

ENROLLED AGENT
SPECIAL ENROLLMENT EXAM (SEE)
STUDY GUIDE

PART 3 - REPRESENTATION, PRACTICE,
AND PROCEDURES

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IRSTaxTraining.com, Inc. is pleased to provide our Enrolled Agent (EA) Exam Study Guide. This material is designed to prepare tax professionals for *Part 3 - Representation, Practice and Procedures* of the IRS Special Enrollment Exam (SEE) and provides an overview of the subject areas that are outlined for the examination period May 1, 2020 – February 28, 2021. The study guide includes information about the administration of the examination and complete coverage of the categories that are on the exam. In addition, we have developed multiple practice tests for you to take that are simulations of the actual exam. They are timed just like the SEE and you will see your results upon completion, including the questions you missed and the correct answers. Before you sign up to take the SEE, the IRS asks you to read and follow the instructions in the [Candidate Information Bulletin](#).

Course Description

This course, intended for exams taken between **May 1, 2020 – February 28, 2021**, is based on the **2019 tax year** and highlights major tax laws that are of significant importance to a tax practitioner. This section focuses on key Federal tax law provisions recently enacted or indexed for inflation. Among other topics, this part includes information about the Tax Cuts and Jobs Act (TCJA), taxable income, exclusions, the most common tax credits and deductions, capital gains and losses, and noteworthy tax filing documents and dates.

For exams taken between **May 1, 2020 – February 28, 2021**, all references on the examination are to the Internal Revenue Code, forms and publications, as amended through December 31, 2019. Also, unless otherwise stated, all questions relate to the calendar year 2019. Questions that contain the term 'current tax year' refer to the calendar year 2019. In answering questions, candidates should not take into account any legislation or court decisions after December 31, 2019.

The course includes a table of contents and comprehensive index to help guide your search for specific topics. Additionally, if you are using the electronic version of the course, you can use the word search function by pressing "CTRL + F" on your keyboard and entering the word(s) you would like to look up. Along with the extensive course content, you will also find a bibliography you can use to find additional reference material when searching for particular topics or answers to review and examination questions. The numbers in parentheses at the end of a sentence correspond to the numbers in the bibliography.

IRS Special Enrollment Exam (SEE)

The examination contains three parts. Each part contains 100 multiple-choice questions. There are 85 questions that are scored and 15 questions that are experimental and not scored. The length of each part is 3½ hours (not including the pre-examination tutorial and post-examination survey). An on-screen timer is provided, showing the time remaining. The parts of the examination are:

- Part 1 - Individuals
 - Preliminary Work with Taxpayer Data – 17 questions
 - Income and Assets – 21 questions
 - Deductions and Credits – 21 questions
 - Taxation and Advice – 14 questions
 - Specialized Returns for Individuals – 12 questions
- Part 2 - Businesses
 - Business Entities – 28 questions
 - Business Financial Information – 39 questions
 - Specialized Returns and Taxpayers – 18 questions
- Part 3 - Representation, Practice and Procedures
 - Practices and Procedures – 25 questions
 - Representation before the IRS – 24 questions
 - Specific Types of Representation – 19 questions
 - Completion of the Filing Process – 17 questions



Each part of the exam is 3½ hours long. The actual seat time is 4 hours to allow for a tutorial and survey. The examination parts can be taken in any order. Each exam part may be taken 4 times per testing window, which runs from May 1 to February 28. The test is not offered during the annual blackout period in March and April. During this time the test is updated for the most recent tax law. You have a total of two years from the time you pass your first exam to pass all three parts and become an Enrolled Agent.

The examinations are closed book, so no reference materials, papers or study materials are allowed at the test center. You will not be able to leave the testing room with a copy of any notes taken during the examination. Some examination questions may contain excerpts from the Internal Revenue Code or Income Tax Regulations.

You can schedule an examination appointment at any time online at www.prometric.com/test-takers/search/irs or by calling 800-306-3926 between 8 a.m. and 9 p.m. (ET), Monday through Friday. You will receive a number confirming your appointment. Keep this confirmation number for your records - you will need it to reschedule, cancel, or change your appointment.

You may take each part of the examination at your convenience and in any order. Parts do not have to be taken on the same day or on consecutive days. You may take examination parts up to four times each during each test window. The current test window is May 1, 2020 – February 28, 2021. Testing is not available in the months of March and April each year while the examination is updated.

