

Examination Topics

PART 3 - REPRESENTATION, PRACTICES AND PROCEDURES

Section 1: Practices and Procedures (33 items)

Becoming an enrolled agent

- What constitutes practice before the IRS
- Categories of individuals who may practice
- Enrollment cycle
- Period of enrollment
- Effective date of renewed enrollment
- Enrollment card or other credentials
- How to appeal a denial of an application for enrollment
- Regulations Governing the Practice of Attorneys, Certified Public Accountants, Enrolled Agents, Enrolled Actuaries, and Appraisers before the IRS (Treasury Department Circular 230)

Requirements for Enrolled Agents

- What information to be furnished to the IRS
- When to advise a client about an omission or error on any return, document, or affidavit
- Rules for employing or accepting assistance from disbarred or suspended persons and former IRS employees
- Rules for restriction on advertising and solicitation and fee information
- Concept of due diligence for return accuracy
- Concept of conflict of interest
- Rules for refund check negotiation
- Requirements for tax shelter opinions
- Standards for tax return positions and preparing returns
- CPE requirements
- Scope of authority - Tax court petitions
- Effective records
- Covered opinions
- Tax shelters
- Tax avoidance vs. tax evasion
- Conference and practice requirements

Sanctions against Enrolled Agents

- What constitutes disreputable conduct, which can result in a disciplinary proceeding
- Sanctions imposed by OPR against Enrolled Agents
- Contents of a complaint filed against an individual, service of complaint and demand for answer requirements
- How a proceeding against an individual in violation of regulations governing practice before the IRS is instituted
- Procedural rules for conducting proceedings for disqualification
- Disciplinary appeal process
- Criteria for public disclosures for active and disqualified persons
- Types of penalties (e.g., negligence, substantial understatement, overvaluation)
- Frivolous submissions (returns and documents)
- Fraudulent transactions
- Badges of fraud

Penalties

- Assessment and appeal procedures for preparer penalties
- Penalties to be assessed by the IRS against a preparer for negligent or intentional disregard of rules and regulations, and for a willful understatement of liability
- Preparer's due diligence
- Rules for furnishing a copy of a return to a taxpayer
- Rules for signing returns and furnishing identifying numbers
- Rules for keeping copies or lists of returns prepared
- Rules for filing an information return concerning employees engaged or employed during a return period
- Rules for the preparer penalty involving the earned income credit

Section 2: Representation before the IRS (25 items)

Power of attorney

- Acting in place of the taxpayer
- Signature authority (e.g., extension of assessment period, closing agreement)
- Limitations of authority granted to enrolled agent (e.g. acts authorized)
- Prohibition for negotiating taxpayer refund check (e.g. cannot cash or deposit)
- Prohibition for signing tax returns
- Requirements for power of attorney (Form 2848)
- Alternate forms of power of attorney (durable)
- Rules for client privacy and consent to disclose
- Purpose of filing a tax information authorization
- Requirements to be met when changing or dropping representatives
- When notices and refund checks may be delivered to recognized representatives
- Purpose of a Centralized Authorization File number

Building the taxpayer's case--Preliminary work

- What the taxpayer's issue is (e.g. type, details)
- Potential for criminal aspects
- Competence, expertise and time to handle issue
- Taxpayer willingness to sign power of attorney
- Conflict of interest

Taxpayer tax information

- Income (taxable and non-taxable)
- Expenses (deductible, allowable and personal)
- Transcripts from IRS
- Documentation requirements (e.g., pay stubs, bank statements)
- Documentation required (e.g., receipts, invoices)

Taxpayer financial situation

- Taxpayer's ability to pay the tax (e.g., installment agreements, offer in compromise)
- General financial health (e.g., filed for bankruptcy, lawsuits, and garnishments)
- Form 433A/B/F
- Lifestyle and life issues of taxpayer
- Cash flow and assets (Cash-T, receipts and disbursements)
- Asset fair market value and associated liabilities
- Third-party research (e.g., property assessment for municipal taxes; asset values, state and local tax information)

Supporting documentation

Financial documents (e.g., cancelled checks or equivalent, bank statements, credit card statements, receipts)
Legal documents (e.g., birth certificate, divorce decrees, lawsuit settlements)
Prior and subsequent tax returns
Other substantive and contemporaneous documentation (e.g., mileage log, corporate minutes)
Employment reimbursement policies
Business entity supporting documents (e.g., partnership agreement, corporate bylaws)
Brokerage records or individual stock transaction

Legal authority and references

Internal Revenue Code
Treasury regulations
Revenue rulings
Revenue procedures
IRS notices
Case law
IRS publications
Private letter rulings
Form instructions
Internal Revenue Manual
Authoritative source material versus non-authoritative source material

Related issues

Statute of limitations
Post-filing correspondence (e.g., math error notices, under reporting notices)
Deadlines and timeliness requirements
Third-party correspondence (e.g., witness communications, employment records)
Requests for information related to specific issues (e.g., clarification on a tax issue)
Freedom of Information Act requests

Section 3: Specific Types of Representation (25 items)**Representing a taxpayer in the Collection process**

Extension of time to pay
Installment capability
Offer in compromise (e.g., doubt as to liability, collectibility or effective tax administration)
Miscellaneous options (e.g., collection statute end date, collection statute extension date, trust fund recovery penalties, backup withholding)
Collection appeals program (e.g., denial of installment agreements, discharge applications)
Collection due process (e.g., lien and levy)

Penalties and/or interest assessed

Penalties and interest
Basis for having penalties avoided, abated, or refunded
Reasonable cause
Interest abatement
Interest recalculation

Representing a taxpayer in audits/examinations

- IRS authority to investigate
- Verification and substantiation of entries on the return
- IRS opportunity to disagree with filings
- IRS authority to fix time and place of investigation
- Steps in the process (e.g., initial meeting, submission of IRS requested information)
- Innocent spouse
- Interpretation of revenue agent report (RAR) (e.g., 30-day letter)
- Explanations of taxpayer options (e.g. agree or appeal)
- Special procedures for partnership audits (e.g., unified audit procedures for TEFRA)

Representing a taxpayer before Appeals

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

Higher levels of representation beyond the scope of EA representation

- Tax Court
- U.S. District Courts and U.S. Claims Court
- U.S. Courts of Appeals and U.S. Supreme Court

Section 4: Completion of the Filing Process (17 items)

Accuracy

- Using tax software
- Inconsistencies with the source data
- Miscalculations
- Recognition of duplicate entries
- Alternative minimum tax issues
- Need to read diagnostics
- Matching inputs and outputs across forms

Information shared with taxpayer

- Record-keeping requirements
- Significance of signature (e.g., joint and several liability, penalty of perjury)
- Non-taxable income (e.g., combat pay, inheritance)
- Consequences of dishonesty

Concerning all tax preparers - regulations and sanctions

- Definition of income tax return preparers

Record maintenance

- Length of time
- Length of time to keep income and employment tax records
- The components of the list (name, social security number, and type of return)
- EITC due diligence requirements
- Rules for returning a client's records and documents

Electronic filing

- How to apply to be an e-file provider (e.g., e-services)
- Electronic return requirements
- Definition of a refund anticipation loan (RAL) indicator
- Advertising standards
- Definition of EFIN
- Definition of ERO
- Levels of infractions
- Compliance requirements to continue in program (e.g. timely filing, timely payment, and absence of infractions)
- Appeal process
- Forms 8879 and 8453
- Rejected returns and resolution (e.g. client notification)

To download IRS Forms, Instructions and Publications, click on the following link:

<http://www.irs.gov/taxpros/agents/article/0,,id=163346,00.html>