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CHAPTER 1
INTRODUCTION TO TAX PRACTICE AND ETHICS

DISCUSSION QUESTIONS

1-1. In the United States, the tax system is an outgrowth of the following five disciplines: law, accounting, economics, political science, and sociology. The environment for the tax system is provided by the principles of economics, sociology, and political science, while the legal and accounting fields are responsible for the system's interpretation and application.

Each of these disciplines affects this country's tax system in a unique way. Economists address such issues as how proposed tax legislation will affect the rate of inflation or economic growth. Measurement of the social equity of a tax and determining whether a tax system discriminates against certain taxpayers are issues that are examined by sociologists and political scientists. Finally, attorneys are responsible for the interpretation of the taxation statutes, and accountants ensure that these same statutes are applied consistently.

Page 4

1-2. The other major categories of tax practice in addition to tax research are as follows:

- Tax compliance
- Tax planning
- Tax litigation

Page 5

1-3. Tax compliance consists of gathering pertinent information, evaluating and classifying that information, and filing any necessary tax returns. Compliance also includes other functions necessary to satisfy governmental requirements, such as representing a client during an Internal Revenue Service (IRS) audit.

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1-4. Most of the tax compliance work is performed by commercial tax preparers, enrolled agents (EAs), attorneys, and certified public accountants (CPAs). Noncomplex individual, partnership, and corporate tax returns often are completed by commercial tax preparers. The preparation of more complex returns usually is performed by EAs, attorneys, and CPAs. The latter groups also provide tax planning services and represent their clients before the IRS.

An EA is one who is admitted to practice before the IRS by passing a special IRS-administered examination, or who has worked for the IRS for five years and is issued a permit to represent clients before the IRS. CPAs and attorneys are not required to take this examination and are automatically admitted to practice before the IRS if they are in good standing with the appropriate professional licensing board.

Page 5 and Circular 230

1-5. Tax planning is the process of arranging one's financial affairs to minimize any tax liability. Much of modern tax practice centers around this process, and the resulting outcome is tax avoidance. There is nothing illegal or immoral in the avoidance of taxation as long as the taxpayer remains within legal bounds. In contrast, tax evasion constitutes the illegal nonpayment of a tax and cannot be condoned. Activities of this sort clearly violate existing legal constraints and fall outside of the domain of the professional tax practitioner.

Page 6

1-6. In an open tax planning situation, the transaction is not yet complete; therefore, the tax practitioner maintains some degree of control over the potential tax liability, and the transaction may be modified to achieve a more favorable tax treatment. In a closed transaction however, all of the pertinent actions have been completed, and tax planning activities may be limited to the presentation of the situation to the government in the most legally advantageous manner possible.

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1-7. Tax litigation is the process of settling a dispute with the IRS in a court of law. Typically, a tax attorney handles tax litigation that progresses beyond the final IRS appeal.

Page 6

1-8. CPAs serve is a support capacity in tax litigation.

Page 6

1-9. Tax research consists of the resolution of unanswered taxation questions. The tax research process includes the following:

1. Identification of pertinent issues;
2. Specification of proper authorities;
3. Evaluation of the propriety of authorities; and,
4. Application of authorities to a specific situation.

Page 6

1-10. Circular 230 is issued by the Treasury Department and applies to all who practice before the IRS.

Page 7

1-11. In addition to Circular 230, CPAs must follow the AICPA's Code of Professional Conduct and Statements on Standards for Tax Services. CPAs must also abide by the rules of the appropriate state board(s) of accountancy.

Page 7

1-12. A return preparer must obtain 18 hours of continuing education from an IRS-approved CE Provider. The hours must include a 6 credit hour Annual Federal Tax Refresher course (AFTR) that covers filing season issues and tax law updates. The AFTR course must include a knowledge-based comprehension test administered at the conclusion of the course by the CE Provider.

Limited practice rights allow individuals to represent clients whose returns they prepared and signed, but only before revenue agents, customer service representatives, and similar IRS

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employees.
Page 10 and IRS.gov

1-13. False. Only communication with the IRS concerning a taxpayer's rights, privileges, or liability is included. Practice before the IRS does not include representation before the Tax Court.

