Regulations & Enforcement
- The message
 - Must provide the recipient a opt-out
 - Must provide the sender's physical location; PO Boxes are ok
 - Must have an honest and sincere subject line
 - Must identify itself as a solicitation
 - Must include an accurate From: address
- Transactional and Relationship Correspondence are exempt



§10.27 Fees, p9

- Your average fee is \$350 for a very simple return
- The Estate of Jefferson Washington, IV comes to your office on April 20th
- You charge them \$5,000
- Itemize the bill; Include Hours of Effort
- Receive a signed engagement letter



Bob Archibald – page 10

- Blankets the local area with fee list
- Lowest Fees*
- Guaranteed Refunds
- Makes an arrangement
 - Issues a 250 Member Club finder's fee
 - Effective immediately a 15% price increase
- Adds a \$50 charge for an EITC return

- * Additional fees might apply



Shirley Connor, p11

- Strives to deliver an added value tax experience to every client
 - Augmented with legal experiences
 - Explains how the advantages of an Irrevocable Trust
 - Offers to draft a trust at a reduced fee
-
- A Legal Zoom login session is the practice of law

Rhode Island Supreme Court Decision

- Acting as an attorney before a court
- Preparation for a court proceeding
- Advice pertaining to a legal matter
- Preparation of a will, corporate organization, and anything else that requires a legal knowledge and is usually prepared by an attorney
- Unauthorized practice of law is a criminal offense



Patterns Matter: James Canfield, age 72 → Eight Months in Prison

- Owner of Advanced Accounting Concepts in WI
- Fined in 2012 for the same behaviors & fined before that
- Fabricated Business Expenses, 2013 to 2018
- Exaggerated Deductions
- 100% Allowance for Business Use of the Home
- Never profited from false tax entries
- Relied on favorable client recommendations
- Investigated by CI



Practitioner's Due Diligence Check List

- Where is this client located?
- What is the client asking for help?
- Why are they asking for help?
- Are there records and receipts?
- What could possibly go wrong?
 - Have a handy referral list
- Two Tiered Billing
 - Initial fee
 - Define the tax issue
 - Identify the tax resolution
 - Write an Engagement Letter
 - Second Fee
 - Execute the Engagement Letter



§10.35 A practitioner must possess the necessary competence to engage in practice before the IRS.

- The practitioner must
 - Consult with experts
 - Study the relevant law
- For the matter in which the practitioner is engaged, the practitioner must exercise the appropriate
 - Knowledge
 - Skills – includes technology
 - Thoroughness
 - Preparation



IRM 25.1 The Fraud Handbook

- Indicators of Fraud → Badges
 - Two sets of books
 - Understatement/Omission of Income
 - Inadequate Records
 - Improper Deductions/Credits
 - Lying
 - Concealment of illegal activities
 - Destroyed and Phony Records
- IRC §6663: 75% Fraud Penalty



§10.22 Due Diligence


- Tax Preparation & Filing
 - Accuracy
 - Reasonable Basis
- All statements with regards to IRS matters
 - Delivered to IRS
 - Delivered to taxpayer
- With CI & OPR, patterns matter
 - Frivolity
 - Delaying Tactics
 - Disregard of Rules & Regulations



Requirement for Accuracy, p14

- Interview the taxpayer
- Ask Questions
- Contemporaneously document the responses on the return or in notes
- Review the taxpayer's qualifications to claim credits and filing status
- Keep for three years
 - Form 8867
 - Substantiating documents
 - Notes
 - Worksheets
- The tax preparer must neither know or have reason to believe that there is fraud



A light gray map of New England, showing the outlines of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut. The map is positioned on the left side of the slide, with the text 'NEW ENGLAND TAX SCHOOL FOR PRACTITIONERS' overlaid on it.

NEW ENGLAND TAX SCHOOL FOR PRACTITIONERS


Harry Barnes, p 14 & 15

- Taxpayer files an EITC claim
- Schedule C Expenses are extraordinary
- Investment income similar to prior years disappeared
- Harry is the tax preparer. He knows this is wrong.
- Harry asks, “Is the information provided complete and accurate?”