A confirmation email is sent containing the date time and location of the exam. If any information on the confirmation notice is incorrect, if you have not received your confirmation notice before your exam date, or if you lose your confirmation email, you can log back into your dashboard and request a duplicate confirmation.

Keep in mind that you are not allowed to take anything into the room, including jewelry, purse, wallet or watch. A locked locker is available for your personal effects, and you must turn all of your pockets inside out for security. The test center provides you with scratch paper, 2 pencils and a handheld calculator. You will also be able to use an onscreen calculator during the examination.

After completing the exam, you press the "End" button. You will be asked about 5-10 evaluation questions. When you press "End" the second time, the results come up on your screen. If you pass, the score report will show a passing designation. It will not show a score. All score values above passing indicate that a candidate is qualified. You will also receive diagnostic information which will indicate areas where you may wish to consider professional development. When you pass all three parts of the examination, you may apply for enrollment with the IRS.

If you fail, your score report will show a scaled score between 40 and 104. You will also receive diagnostic information to assist you with future examination preparation. Diagnostic information will show an indicator of 1, 2, or 3 meaning:

1. Area of weakness - Additional study is necessary. It is important for you to focus on this area as you prepare to take the test again. You may want to consider taking a course or participating actively in a study group on this topic.
2. Marginal - You may need additional study in this area.
3. Strong - You clearly demonstrated an understanding of this subject area.

This information is designed to help you prepare for retaking the examination.

You may take each part of the examination at your convenience and in any order. Examination parts do not have to be taken on the same day or on consecutive days. You may take examination parts up to four times each during each test window. If you fail any part of the examination, you must allow a 24-hour waiting period before scheduling a retest. You must re-schedule with Prometric online at www.prometric.com/test-takers/search/irs or by calling 800-306-3926.

If you do not pass a part of the examination after four attempts during the May 1 to February 28 test window, you must wait until the next test window before attempting to retake any failed part of the examination again.

The average passing rate for Part 1 of the exam in 2019 was about 80%. For Part 2 the average passing rate was about 60% and for Part 3 the average passing rate was about 85%. For this reason, we recommend that candidates attempt Part 1 first followed by Part 3 and then Part 2. We also strongly recommend extra time in your preparation for Part 2.



When you pass all three parts of the examination you need to file [Form 23 - Application for Enrollment to Practice Before the Internal Revenue Service](#). As part of the evaluation of your enrollment application, the Internal Revenue Service will conduct a suitability check that will include a review of your personal tax compliance.

FAQs

What is an enrolled agent?

An enrolled agent is a person who has earned the privilege of representing taxpayers before the Internal Revenue Service. Enrolled agents, like attorneys and certified public accountants (CPAs), are unrestricted as to which taxpayers they can represent, what types of tax matters they can handle, and which IRS offices they can represent clients before.

How do you become an enrolled agent?

Review the [Candidate Information Bulletin](#) to get started and follow these steps to become an EA:

1. Obtain a Preparer Tax Identification Number.
2. Apply to take the Special Enrollment Examination (SEE).
3. Achieve passing scores on all 3 parts of the SEE.*
4. Apply for enrollment.
5. Pass a tax compliance check to ensure that you have filed all necessary tax returns and there are no outstanding tax liabilities.

*Certain IRS employees, by virtue of past technical experience, are exempt from the exam requirement.

How much does it cost to take the Special Enrollment Examination?

There is a \$182 fee for each part of the examination paid at the time of appointment scheduling. The test fee is non-refundable and non-transferable. This fee is paid at the time you schedule your examination. Accepted forms of payment include MasterCard, Visa, American Express and Electronic checks. Money orders, paper checks and cash are not accepted. Please refer to the [Candidate Information Bulletin](#) to read the policy on rescheduling appointments.

Is it possible to become an Enrolled Agent if I have or have had problems with my personal tax obligations?

Failure to timely file tax returns or to pay your taxes may be grounds for denying an application for enrollment. The Return Preparer Office will review all of the facts and circumstances to determine whether a denial of enrollment is warranted.

How can I replace an enrollment card?

A replacement card may be obtained by calling 855-472-5540. You may also request a replacement card by e-mail at epp@irs.gov or by fax at 855-889-7959. If requesting the card via e-mail, please do not include your SSN. The request should include your name, contact information, such as your daytime phone, and your Enrolled Agent number.