Page 7

1-14. Section 10.2 of Subpart A of Circular 230 defines practice before the IRS as including:

> matters connected with presentation to the Internal Revenue Service or any of its officers or employees relating to a client's rights, privileges, or liabilities under laws or regulations administered by the Internal Revenue Service. Such presentations include the preparation and filing of necessary documents, correspondence with, and communications to the Internal Revenue Service, and the representation of a client at conferences, hearings, and meetings.

Page 7

1-15. To become an EA an individual can (1) pass a test given by the IRS or (2) work for the IRS for five years. Circular 230, Subpart A, §§ 10.4 to 10.6.

Page 9

1-16. EAs must complete 72 hours of continuing education every three years (an average of 24 per year, with a minimum of 16 hours during any year). Circular 230, Subpart A. § 10.6.

Page 9

1-17. True. As a general rule, an individual must be an EA, attorney, or CPA to represent a client before the IRS. There are limited situations where others may represent a taxpayer; however, this fact pattern is not one of them. Since Leigh did not sign the return, she cannot represent the taxpayer, only Rose can.

Pages 10–11

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1-18. The names of organizations that can be represented by regular full-time employees are found in Circular 230, § 10.7(c). A regular full-time employee can represent the employer (individual employer). A regular full-time employee of a partnership may represent the partnership. Also, a regular full-time employee of a trust, receivership, guardianship, or estate may represent the trust, receivership, guardianship, or estate. Furthermore, a regular full-time employee of a governmental unit, agency, or authority may represent the governmental unit, agency, or authority in the course of his or her official duties.

Page 10

1-19. Yes. Circular 230, Subpart A, § 10.7.

Page 10

1-20. True. A practitioner may be suspended or disbarred from practice before the IRS if he or she knowingly helps a suspended or disbarred person practice indirectly before the IRS.

Page 12

1-21. A practitioner may not advise a client to take a position on a document, affidavit, or other paper submitted to the IRS unless the position is not frivolous. Circular 230 § 10.34(b).

Page 14

1-22. Under Circular 230, an attorney, a CPA, or an EA may use mass media (e.g., T.V. and the Internet) for advertising purposes. Such media may not contain false, fraudulent, unduly influencing, coercive, or unfair statements or claims. Attorneys, CPAs, and EAs must also observe any applicable standards of ethical conduct adopted by the American Bar Association (ABA), the American Institute of Certified Public Accountants (AICPA), and the National Association of Enrolled Agents (NAEA). Additional standards and listing of items that may be included in mass media advertising are defined under § 10.30 of Subpart B in Circular 230.

Page 19

1-23. Under § 10.25 of Circular 230, partners of government employees cannot represent anyone for

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which the government employee-partner has (or has had) official responsibility. For instance, a CPA firm with an IRS agent could not represent any taxpayer who is (or was in the past) assigned to the IRS agent-partner.

Page 12

1-24. Under § 10.21 of Circular 230, each attorney, CPA, EA, or enrolled actuary who knows that the client has not complied with the revenue laws of the United States or has made an error in or omission from any return, document, affidavit, or other paper which the client is required by the revenue laws of the United States to execute shall advise the client promptly of the fact of such noncompliance, error, or omission.

Page 11

1-25. According to Circular 230, the best practices rules are aspirational. Thus, a practitioner who fails to comply with best practices will not be subject to discipline by the IRS.

Page 14

1-26. Best practices include the following:

a. Communicating clearly with the client regarding the terms of the engagement. For example, the advisor should determine the client's expected purpose for and use of the advice and should have a clear understanding with the client regarding the form and scope of the advice or assistance to be rendered.
b. Establishing the facts, determining which facts are relevant, evaluating the reasonableness of any assumptions or representations, relating the applicable law (including potentially applicable judicial doctrines) to the relevant facts, and arriving at a conclusion supported by the law and the facts.
c. Advising the client regarding the importance of the conclusions reached, including, for example, whether a taxpayer may avoid accuracy-related penalties under the Internal Revenue Code if a taxpayer acts in reliance on the advice.
d. Acting fairly and with integrity in practice before the IRS.

Pages 13–14

1-27. A practitioner must not give written advice if the practitioner:

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1. bases the written advice on unreasonable factual or legal assumptions (including assumptions as to future events),
2. unreasonably relies upon representations, statements, findings, or agreements of the taxpayer or any other person,
3. does not consider all relevant facts that the practitioner knows or should know, or
4. in evaluating a Federal tax issue, takes into account the possibility that a tax return will not be audited, that an issue will not be raised on audit, or that an issue will be resolved through settlement if raised.