§10.28 Client Records, p15

- At the request of the client all records must be promptly returned
 - The records that are necessary for the taxpayer to comply
 - Records include electronic communications



A light gray map of New England, showing the outlines of the states and the Atlantic coastline. The text is overlaid on the map.

NEW ENGLAND
TAX SCHOOL
FOR
PRACTITIONERS

Sue Willoughby, p16

- Sue charges a \$200 fee
- The taxpayer refuses to pay
- Sue refuses to file the return and refuses to surrender records
- The taxpayer complains to the IRS

- Sue must provide the client records and access to all records

§10.29 Conflict of Interest

- The actions or advice benefits one person to the detriment of another
- Bob Brown, p16
 - Sarah & Bill are divorcing taxpayers
 - She wants to file separately
 - Bob believes he can be fair to each taxpayer and follow the right procedures
 - He must retain the signed consents for 36 months



Censured for Conflict of Interest, IR-2018-154

- Client retains practitioner to take specific actions as required by a settlement agreement with a third party
- Practitioner provides misleading information to the third party
- The third party proceeded with actions based upon false facts
- July 25, 2018



IRC §7216 – Disclosure & Use of Tax Information

- What about AI?
- Consent is not required when information
 - Disclosed to the IRS
 - Disclosed to other preparers that assist in tax preparation
 - Creates solicitation lists for the tax preparation business
 - Summarized for data analytics that suppress personally identifiable details
- Consent to Use
 - Marketing based on tax profile
 - Mortgages
 - IRA's
 - 1099-NEC service
- Annual Limitations
- IRS Pubs 4299 & 5471



Confidentiality

- IRC §7216 & IRS Rev Proc 2013-14 – A taxpayer must sign a consent form to disclose or use tax return information in providing services other than tax return preparation.
 - Home Financing, Law Suits & Divorce Settlements
- IRC §7525 – Confidentiality Privileges Relating to Taxpayer Communications
 - The same common law protections which apply between a taxpayer and attorney
- Celebratory Brags on Social Media
- Ethical Obligations apply to all forms of Social Media



Filing Jointly → Filing Separately

- Joint filers may not amend to filing separately, after the filing due date
- Married Taxpayers can NOT file HOH using two addresses
- Jack & Diane
 - Jointly File a large balance due return in early February
 - In mid-March
 - Diane wants her share of the refund
 - None of the balance due has been paid
- What is conflict of interest ?
- What is disclosure ?
- What is Ethical ?



§10.35 Competency

- Knowing when to dig further
- The Practitioner is not absolved from the work of others
- The reliance must
 - Be based on all pertinent and related facts and circumstances
 - Not be based on unreasonable factual or legal assumptions
- Tax Shelters must be greater than a 50% likelihood of being upheld



Why is Ethics Hard?

- Unawareness: It's what we don't know that we don't know that will get us in trouble. – Karen Hawkins
- Expansion of Scope
- Money
- Time
- Clients
- I want people to like me; I don't want to be the “bad” guy



Disreputable Conduct

- Giving or participating with false or misleading information
- Conviction of any felony for which the conduct involved renders the practitioner unfit to practice before the IRS
- Some Drug Violations and Driving While Intoxicated are MA felonies



Anthony Sharper CPA, Charlotte, NC

- Over a three year period, embezzled \$239,000 from school booster club
- Failed to report funds on 2018 & 2019 tax returns
- Submitted two fraudulent PPP and a false EIDL applications to cover up the theft
- Wire Fraud
- False Statements to a financial institution
- Tax Fraud
- 30 months in prison & \$310,000 in restitution
- Wife sentenced to 21 months & \$240,000 in restitution



The OPR Process

- A determination is made to investigate a violation
- The Practitioner is Notified
- A resolution is negotiated
- A Complaint is referred to the Office of Chief Counsel
- The Practitioner is Notified
- A Hearing is Conducted before an Administrative Law Judge
- An Appeal of the Decision
- A Court Case is Filed with District Court



The Administrative Law Judge

- Created in 1946 to assure fairness within federal agency administrative proceedings
- ALJ presides over the hearing
 - Receives oaths, testimony & evidence