Do enrolled agents have any continuing education requirements?

Enrolled agents must obtain a minimum of 72 hours per enrollment cycle (every three years). Additionally, they must also obtain a minimum of 16 hours of continuing education (including 2 hours of ethics or professional conduct) each enrollment year.

If I live outside the U.S., am I required to obtain a PTIN prior to becoming an enrolled agent?

Yes, all applicants must have a Preparer Tax Identification Number (PTIN) issued by the Internal Revenue Service (IRS) in order to register to take the examination. Obtain a PTIN at www.irs.gov/ptin.

After I register to take the Special Enrollment Exam, how long do I have to schedule an appointment to test?

Your examination appointment must be scheduled within one year of the date of registration. If space permits, you may register and schedule up to 2 days prior to your test date. There is no fee if you reschedule at least 30 calendar days prior to your appointment date. There is a \$35 fee if you reschedule 5 to 29 calendar days before your appointment date. Another full examination fee if you reschedule less than five calendar days before your appointment date. Rescheduling an examination must be done online at www.prometric.com/test-takers/search/irs or by calling 800-306-3926.



I previously passed parts of the exam, how long can I carryover those scores?

Candidates who pass a part of the examination can carry over passing scores up to two years from the date the candidate passed the examination. For example, assume a candidate passed Part 1 on November 15, 2019. Subsequently the candidate passed Part 2 on February 15, 2020. That candidate has until November 15, 2021 to pass the remaining part. Otherwise, the candidate loses credit for Part 1. The candidate has until February 15, 2022 to pass all other parts of the examination or will lose credit for Part 2.

How do I obtain my SEE results?

Examination results are printed immediately upon completion of the examination.

Do I have to send my test results to the IRS?

No. The test center (Prometric) will automatically share the test results with the IRS and the IRS records will be updated accordingly.

How does the IRS determine if a person passes or fails? What is the passing score?

The scoring methodology was determined by the IRS following a scoring study. A panel of subject matter experts composed of Enrolled Agents and IRS representatives established a passing score for a candidate who meets the minimum qualifications to be an Enrolled Agent. The scaled passing score is 105.

What is a scaled score system? How can I determine my score?

Scaled scores are determined by calculating the number of questions answered correctly and converting it to a scale that ranges from 40 to 130. The IRS has set the scaled passing score at 105. Failing candidates are provided a scaled score value so that they may see how close they are to being successful. Candidates that receive a scaled score of 104 are very close to passing. Candidates with a scaled score of 45 are far from being successful. You will also receive diagnostic information to assist you with future examination preparation.

If you pass, the score report will show a passing designation. It will not show a score. All score values above passing indicate that a candidate *is* qualified — not *how* qualified. You will also receive diagnostic information which may indicate areas of weakness in your performance where you may need continuing education.

Once I have passed all three parts of the SEE, how do I officially become an Enrolled Agent?

You must apply for enrollment within one year of the date you passed the third examination part. You may electronically apply for enrollment and make secure payment of the \$67 enrollment fee at www.pay.gov. Click Find an Agency, select Treasury (UST): Internal Revenue Service (IRS), then click Application for Enrolled Agents. You will be given the option to pay online from your bank account (ACH) or with a debit or credit card.

You may also apply for enrollment by mail by submitting a completed [Form 23 - Application for Enrollment to Practice before the IRS](#), along with a check for \$67 to the address listed on the Form. Please allow 60 days for processing (90-120 days if you are a former IRS employee). As part of the evaluation of your enrollment application, the IRS will conduct a suitability check that will include a review of your personal tax compliance.

IRS Special Enrollment Exam (SEE) Outline

The following is a list of topics for each part of the examination and the percentage of questions that will appear on the exam covering these areas. Not every topic on the list will necessarily appear on the examination and the list should not be viewed as all-inclusive. Some topics may appear in more than one examination part. However, this list is based on the results of a survey sent to over 10,000 enrolled agents and it represents the knowledge needed for the tasks performed by enrolled agents.

The *Part 3 - Representation, Practice and Procedures* exam contains 100 multiple-choice questions. There are 85 questions that are scored and 15 questions that are experimental and not scored.

