

2011 – Cir. 230 Revisions

- Expansion of Jurisdiction
- Division of Labor
- RPO = Processing
- OPR
 - Practice Standards Oversight
 - Independent Investigations
 - Propose Discipline
 - Administrative Hearings & Appeals

Return preparation and application of rules to other individuals – New §10.8(c)


- Any individual who for **compensation** prepares, or assists in the preparation of, **all or a substantial portion of a document** pertaining to any taxpayer's tax liability **for submission** to the Internal Revenue Service is **subject to** the duties and restrictions relating to practice in subpart B, as well as subject to the sanctions for violation of the regulations in subpart C. Unless otherwise a practitioner, however, an individual may not prepare, or assist in the preparation of, all or substantially all of a tax return or claim for refund, or sign tax returns and claims for refund.

Procedures to ensure compliance - §10.36

- New (b) Requirements for tax returns and other documents. Any practitioner who has (or practitioners who have or share) **principal authority and responsibility** for overseeing a firm's practice of preparing tax returns, claims for refunds, or other documents for submission to the Internal Revenue Service must take **reasonable steps** to ensure that the firm has adequate procedures in effect for all members, associates, and employees for purposes of **complying with Circular 230**. Any practitioner who has (or practitioners who have or share) this principal authority **will be subject to discipline for failing to comply** with the requirements of this paragraph if--

Procedures to ensure compliance (cont)

- (1) The practitioner through willfulness, recklessness, or gross incompetence does not take reasonable steps to ensure that the firm has adequate procedures to comply with Circular 230, and one or more individuals who are members of, associated with, or employed by, the firm are, or have, engaged in a pattern or practice, in connection with their practice with the firm, of failing to comply with Circular 230; or
- (2) The practitioner knows or should know that one or more individuals who are members of, associated with, or employed by, the firm are, or have, engaged in a pattern or practice, in connection with their practice with the firm, who does not comply with Circular 230, and the practitioner, through willfulness, recklessness, or gross incompetence fails to take prompt action to correct the noncompliance.



Standards for Tax Returns

Section 10.34(a)

- May not sign a tax return or advise a position on a tax return, willfully, recklessly, or through gross incompetence if:
 - Lacks reasonable basis
 - Unreasonable position (6694(a)(2))
 - Willful attempt to understate liability (6694(b)(2)(A))
 - Reckless, intentional disregard of rules and regulations (6694(b)(2)(B))
- Patterns matter

Standards for Documents and Other Papers- 10.34(b)

- May not advise taking Positions that are Frivolous.
- May not advise Submissions:
 - to delay or impede tax administration
 - that are frivolous
 - Containing or omitting information that demonstrates an intentional disregard of rules or regulations.

Penalties and Client Reliance- 10.34(c), (d)

- Must Advise Client of Potential Penalties and their Avoidance through Disclosure (10.34(c))
- Reliance on Client Information in good faith, without verification, is OK, but...
 - Cannot ignore implications of other information furnished
 - Cannot ignore actual knowledge
 - Must make reasonable inquiries for incorrect, inconsistent information (10.34(d))
- No Willful Blindness.
- No "Don't ask, don't tell".