Jarksey v SEC, 20-61007, 5th Cir May 18, 0222

Remove the In-house Court Systems

- Mirrors US Supreme Court - SEC v Cochran & Axon Enterprise v FTC, 21-1239
- Congress unconstitutionally delegated legislative and judicial powers to the executive branch, (Securities Exchange Commission)
- Administrative Law Judges deprive the petitioner of the right to a jury of their peers
- More than OPR & SEC: Almost 2,000 ALJ's adjudicate social security disputes
- Going to the Supreme Court



George Jarksey, Houston, TX

- Patriot28 - Hedge Fund investment advisor
- Jarksey is a conservative radio talk show personality
- ALJ finding - \$300,000 penalty for common law fraud
- Americans deserve their day in court before a real judge
- 13 Circuits of District Courts & US courts of Appeals
- Fifth Circuit – TX, LA & MS
- First Circuit – MA, ME, NH & RI
- Second Circuit – VT, CT & NY



Dr Kevin Crandell, MS ER Surgeon Fifth Circuit Court of Appeals, 22-60350, 6/29/23

- Independent Contractor for several hospitals, (1099-Misc)
- Paid no income taxes between 2006 & 2012
- Assessed a \$1M tax balance
- Sentenced to 33 months in prison for tax evasion
- Blamed Blue Tax, his tax representative since 2010
- Crandell was slow to get back to Blue Tax
- Blue Tax misplaced finalized returns
- Filed no tax returns since 2014



Dr Crandell, the Fraudulent Form 433-A

- Income diverted to shell corporations
 - Kevin Crandell, MD Inc & CHBK, Inc
 - Distributions were loans
- Omitted assets & bank accounts
 - e.g. \$50,000 gun collection
- Suppressed 2014 wages to manipulate pay stubs
- Monthly Income
 - Directed Blue Tax to use revised pay stubs
 - Claimed \$12,000 per month of income on form 433-A
 - Monthly expenses exceeded 433-A income by \$350
 - Claimed \$22,000 per month on a credit application at the same time



Tax Preparer Penalties

- §6694 – Understatement of Tax, the tax preparer knew or should have known
- §6701 – Aiding & Abetting an Understatement
- §6700 – Abusive Tax Shelters
- §6695 – The \$545's
 - Failure to sign a return
 - Failure to give the taxpayer a copy
 - Failure to provide PTIN
 - Failure to keep a three year client list



All Practitioners Involved Are Responsible

- The practitioner will be disciplined, if
 - Willful
 - Negligent
 - Reckless
 - Grossly Incompetent
- Responsibilities
 - Staff Training
 - Employee Actions
 - Adherence to Compliance



Degrees of Sanctions, p19

- Censure
 - Least punitive
 - Public Reprimand
 - Practitioner retains the ability to represent taxpayers
- Suspension
 - Temporary banished from practice before the IRS
 - Effective immediately
 - Can be indefinite
- Disbarment
 - Ineligible to practice before the IRS
 - May apply for reinstatement



OPR, Office of Professional Responsibility

- Functions outside Title 26; Subject to Title 31
- Reports to US Attorney General, not IRS Commissioner
- Applies the regulations that govern practice before the IRS
- Exclusive responsibility for practitioner conduct
- A practitioner resource

Sharyn Fisk, Director

Internal Revenue Service
Office of Professional Responsibility
SE:OPR, Room 7238/IR
1111 Constitution Avenue NW
Washington, DC 20224
[855-814-1722](tel:855-814-1722), (Efax)



§10.51 Incompetence & Disreputable Conduct, p21

- Conviction of any criminal offense for dishonesty or breach of trust
- Convicted of a federal criminal offense
 - Three types of federal criminal offenses; Felonies, misdemeanors & infractions

Mail Fraud	Bank Robbery	Kidnapping
Identity Theft	Carjacking	Lynching
Hate Crimes	Child Pornography	Civil Rights violations
Animal Cruelty	Credit Card Fraud	Public Corruption
Counterfeiting	Tax Evasion	Drug Trafficking
Interstate Commerce	Art Theft from a Museum	Money Laundering
Airport misbehaviors	Acts on Federal properties	Firearm Violations