Part 3 - Representation, Practice and Procedures

Section 1: Practices and Procedures (25 Questions)

1.1. Practice before the IRS



- What constitutes practice before the IRS
 - Categories of individuals who may practice and extent of practice privileges
- 1.2. *Requirements for Enrolled Agents*
- Information to be furnished to the IRS
 - Omission or error on return, document, or affidavit
 - Rules for employing or accepting assistance from former IRS employees or disbarred/suspended persons
 - Rules for restrictions on advertising, solicitation and fee information
 - Fee rules (e.g., contingent, unconscionable)
 - Due diligence requirements
 - Conflict of interest
 - Rules for refund check negotiation
 - Standards for written advice, covered opinions, tax return positions and preparing returns
 - Continuing Professional Education (CPE) requirements
 - Tax shelters
 - Enrollment cycle and renewal
 - Rules for prompt disposition of matters before the IRS
 - Rules for returning a client's records and documents
 - PTIN requirements
 - Practitioner supervisory responsibilities (Circular 230 Section 10.36)
- 1.3. *Sanctionable acts*
- Disreputable conduct that may result in a disciplinary proceeding
 - Sanctions imposed by the Office of Professional Responsibility
 - Frivolous submissions (returns and documents)
 - Fraudulent transactions (e.g., badges of fraud)
- 1.4. *Rules and penalties*
- Assessment and appeal procedures for preparer penalties
 - Types of penalties (e.g., negligence, substantial understatement, overvaluation)
 - Furnishing a copy of a return to a taxpayer
 - Signing returns and furnishing identifying numbers
 - Keeping copies or lists of returns prepared
 - Employees engaged or employed during a return period (e.g., IRC Section 6060)
 - Preparer due diligence and penalties (e.g., refundable credits, head of household status)

Section 2: Representation before the IRS (24 Questions)

2.1. Power of attorney

- Purpose of power of attorney
- Signature authority (e.g., extension of assessment period, closing agreement)
- Authority granted by taxpayer
- Limitations on signing tax returns on behalf of taxpayer
- Proper completion of power of attorney (Form 2848)
- Alternate forms of power of attorney (durable)
- Rules for client privacy and consent to disclose
- Distinctions between power of attorney (Form 2848) and tax information authorization (Form 8821)
- Requirements to be met when changing or dropping representatives or withdrawal of representative
- Purpose of a Centralized Authorization File (CAF) number
- Conference and practice requirements (Publication 216)

2.2. Building the taxpayer's case - Preliminary work

- Identification of tax issue(s) with supporting details
- Potential for criminal aspects
- Competence, expertise and time to handle issue
- Conflict of interest
- Transcripts from IRS (e.g., access to and use of e-services)

2.3. 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, garnishments, cash flow and assets)



- Third-party research (e.g., property assessment for municipal taxes, asset values, state and local tax information)
 - Discharge of the tax liability in bankruptcy
 - IRS Collection Financial Standards
- 2.4. *Supporting documentation*
- Financial documents (e.g., cancelled checks or equivalent, bank statements, credit card statements, receipts, brokerage records)
 - Legal documents (e.g., birth certificate, divorce decrees, lawsuit settlements)
 - Prior and subsequent tax returns
 - Other substantive and contemporaneous documentation (e.g., corporate minutes)
 - Employment reimbursement policies
 - Business entity supporting documents (e.g., partnership agreement, corporate bylaws)
 - Expense records (e.g., deductible, allowable, personal, mileage log)
- 2.5. *Legal authority and references*
- Internal Revenue Code
 - Income tax regulations
 - Revenue rulings
 - Revenue procedures
 - IRS notices
 - Case law
 - IRS publications
 - Private letter ruling
 - Forms and instructions
 - Internal Revenue Manual
 - Authoritative versus non-authoritative source material
 - Tax treaties and other internal agreements
- 2.6. *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)
 - Freedom of Information Act (FOIA) requests
 - Tax avoidance vs. tax evasion
 - Tax return disclosure statements
 - Taxpayer Advocate Service (e.g., criteria for requisition assistance)
 - Identity Theft
 - Judicial 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)

Section 3: Specific Types of Representation (19 Questions)