Page 15

1-28 This would be considered a conflict of interest and is generally prohibited under the AICPA Code of Professional Conduct. While you can accept the engagement if you disclose to both parties the nature of the relationship and obtain the consent of both parties, before accepting the engagement, you should consider your ability to act with objectivity and independence in discharging your responsibilities.

Pages 16-22

1-29 A preparer tax identification number (PTIN) is required of a compensated individual who prepares or assists with the preparation of all or substantially all of a tax return or claim for refund must have a PTIN. Normally, the individual must be an attorney, CPA, EA, or tax return preparer must obtain a PTIN in order to file tax returns for clients

Page 10

1-30. Individuals who prepared tax returns for compensation must follow the rules under Circular 230 *Subpart* B *—Duties and Restrictions Relating to Practice Before the Internal Revenue Service* and Subpart C—*Sanctions for Violation of the Regulations*. Thus, they are generally held to the same standards of practice as persons who are eligible to practice before the IRS (Attorneys, CPAs, and EAs).

Pages 6 and 11

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1-31. The AICPA's Code of Professional Conduct provides a philosophical foundation upon which the Rules of Conduct are based. The Principles of the Code of Professional Conduct suggest that a CPA should strive for behavior that is above the minimal level of acceptable conduct set forth by the rules. The code was designed to provide the following:

1. A comprehensive code of ethics and professional conduct;
2. A guide for practitioners in answering complex questions; and
3. Assurance to the public concerning the obligations and responsibilities of the accounting profession.

Pages 16-17

1-32. Threats to complying with the Independence Rule include the following:

- Members not acting with objectivity due to an adverse interest
- Advocacy threats
- Familiarity threats due to a long or close relationship with a client
- Management participation threats
- Self-interest threats
- Self-review threats
- Undue influence threats

Page 18

1-33. In a tax practice the CPA may be requested to blindly follow the guidelines of a government agency or the demands of an audit client. This rule prohibits such blind obedience. The code specifically recognizes that conflicts of interest may arise in tax contexts, including providing tax or personal financial planning services for several members of a family whom the member knows to have opposing interests or when referring a personal financial planning or tax client to an insurance broker or other service provider who refers clients to the member under an exclusive arrangement.

Page 20

1-34. The General Standards Rule includes the following:

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1. The CPA must be able to complete all professional services with professional competence.
2. The CPA must exercise due professional care in the performance of all professional services.
3. The CPA shall adequately plan and supervise the performance of all professional services.
4. The CPA must obtain sufficient relevant data to afford a reasonable basis for any conclusion or recommendation in connection with the performance of any professional services.

Competence encompasses not only technical subject matter but also knowledge of the profession's standards and the ability to exercise sound judgment in applying the technical knowledge. At the same time, the code is clear that the member does not assume a responsibility for infallibility of knowledge or judgment

Page 21

1-35.

a. No violation
b. 1.520.001: Commissions and Referral Fees
c. No violation
d. 1.600.001: Advertising and Other Forms of Solicitation
e. 1.800.001: Form of Organization and Name Rule
f. 2.400.090 or 3.400.090: Acts Discreditable Rule

Pages 19-21

1-36.

1.700.001 (Confidential Client Information Rule) does not apply in the following situations:

1. There is a conflict with the Compliance with Standards Rule [1.310.001] or the Accounting Principles Rule [1.320.001].
2. The CPA is served with an enforceable subpoena or summons or must comply with applicable laws and government regulations.
3. There is a review of a CPA's practice under AICPA or state society authorization.
4. The CPA is responding to an inquiry of an investigative or disciplinary body of a recognized society, or the CPA is initiating a complaint with a disciplinary body.

Pages 19-20

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1-37. The *Statements on Standards for Tax Services*, or SSTS, are a series of statements, issued by the AICPA, as to what constitutes appropriate standards for tax practice. The statements also delineate a member's responsibility to clients, the public, and the profession.

The stated objectives of the statements are as follows:

SSTS No. 1: Tax Return Positions. This statement sets forth the applicable standards for members when recommending tax return positions, or preparing or signing tax returns. This statement also addresses a member's obligation to advise a taxpayer of relevant tax return disclosure responsibilities and potential penalties.