Suspended/Disbarred Practitioner Allowed Activities

- Tax preparation may continue
 - A timely original return
 - Preparing other documents pertaining to a taxpayer's liability is disallowed
- Represent oneself or a trust/estate as trustee
- Appear as a Witness
- Furnish information at the request of the IRS
- Receive Taxpayer Information on form 8821



Suspended/Disbarred Practitioner Disallowed Activities

- File Powers of Attorney with the IRS
- Prepare Documents or Communicate with the IRS
- Assist another person who is practicing before the IRS
- Represent a Client at Conferences or Hearings
- Render Written Advice



2022 OPR Case Dispositions

- Disbarments – 0
- Suspensions – 46
- Censures – 0
- Soft Letter Reprimands – 34
- Cease & Desists – 21
- Reinstatement Requests – 15
- Appeal Requests – 10
- Closed without Action – 1,849



Former CPA & Former Attorney Charles Edgar of Chatham, MA Barred from Practice Before the IRS

- CPA License revoked for mail fraud and false statements on claims for disability benefits in 1995
- Petition for Reinstatement was denied in 2001
- In 2011, he files two form 2848 claiming that MA is his licensing jurisdiction as a CPA
- Disbarred in 2014 for a minimum of five years



Anthony Tiongson, CA CPA Disbarred

- Charging Contingent and Unconscionable Fees is incompetent and disreputable conduct
- Filing a False Tax Return is Disreputable Conduct
 - Frivolous Positions taken over a 5 year span of time
 - 52 tax returns with CA sourced income reported on form 2555
 - Obstructed IRS Examination and Collection Activities
- Lied to CA Board of Accountancy
- Violated Circular 230, §10.20 Information to be Furnished to the IRS
 - Where the requested records are not in the possession of the practitioner, the practitioner must promptly notify the IRS officer....
- Submitted form 2848 with unauthorized second names
- Minimum Five Year Disbarment



Lynettia Profit of Houston

- Deducted Preparation Fees from Client Refunds
- Agreed to \$336,847 in restitution
- False Schedule C losses and education credits
- Sentencing in January 2024
- Possible \$250,000 fine and three years in prison



The Client Cleanup, IRM 11.3.13.

<Letterhead>

<Date>

IRS CAF Disclosure Manager

RE: CAF77 Request

The Freedom of Information Act allows me request a copy of the CAF Representative/Client Listing. I do not wish to inspect the documents first.

In order to determine my status for the applicability of fees, you should know that I am an “Other” requester seeking information for non-commercial or personal use. I am a tax professional and my **CAF number is xxxx-xxxxR.**

Included is a current government issued photo identification which includes my signature as proof of identity.

Please send this listing as a paper document. I am willing to pay copying fees for this request up to a maximum of \$25. If you estimate that the fees will exceed this limit, please contact me prior to completing my request.

Thank you for your consideration of this request.

Sincerely,

Where to Submit the CAF 77 Request

Internal Revenue Service
GLDS Support Services
Stop 93A
Post Office Box 621506
Atlanta, GA 30362

Fax 877-891-6035



Due Diligence: Safeguarding Client Data

- Passwords – There is STRENGTH in LENGTH
- Millisecond Cracking
 - Five digit number
 - Seven lower case alpha characters
- Centuries to Crack
 - Twelve lowers case alpha character
 - 5~0rdf15Hc@ndY, P@55~0rD@pp13
- Signs of Trouble
 - Unfamiliar messages in sent folder
 - Multiple failed delivery emails
 - Contacts tell you they are getting spam from you



Password Strength Fades in Time

- The unchanged password that takes four years to crack today will take 4 months to crack in 15 years
- Change your passwords
- Computer Security Resource Center
- National CyberSecurity Center for Excellence
- National Institute of Standards and Technology
- CSRC.NIST.gov



Most Common Passwords

- 123456
- 12345678
- abc123
- password
- qwerty
- football
- baseball
- welcome
- dragon
- master
- monkey
- letmein
- login
- princess
- batman
- starwars
- michael