3.1. Representing a taxpayer in the collection process

- Extension of time to pay (e.g., Form 1127)
- Installment agreements
- Types of offer in compromise
- Collection appeals program (e.g., denial of installment agreements, discharge applications)
- Collection appeals and due process (e.g., lien and levy and Form 12153)
- Adjustments to the taxpayer's account (e.g., abatements and refund offsets)
- Requesting an audit reconsideration (e.g., documents and forms)
- Decedent Issues
- Collection notice and Notice of Federal Tax Lien
- Levy and seizure of taxpayer's property
- Case being reported Currently Not Collectable (e.g., reasons and reactivation)
- IRS Collection Summons (e.g., purposes)
- Collections statute of limitations
- Trust fund recovery penalty



- Amended returns and claims for refund (e.g., Form 1040X, Form 843, appropriateness and timelines)
 - Passport revocation
- 3.2. *Penalties and/or interest abatement*
- Penalties subject to abatement
 - Basis for having penalties abated or refunded
 - Reasonable cause
 - Basis for having interest abated or refunded
 - Interest recalculation
 - Procedure for requesting abatement
- 3.3. *Representing a taxpayer in audits/examinations*
- IRS authority to investigate
 - Limited practitioner privilege (e.g., IRC Section 7525)
 - Verification and substantiation of entries on the return
 - 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)
 - Interpretation and analysis of CP-2000 notice and correspondence audits
 - Explanations of taxpayer options (e.g., agree or appeal)
 - Partnership level audit and optout
 - Preparer conflict of interest
- 3.4. *Representing a taxpayer before appeals*
- 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

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

4.1. Accuracy

- Reliance on software (e.g., review of results)
- Inconsistencies within the source data
- Miscalculations
- Recognition of duplicate entries

4.2. Information shared with taxpayer

- Recordkeeping requirements
- Significance of signature (e.g., joint and several liability, penalty of perjury)
- Consequences of dishonesty

4.3. Record maintenance

- Length of time to retain returns and records
- List of returns prepared (e.g., name, Social Security number, and type of return)
- Due diligence requirements
- Data security (e.g., electronic, systems, paper)

4.4. Electronic filing

- Application process to be an e-file provider (e.g., e-services, EFIN)
- E-file mandate and exceptions (Form 8948)
- Advertising standards
- Definition and responsibilities of an ERO
- Levels of infractions
- Compliance requirements to continue in program (e.g., timely filing, timely payment, and absence of infractions)
- EFIN revocation appeal process
- E-file authorization and supporting documentation (e.g., Forms 8879 and 8453)
- Rejected returns and resolution (e.g., client notification)
- Identity theft procedures and resolution (e.g., IP PIN)



Contact Information

Prometric

Main: 1-800-306-3926

Prometric Test Center: www.prometric.com/test-takers/search/irs




IRSTaxTraining.com

Phone: 1-800-214-4307

Web: www.irstaxtraining.com

Email: Support@irstaxtraining.com

Understanding the Icons Used in this Book

	Important: Update or Change
 Tip	Tip: Significant information
	Note: Additional information

IRSTaxTraining.com, Inc. is an approved education provider for the California Tax Education Council (CTEC), the Internal Revenue Service (IRS) and the National Association of State Boards of Accountancy (NASBA). Our CTEC provider number is 6224 and can be confirmed at www.CTEC.org. Our IRS provider number is RP5CH and can be verified on the IRS list of [Approved Continuing Education Providers](#) under 101 Educations Services, Inc. dba IRSTaxTraining.com. Our NASBA National Registry Number is 125385 and can be verified by visiting the NASBA Confirm Registry CPE Sponsor Status website.



Practices and Procedures

The Office of Professional Responsibility and the Return Preparer Office generally are responsible for administering and enforcing the regulations governing practice before the IRS. The Office of Professional Responsibility generally has responsibility for matters related to practitioner conduct and exclusive responsibility for discipline, including disciplinary proceedings and sanctions. The Return Preparer Office is responsible for matters related to the authority to practice, including acting on applications for enrollment and administering competency testing and continuing professional education.

Practice Before the IRS

Practice before the Internal Revenue Service includes presenting to the IRS or any of its officers or employees all matter relating to a client's rights, privileges or liabilities. Practice before the IRS covers all matters relating to any of the following: ⁽¹⁾

- Communicating with the IRS for a taxpayer regarding the taxpayer's rights, privileges, or liabilities under laws and regulations administered by the IRS.
- Representing a taxpayer at conferences, hearings, or meetings with the IRS.
- Preparing and filing documents, including tax returns, with the IRS for a taxpayer.
- Providing a client with written advice which has a potential for tax avoidance or evasion.