SSTS No. 2: Answers to Questions on Returns. This statement sets forth the applicable standards for members when signing the preparer's declaration on a tax return if one or more questions on the return have not been answered.

SSTS No. 3: Certain Procedural Aspects of Preparing Returns. This statement sets forth the applicable standards for members concerning the obligation to examine or verify certain supporting data or to consider information related to another taxpayer when preparing a taxpayer's tax return.

SSTS No. 4: Use of Estimates. This statement sets forth the applicable standards for members when using the taxpayer's estimates in the preparation of a tax return. A member may advise on estimates used in the preparation of a tax return, but the taxpayer has the responsibility to provide the estimated data. Appraisals or valuations are not considered estimates for purposes of this statement.

SSTS No. 5: Departure from a Position Previously Concluded in an Administrative Proceeding or Court Decision. This statement sets forth the applicable standards for members in recommending a tax return position that departs from the position determined in an administrative proceeding or in a court decision with respect to the taxpayer's prior return.

SSTS No. 6: Knowledge of Error: Return Preparation and Administrative Proceedings. This statement sets forth the applicable standards for a member who becomes aware of (*a*) an error in a taxpayer's previously filed tax return; (*b*) an error in a return that is the subject of an administrative proceeding, such as an examination by a taxing authority or an appeals conference;

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or (*c*) a taxpayer's failure to file a required tax return.

SSTS No. 7: Form and Content of Advice to Taxpayers. This statement sets forth the applicable standards for members concerning certain aspects of providing advice to a taxpayer and considers the circumstances in which a member has a responsibility to communicate with a taxpayer when subsequent developments affect advice previously provided.

Pages 22-26

1-38. False, SSTSs are enforceable for AICPA members who perform tax services. If a CPA is not a member of the AICPA, he or she is not subject to the SSTSs.

Page 22

1-39. Under SSTS No. 1, a member should determine and comply with the standards, if any, which are imposed by the applicable taxing authority with respect to recommending a tax return position, or preparing or signing a tax return. If the applicable taxing authority has no written standards with respect to recommending a tax return position or preparing or signing a tax return, or if its standards are lower than the standards set forth in SSTS No. 1, then SSTS No. 1 must be followed.

Page 22

1-40. SSTS No.1 provides that a member should have a good faith belief that a recommended position has a realistic possibility of being sustained if challenged. In addition, a member may recommend a tax return position if the member concludes that there is a reasonable basis for the position and advises the taxpayer to appropriately disclose that position. Thus, a member may prepare or sign a tax return that reflects a position if a member has a reasonable basis for the position and that position is *appropriately disclosed*.

Page 22

1-41. Reasonable grounds for omitting an answer on a return include cases in which:

1. The pertinent data are not readily available and are not significant to the determination of

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taxable income or loss or the resulting tax liability.

2. The taxpayer and the member are genuinely uncertain as to the meaning of the question on the return.
3. An answer is voluminous; however, assurance should be given on the return that the data can be supplied upon request.

Page 23

1-42. In preparing a return, the member may ordinarily rely upon information that the taxpayer has provided. Although an examination of supporting documents is not required, the member should encourage the taxpayer to provide supporting documents, whenever appropriate.

Page 23

1-43. A member may prepare tax returns that involve the use of the taxpayer's estimates, if, under the circumstances, it is impractical to obtain exact data and the estimated amounts appear reasonable to the member. Estimates may be appropriate where the keeping of precise records with respect to numerous items of small amounts is difficult to achieve, where data is not available as of the time for filing the return, or certain records are missing.

Pages 23-24

1-44. The selection of the treatment of an item on a tax return should be based upon the facts and the law that is applicable at the time a return is prepared. Unless the taxpayer is bound by the IRS to the treatment of an item in later years, such as by a closing agreement, the disposition of an item in a prior year's audit does not govern the treatment of a similar item in a later year's return. Therefore, a member may sign a return that contains a departure from a treatment that was required by the IRS in a prior year return, provided the standards under SSTS No. 1 are adhered to.

