

# **PART 3 - REPRESENTATION, PRACTICE, AND PROCEDURES**

## **Section 1: Practices and Procedures**

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### **1 Practice before the IRS**

- 1 What constitutes practice before the IRS
- 2 Categories of individuals who may practice and extent of practice privileges

### **2 Requirements for Enrolled Agents**

- 1 Information to be furnished to the IRS
- 2 Omission or error on return, document, or affidavit
- 3 Rules for employing or accepting assistance from former IRS employees or disbarred/suspended persons
- 4 Rules for restrictions on advertising, solicitation and fee information
- 5 Fee rules (e.g., contingent, unconscionable)
- 6 Due diligence requirements
- 7 Conflict of interest
- 8 Rules for refund check negotiation
- 9 Standards for written advice, covered opinions, tax return positions and preparing returns
- 10 CPE requirements
- 11 Tax shelters
- 12 Enrollment cycle and renewal
- 13 Rules for prompt disposition of matters before the IRS
- 14 Rules for returning a client's records and documents
- 15 PTIN requirements
- 16 Practitioner supervisory responsibilities (Circular 230 Section 10.36)

### **3 Sanctionable acts**

- 1 Disreputable conduct that may result in a disciplinary proceeding
- 2 Sanctions imposed by OPR
- 3 Frivolous submissions (returns and documents)
- 4 Fraudulent transactions (e.g., badges of fraud)

### **4 Rules and penalties**

- 1 Assessment and appeal procedures for preparer penalties
- 2 Types of penalties (e.g., negligence, substantial understatement, overvaluation)
- 3 Furnishing a copy of a return to a taxpayer
- 4 Signing returns and furnishing identifying numbers
- 5 Keeping copies or lists of returns prepared
- 6 Employees engaged or employed during a return period (e.g., Section 6060)
- 7 Preparer penalty involving the earned income credit

## **Section 2: Representation before the IRS**

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### **1 Power of attorney**

- 1 Purpose of power of attorney
- 2 Signature authority (e.g., extension of assessment period, closing agreement)
- 3 Authority granted by taxpayer
- 4 Prohibition for negotiating taxpayer refund check (e.g., cannot cash or deposit)
- 5 Limitations on signing tax returns on behalf of taxpayer

- 6 Proper completion of power of attorney (Form 2848)
- 7 Alternate forms of power of attorney (durable)
- 8 Rules for client privacy and consent to disclose
- 9 Distinctions between power of attorney (Form 2848) and tax information authorization (Form 8821)
- 10 Requirements to be met when changing or dropping representatives or withdrawal of representative
- 11 Purpose of a Centralized Authorization File number
- 12 Conference and practice requirements (Pub 216)

## **2 Building the taxpayer's case--Preliminary work**

- 1 Tax issue(s) identification with supporting details
- 2 Potential for criminal aspects
- 3 Competence, expertise and time to handle issue
- 4 Conflict of interest
- 5 Transcripts from IRS

## **3 Taxpayer financial situation**

- 1 Taxpayer's ability to pay the tax (e.g., installment agreements, offer in compromise)
- 2 General financial health (e.g., filed for bankruptcy, lawsuits, garnishments, cash flow and assets)
- 3 Third-party research (e.g., property assessment for municipal taxes, asset values, state and local tax information)
- 4 Discharge of the tax liability in bankruptcy
- 5 IRS Collection Financial Standards

## **4 Supporting documentation**

- 1 Financial documents (e.g., cancelled checks or equivalent, bank statements, credit card statements, receipts, brokerage records)
- 2 Legal documents (e.g., birth certificate, divorce decrees, lawsuit settlements)
- 3 Prior and subsequent tax returns
- 4 Other substantive and contemporaneous documentation (e.g., corporate minutes)
- 5 Employment reimbursement policies
- 6 Business entity supporting documents (e.g., partnership agreement, corporate bylaws)
- 7 Expense records (e.g., deductible, allowable, personal, mileage log)