Furnishing information at the request of the IRS or appearing as a witness for the taxpayer is not practice before the IRS.

Some examinations are handled entirely by mail. Examinations not handled by mail can take place in the taxpayer's home, his or her place of business, an Internal Revenue office, or the office of his or her authorized representative. If the time, place, or method is not convenient for the taxpayer, the examiner will try to work out something more suitable. However, the IRS makes the final determination of when, where, and how the examination will take place.

Throughout the examination, the taxpayer can act on his or her own behalf or have someone represent him or her or accompany him or her. If the taxpayer filed a joint return, either he or she or his or her spouse, or both, can meet with the IRS. The person representing the taxpayer can be any Federally authorized practitioner, including an attorney, a certified public accountant, an enrolled agent (a person enrolled to practice before the IRS), an enrolled actuary, or the person who prepared the return and signed it as the preparer.

If the taxpayer wants someone to represent him or her in his or her absence, he or she must furnish that person with proper written authorization. The taxpayer can use [Form 2848 - Power of Attorney and Declaration of Representative](#) or any other properly written authorization. If the taxpayer wants to consult with an attorney, a certified public accountant, an enrolled agent, or any other person permitted to represent a taxpayer during an interview for examining a tax return or collecting tax, he or she should make arrangements with that person to be available for the interview.

The following individuals are subject to the Regulations contained in Circular 230. However, any individual who is recognized to practice (a recognized representative) must be designated as the taxpayer's representative and file a written declaration with the IRS stating that he or she is authorized and qualified to represent a particular taxpayer. [Form 2848 - Power of Attorney and Declaration of Representative](#) can be used for this purpose.

Appraisers - Any individual who prepares appraisals supporting the valuation of assets in connection with one or more Federal tax matters is subject to the regulations contained in Circular 230. Appraisers have no representation rights but may appear as witnesses on behalf of taxpayers.

Attorneys - Any attorney who is not currently under suspension or disbarment from practice before the Internal Revenue Service may practice before the Internal Revenue Service by filing with the Internal Revenue Service a



written declaration that the attorney is currently qualified as an attorney and is authorized to represent the party or parties. Notwithstanding the preceding sentence, attorneys who are not currently under suspension or disbarment from practice before the Internal Revenue Service are not required to file a written declaration with the IRS before rendering written advice covered under Circular 230 Section 10.37, but their rendering of this advice is practice before the Internal Revenue Service.

Certified public accountants (CPAs) - Any CPA who is not currently under suspension or disbarment from practice before the IRS and who is duly qualified to practice as a CPA in any state, possession, territory, commonwealth, or the District of Columbia may practice before the Internal Revenue Service by filing with the Internal Revenue Service a written declaration that the certified public accountant is currently qualified as a certified public accountant and is authorized to represent the party or parties. Notwithstanding the preceding sentence, certified public accountants who are not currently under suspension or disbarment from practice before the Internal Revenue Service are not required to file a written declaration with the IRS before rendering written advice covered under Circular 230 Section 10.37, but their rendering of this advice is practice before the Internal Revenue Service.

Enrolled agents - Any enrolled agent in active status who is not currently under suspension or disbarment from practice before the IRS may practice before the IRS.

Enrolled retirement plan agents - Any enrolled retirement plan agent in active status who is not currently under suspension or disbarment from practice before the IRS may practice before the IRS. The practice of enrolled retirement plan agents is limited to certain Internal Revenue Code sections that relate to their area of expertise, principally those sections governing employee retirement plans.

Enrolled actuaries - Any individual who is enrolled as an actuary by the Joint Board for the Enrollment of Actuaries who is not currently under suspension or disbarment from practice before the IRS may practice before the IRS. The practice of enrolled actuaries is limited to certain Internal Revenue Code sections that relate to their area of expertise, principally those sections governing employee retirement plans.

Others - Any individual qualifying under Circular 230 Section 10.5(e) or Section 10.7 is eligible to practice before the Internal Revenue Service to the extent provided in those sections.

Low Income Taxpayer Clinic Student Interns - Under certain circumstances, a student who is supervised by a practitioner may request permission to represent another person before the IRS.