Pages 24-25

1-45. When a member learns of an error in a previously filed tax return, or the member becomes aware of an error during an administrative proceeding, he or she must advise the taxpayer promptly. This advice should include a recommendation of the appropriate measures that the taxpayer should take. The member is not obligated to inform the IRS of the error and may not do so without the

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taxpayer's permission, except as required by law.

Page 25

1-46. SSTS No. 7. It states that the member must use judgment that reflects professional competence and serves the taxpayer's needs.

Page 26

1-47. No, under Circular 230 and the SSTSs, advice may be either written or oral. SSTS No. 7 provides information on the form and content of advice to taxpayers for AICPA members and provides a list of factors that members should consider in determining whether the advice is written or oral.

Page 26

1-48. No, tax compliance work for an audit client is allowed. It must be approved by the audit committee of the issuer.

Page 28

1-49. Neither the ABA Code nor the Model Rules have the force of law. Each was designed to be adopted by the appropriate agencies that govern the practice of law in the various states. In many jurisdictions, the state Supreme Court is charged with policing the practice of law. In other states, the legislature assumes this responsibility.

Page 28

1-50. An ethical dilemma occurs when someone is faced with a situation in which there are no clearly defined answers such as by regulation or law.

Page 28

1-51. The major types of ethical reasoning are as follows:

1. End-based ethical reasoning is where the ethical decision is the one that produced the most

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good for the largest number of people.

2. Rule-based ethical reasoning was based on German philosopher Immanuel Kant's idea that individual actions should be such that we would accept similar behavior from everyone else.

3. Care-based ethical reasoning advises one to make decisions that would result in the treatment you yourself would like to receive.

Page 29

1-52. Professional ethical behavior is the result of the interaction of personal morality, social responsibility, business ethics, and other general ethical standards. When something is judged to be morally right or wrong (or good or bad), the underlying standards on which such judgments are based are called moral standards. The tax practitioner must be aware of social responsibility in areas such as environmental protection, equal opportunity, and occupational safety. Business ethics examines the moral and ethical problems that arise in a business environment. There is disagreement about whether a company has ethical responsibilities. Other ethical standards may include public policy, religious beliefs, and cultural values.

Pages 29-31

1-53. Ethical issues involved in this case could include morality and business ethics. The moral issue involves the consideration of the "right thing to do" with respect to the plane ticket. The business ethics issues involve maintaining the integrity of the firm.

1-54. Unless the firm clearly allows staff to take home supplies (which likely would result in additional income to the staff members), this is clearly *not* ethical behavior. If Donna does work at home and the firm has clear policies allowing supplies to be taken home and used for work purposes, the behavior would be reasonable.

1-55. CPAs are in little danger of entering into the unauthorized practice of law as long as they avoid providing general legal services. The issue that arises is not whether CPAs are rendering legal services but how much legal service is provided. Because of the lack of guidelines on this issue, the federal agencies seem to have taken a lead in attempting to solve this problem.

Page 34

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1-56. To avoid being charged with the unauthorized practice of law, the following activities should be avoided.

- Expressing a legal opinion on a nontax matter
- Drafting wills or trust instruments
- Drafting contracts
- Drafting incorporation papers
- Drafting partnership agreements

Page 36

EXERCISES

1-57.

a. Subpart A, § 10.4(c)8: Eligibility for enrollment as an EA or enrolled retirement plan agent. Discussion of the criteria for enrollment before the IRS.
b. Subpart B, § 10.21: Knowledge of client's omission. Each attorney, CPA, EA, or enrolled actuary who knows that the client has not complied with the revenue laws of the United States or has made an error in or omission from any return, document, affidavit, or other paper shall advise the client promptly of the fact of such noncompliance, error, or omission.
c. Subpart B, § 10.26 Notaries: A practitioner may not perform any official act as a notary public with respect to any matter administered by the IRS for which he or she is employed as counsel, attorney, or agent.
d. Subpart B, § 10.29 Conflicting interests: No tax practitioner can represent conflicting interests before the IRS unless he or she has the express consent of the directly interested parties.

Circular 230

1-58.

a. Subpart C, § 10.51(a)(12): Contemptuous conduct in connection with practice before the IRS, including the use of abusive language, making false accusations or statements, knowing them to be false, or circulating or publishing malicious or libelous matter.
b. Subpart A, § 10.6(e): Conditions for renewal. In order to qualify for renewal of enrollment, an individual, to practice before the IRS, must certify that he or she has satisfied the continuing professional education requirements.
c. Subpart A, § 10.3(f): Registered tax return preparers.

