



Circular 230 We Are In This Together

IRS Nationwide

2008

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Scenario 1

- While assisting Client in preparing her tax return, Practitioner A discovers a major error on last year's return, which Practitioner A did not help prepare. As a result, Client received an extra \$400 refund. Practitioner A advises her that she should file an amended return, repay the excess refund, and correct the error. Client says "Forget it, that was last year."
- Assume the same facts, but that Practitioner A did assist Client last year. Obviously pleased with Practitioner A's efforts, she indicates she will not correct last year's return and wants Practitioner A's "expert" assistance again this year.

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Scenario 2

- Practitioner B was suspended from practice for 9 months for conduct that violated Circular 230.
- Three weeks later, Practitioner B submits a Power of Attorney to the IRS. Revenue Agent checks Practitioner B's status, rejects the Power of Attorney, and notifies OPR.
- Four months later, one of the prior year tax returns Practitioner B prepared is selected for audit. Practitioner B submits a Power of Attorney citing category "H" on the Form 2848 – limited practice.
- Nine months after being suspended, Practitioner B asks to be reinstated by OPR.

Scenario 3

- Practitioner C, a good friend of the owner of Anytown Realtors, prepares many of the tax returns of the realtors working there. She knows realtors drive many miles for business each year.
- The owner's sister-in-law joined Anytown Realtors last year and even attended one of Practitioner C's lectures on documents needed to prepare a tax return.
- When the sister-in-law submitted her documents for preparing her tax return, she asked Practitioner C to claim 30,000 business miles and \$4,500 in business meals. She provided no mileage log, receipts or documentation.
- Practitioner C is concerned and asks the owner whether she should claim the 30,000 miles and \$4,500 business meals even though there is no documentation.

Scenario 4

- A return Practitioner D prepared last year is being audited. The IRS, in addition to making a sizable adjustment increasing the tax owed, is considering assessing a tax penalty against Practitioner D.
- A colleague of Practitioner D asks whether Practitioner D can continue to represent the taxpayer being audited now that a tax penalty against Practitioner D is being considered.
- The colleague suggests Practitioner D has a conflict of interest and should cease representing the taxpayer.

Scenario 5

- Practitioner E prepares hundreds of individual tax returns each year. Feeling a need to give back to the community, Practitioner E prepares some returns for low income clients. Citing the client's inability to pay his fees up front, he offers to prepare the return for \$50 plus 15% of the refund amount.

Scenario 6

- Practitioner F prepares individual tax returns. Client asks Practitioner F to prepare his tax return. When Practitioner F is almost finished, Client remembers he needs to report the results of an “investment opportunity” he engaged in last year.
- Practitioner F and Client discuss how to report the results of this “investment opportunity” and disagree vehemently over the proper tax treatment.
- Client finally tells Practitioner F to just finish putting the numbers on the return but don’t file it. Practitioner F finishes preparing it as Client requested. Client pays, and Practitioner F delivers a paper copy of the return but refuses to sign it.

Scenario 7

- Practitioner G started preparing tax returns two years ago. This past year, Practitioner G also started a driveway resurfacing business.
- Business resurfacing driveways has been rather slow lately.
- Practitioner G decides to send a mass mailing about resurfacing driveways to his tax return preparation clients.

Scenario 8

- Practitioner H prepares Client's individual tax return. Client had sold several stocks during the year and was frustrated when Practitioner H explained the wash sale rules. For two stock sales, Client was missing documents to calculate and substantiate Client's basis. Practitioner H suspects these two stock sales will result in sizable capital gains. Client asks if Practitioner H knows how many tax returns the IRS audits each year and whether Client would be a likely candidate for an audit. Client also inquires whether the IRS would know Client's basis? The only items needed in order to e-file Client's return are the basis numbers for the two stock sales.
 - a. Suppose Client says "let's use \$X for the basis."
 - b. How do you answer the question regarding the audit lottery?

Scenario 9

- Client attended a seminar where he learned by starting a small business he could do the following to minimize federal taxes:
 - hire your minor children and pay them a wage rather than an allowance
 - deduct food and veterinary bills for the family dog since the dog provides security services,
 - Deduct vacations as business development trips,
 - Deduct weddings if you invite enough potential business clients, and
 - Deduct meals and housing for your employees (spouse and children), because you require them to live on the premises.
- Client brings Practitioner I the information to prepare his return, including an already completed Schedule C. The schedule C shows wages of \$10,000 paid to each of the children and spouse and expenses for dog food.

Scenario 10

- Your friend (a tax attorney) is going through a divorce. As part of the divorce proceedings, he and his spouse are in a dispute which has delayed his ability to file his own federal tax return. As a result, his return is now over 14 months late. Having just come back from the IRS Tax Forum, he asks you if there is any concern other than the monetary late filing penalty that he might incur for filing late.



How to Contact OPR

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