## **5 Legal authority and references**

- 1 Internal Revenue Code
- 2 Treasury regulations
- 3 Revenue rulings
- 4 Revenue procedures
- 5 IRS notices
- 6 Case law
- 7 IRS publications
- 8 Private letter rulings
- 9 Forms and instructions
- 10 Internal Revenue Manual
- 11 Authoritative versus non-authoritative source material

## **6 Related issues**

- 1 Statute of limitations
- 2 Post-filing correspondence (e.g., math error notices, under reporting notices)
- 3 Deadlines and timeliness requirements
- 4 Third-party correspondence (e.g., witness communications, employment records)
- 5 Freedom of Information Act requests
- 6 Tax avoidance vs. tax evasion
- 7 Tax return disclosure statements
- 8 Taxpayer Advocate Service (e.g., criteria for requisition assistance)
- 9 Identity Theft  
Higher levels of representation beyond the scope of EA representation (e.g., tax court, U.S. District Courts and U.S. Claims Court, U.S. Courts of Appeals and U.S. Supreme Court)
- 10 Court)

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## **Section 3: Specific Types of Representation**

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### **1 Representing a taxpayer in the collection process**

- 1 Extension of time to pay (e.g., Form 1127-A)
- 2 Installment agreements
- 3 Offer in compromise (e.g., doubt as to liability, collectability or effective tax administration)
- 4 Collection appeals program (e.g., denial of installment agreements, discharge applications)
- 5 Collection appeals and due process (e.g., lien and levy)
- 6 Adjustments to the taxpayer's account (e.g., abatements)
- 7 Requesting an audit reconsideration (e.g., documents and forms)
- 8 Decedent Issues
- 9 Collection notice and Notice of Federal Tax Lien
- 10 Levy and seizure of taxpayer's property
- 11 Case being reported Currently Not Collectable (e.g., reasons and reactivation)
- 12 IRS Collection Summons (e.g., purposes)
- 13 Collections statute of limitations
- 14 Trust fund recovery penalty

### **2 Penalties and/or interest abatement**

- 1 Penalties subject to abatement
- 2 Basis for having penalties abated or refunded
- 3 Reasonable cause
- 4 Basis for having interest abated or refunded
- 5 Interest recalculation

### **3 Representing a taxpayer in audits/examinations**

- 1 IRS authority to investigate
- 2 Verification and substantiation of entries on the return
- 3 IRS authority to fix time and place of investigation
- 4 Steps in the process (e.g., initial meeting, submission of IRS requested information)
- 5 Innocent spouse
- 6 Interpretation of revenue agent report (RAR) (e.g., 30-day letter)
- 7 Explanations of taxpayer options (e.g., agree or appeal)

- 8 Special procedures for partnership audits (e.g., unified audit procedures for TEFRA)

#### **4 Representing a taxpayer before appeals**

- 1 Right to appeal revenue agent findings
- 2 Request for appeals consideration (e.g., preparation, elements contained)
- 3 Enrolled Agent appearance at appeals conference
- 4 Settlement function of the appeals process
- 5 Issuance of 90-day letter

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### **Section 4: Completion of the Filing Process**

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#### **1 Accuracy**

- 1 Use of software (e.g., review of results)
- 2 Inconsistencies within the source data
- 3 Miscalculations
- 4 Recognition of duplicate entries

#### **2 Information shared with taxpayer**

- 1 Record-keeping requirements
- 2 Significance of signature (e.g., joint and several liability, penalty of perjury)
- 3 Consequences of dishonesty

#### **3 Record maintenance**

- 1 Length of time to retain returns and records
- 2 List of returns prepared (e.g., name, social security number, and type of return)
- 3 EITC due diligence requirements

#### **4 Electronic filing**

- 1 Application process to be an e-file provider (e.g., e-services, EFIN)
- 2 E-file mandate
- 3 Advertising standards
- 4 Definition and responsibilities of an ERO
- 5 Levels of infractions
- 6 Compliance requirements to continue in program (e.g., timely filing, timely payment, and absence of infractions)
- 7 Appeal process
- 8 E-file authorization and supporting documentation (e.g., Forms 8879 and 8453)
- 9 Rejected returns and resolution (e.g., client notification)