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d. Subpart B, § 10.27: Fees. Discussion of provision that a practitioner may not charge an unconscionable fee for representing a client in a matter before the IRS. Also, a practitioner may not charge a contingent fee for preparing an original return.

Circular 230

1-59.

a. Subpart B, § 10.22(b): Reliance on others. Except as modified by §§ 10.34 and 10.37, a practitioner will be presumed to have exercised due diligence for purposes of this section if the practitioner relies on the work product of another person and the practitioner used reasonable care in engaging, supervising, training, and evaluating the person, taking proper account of the nature of the relationship between the practitioner and the person.
b. Subpart A, § 10.7(c)(1)(vi): An individual may represent any individual or entity, who is outside the United States, before personnel of the IRS when such representation takes place outside the United States.
c. Subpart B, § 10.24: Prohibits assistance from disbarred or suspended persons.
d. Subpart B, § 10.34: Defines standards for advising and signing returns.

Circular 230

1-60.

a. Subpart B, § 10.33: Discussion of adhering to the best practices in providing advice.
b. Subpart B, § 10.35: Provides standards on "covered opinions."
c. Subpart B, § 10.36: Requires that a firm take reasonable steps to adhere to the "covered opinions" section.
d. Subpart B, § 10.37: Describes situations in which a tax practitioner should not give written advice.

Circular 230

1-61.

a. Solicitation is discussed in Subpart B, § 10.30.
b. Negotiation of a taxpayer's refund checks is discussed in Subpart B, § 10.31.
c. Who may practice before the IRS is discussed in Subpart A § 10.3.
d. Authority to disbar or suspend from practice before the IRS is discussed in Subpart C, § 10.50.

Circular 230

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1-62.

a. Conflicting interests are discussed in Subpart B, § 10.39.
b. Disreputable conduct is discussed in Subpart C, § 10.51.
c. Assistance from disbarred or suspended persons is discussed in Subpart B, § 10.24.
d. Representing oneself before the IRS is discussed in Subpart A, § 10.7.

Circular 230

1-63.

a. Practice of law is discussed in Subpart B, § 0.32.
b. Information to be furnished is discussed in Subpart B, § 10.20.
c. Fees are discussed in Subpart B, § 10.27.
d. Responsibility for correcting errors is discussed Subpart, § 10.21.

Circular 230

1-64.

a. Best practices are discussed in Subpart B, § 10.33.
b. The return of client's records is discussed in Subpart B, § 10.28.
c. Tax return positions are discussed in Subpart B, § 10.34.
d. Due diligence is discussed in Subpart B, § 10.22.

Circular 230

1-65. a. SSTS No. 1. In preparing a tax return, a member should have a *good-faith belief* that a recommended position has a *realistic possibility* of being sustained if challenged; otherwise such a position should not be recommended by the member.

b. SSTS No. 4. A member may prepare tax returns that involve the use of the taxpayer's estimates if it is impractical to obtain exact data and if the estimated amounts appear reasonable to the member.

c. SSTS No. 6. The member must advise the taxpayer promptly, whether or not the member prepared or signed the return in question, when he or she learns of an error in a previously filed tax return, an error in a return that is the subject of an administrative proceeding, or a taxpayer's failure to file a required return. However, the member is neither obligated to inform the IRS of the situation nor may he or she do so without the taxpayer's permission, except as provided by law.

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Pages 22–25

1-66. a. *Lowell Bar Association v. Loeb*. The preparation of "simple" tax returns did not constitute the unauthorized practice of Massachusetts law because tax return preparation could not be identified as strictly within the legal discipline.
b. *Bercu*. The court held that Bercu could have provided tax advice if it had been incidental to the tax return work he regularly performed for his clients.
c. *Sperry v. Florida*. The U.S. Supreme Court held that a Federal statute that admitted nonattorneys to practice before Federal agencies (in this case, the Patent Office) took precedence over state regulation, thus CPAs and EAs were not engaged in the unauthorized practice of law when they were giving tax advice.

Pages 34-35

1-67. False. See Circular 230, § 10.29.

1-68. True. See Circular 230, § 10.7.

1-69. These fees would all be contingent fees if the IRS challenges a tax position. Under Circular 230 § 10.27 A, Contingent fee is any fee that is based, in whole or in part, on whether or not a position taken on a tax return or other filing avoids challenge by the IRS or is sustained either by the IRS or in litigation. A contingent fee includes a fee that is based on a percentage of the refund reported on a return, which is based on a percentage of the taxes saved, or that otherwise depends on the specific result attained.

Circular 230

1-70. Circular 230, § 10.32 (Practice of law) states that, "Nothing in the regulations in this part may be construed as authorizing persons not members of the bar to practice law."

Circular 230

1-71. d**.** Under Rule 1.100.001 of the AICPA Code of Conduct, CPAs cannot make self-laudatory statements not based on verifiable facts.

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Page 20

1-72. c**.** See Circular 230, § 10.30.

1-73. c. Under Rule 1.800.001 of the AICPA Code of Conduct, CPAs cannot practice public accounting under a firm name that is misleading. A sole practitioner is not a company. The only exception is when a sole practitioner survives the death or withdrawal of all other partners or shareholders; he or she can continue to practice under a firm name for up to two years after becoming a sole practitioner.

Page 20

1-74. b**.** SSTS No. 4 allows a member to use reasonable estimates in the preparation of a tax return.

Pages 23-24

1-75. d**.** Under Rule 1.510.001of the AICPA Code of Conduct, CPAs are allowed to take contingent fees in tax matters if they are based on judicial proceedings or the findings of governmental agencies.

Page 18

1-76. c. Under Rule 1.700.001 of the AICPA Code of Conduct, CPAs cannot reveal confidential client information without the consent of the client unless it is to an investigative body, trial board, quality review body, or court of law.

Pages 19-20

1-77. a. SSTS No. 4 requires members to disclose to the IRS the use of estimates when fire or computer failure has destroyed the relevant records.

Pages 23-24

1-78. d. Under Subpart A, § 10.7(c)(2)(i) of Circular 230, persons who are disbarred or suspended are not allowed to practice before the IRS.

Circular 230

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1-79. b. Under Subpart B, § 10.21 of Circular 230, practitioners must notify clients of any noncompliance with the tax law. A similar rule is found in SSTS No. 6.

Page 11

1-80. a. Circular 230, Subpart A, § 10.7(a) states that a taxpayer can appear on their own behalf before the IRS.
b. 1.520.001 Commissions and Referral Fees Rule
c. SSTS No. 3 Certain Procedural Aspects of Preparing Returns
d. Under Statement on Standards for Tax Service (SSTS) No. 1, a member must have a good-faith belief that a recommended position has a *realistic possibility* of being sustained if challenged.

Circular 230, Pages 20, 22, 24

1-81. a. Circular 230, Subpart C, § 10.51 states that a practitioner can be disbarred or suspended from practice before the IRS for disreputable conduct.
b. The knowledge of client omissions rule is found in Circular 230, Subpart B, § 10.21.
c. 1.400.200 Records Requests. Members must comply with the rules and regulations of authoritative regulatory bodies, such as the members' state board(s) of accountancy, when they perform services for a client and are subject to the rules and regulations of such a regulatory body.
d. SSTS No. 5 Departure from a Position Previously Concluded in an Administrative Proceeding or Court Decision
e. Under Statement on Standards for Tax Services (SSTS) No. 7, a member must use judgment that reflects *professional competence* and serves the taxpayer's needs.

Circular 230, Pages 22-26

1-82. The parts of the EA exam are as follows:
Part 1: Individual Income Taxes
Part 2: Businesses
Part 3: Representation, Practices, Procedures

Visit www.irs.gov for more information on the EA exam.

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1-83. The Application for Enrollment to Practice Before the IRS is Form 23.

1-84. a. California: Minimum three semester or four quarter units in accounting ethics or accountants' professional responsibilities

b. Texas: The board requires that 3 passing semester hours be earned as a result of taking a course in ethics.

c. North Carolina: The 150 semester hours required include a concentration in accounting, as defined by 21 NCAC 08A .0309, and 24 semester hours of coursework, which include one 3 semester hour course from at least 8 of the following 10 fields of study: communications, computer technology, economics, ethics, finance, humanities/social science, international environment, law, management, or statistics.

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