Unenrolled return preparers - An unenrolled return preparer is an individual other than an attorney, CPA, enrolled agent, enrolled retirement plan agent, or enrolled actuary who prepares and signs a taxpayer's return as the paid preparer, or who prepares a return but is not required (by the instructions to the return or regulations) to sign the return.

Unenrolled return preparers may represent taxpayers only before revenue agents, customer service representatives, or similar officers and employees of the Internal Revenue Service (including the Taxpayer Advocate Service) and only during an examination of the tax returns they prepared and signed prior to December 31, 2015. Unenrolled return preparers may not represent taxpayers before appeals officers, revenue officers, counsel or similar officers or employees of the Internal Revenue Service or the Department of Treasury. Unenrolled return preparers may not execute closing agreements, extend the statutory period for tax assessments or collection of tax, execute waivers, or sign any document on behalf of a taxpayer.

As of January 1, 2016, only unenrolled return preparers who hold an Annual Filing Season Program (AFSP) Record of Completion for **both** the tax return year (2015 or thereafter) under examination and the year the examination is conducted may represent under the following conditions:

- Unenrolled return preparers may represent taxpayers only before revenue agents, customer service representatives, or similar officers and employees of the Internal Revenue Service (including the Taxpayer Advocate Service) and only during an examination of the taxable year or period covered by the tax returns they prepared and signed.
- Unenrolled return preparers may not represent taxpayers, regardless of the circumstances requiring representation, before appeals officers, revenue officers, counsel or similar officers or employees of the Internal Revenue Service or the Department of Treasury.



- Unenrolled return preparers may not execute closing agreements, extend the statutory period for tax assessments or collection of tax, execute waivers, or sign any document on behalf of a taxpayer.

If an unenrolled return preparer does not meet the requirements for limited representation, the taxpayer may authorize the unenrolled return preparer to inspect and/or request his or her tax information by filing [Form 8821 - Tax Information Authorization](#). Completing Form 8821 will not authorize the unenrolled return preparer to represent the taxpayer before the IRS.

Other individuals who may serve as representatives - Because of their special relationship with a taxpayer, the following individuals can represent the specified taxpayers before the IRS, provided they present satisfactory identification and, except in the case of an individual described below, proof of authority to represent the taxpayer: ⁽¹⁾

- **An individual.** An individual can represent him or herself before the IRS and does not have to file a written declaration of qualification and authority.
- **A family member.** An individual can represent members of his or her immediate family. Immediate family includes a spouse, child, parent, brother, or sister of the individual.
- **An officer.** A bona fide officer of a corporation (including a parent, subsidiary, or other affiliated corporation), association, or organized group can represent the corporation, association, or organized group. An officer of a governmental unit, agency, or authority, in the course of his or her official duties, can represent the organization before the IRS.
- **A partner.** A general partner may represent the partnership before the IRS.
- **An employee.** A regular full-time employee can represent his or her employer. An employer can be, but is not limited to, an individual, partnership, corporation (including a parent, subsidiary, or other affiliated corporation), association, trust, receivership, guardianship, estate, organized group, governmental unit, agency, or authority.
- **A fiduciary.** A fiduciary (trustee, executor, personal representative, administrator, receiver, or guardian) stands in the position of a taxpayer and acts as the taxpayer, not as a representative.

Restrictions

Practitioners are restricted from engaging in certain practices: ⁽²⁾

- A practitioner must not unreasonably delay the prompt disposition of any matter before the IRS.
- A practitioner must not knowingly, directly or indirectly:
 - Accept assistance from, or assist, any person who is under disbarment or suspension from practice before the IRS if the assistance relates to matters considered practice before the IRS.
 - Accept assistance from any former government employee where provisions of Circular 230 or any Federal law would be violated.
- A practitioner who is a notary public and is employed as counsel, attorney, or agent in a matter before the IRS, or has a material interest in the matter, cannot engage in any notary activities related to that matter.
- Practitioners must not endorse or otherwise negotiate (cash) any refund check (including directing or accepting payment by any means, electronic or otherwise, in an account owned or controlled by the practitioner or any firm or other entity with whom the practitioner is associated) issued to the taxpayer.

Generally, individuals lose their eligibility to practice before the IRS in the following ways: ⁽¹⁾

- Not meeting the requirements for renewal of enrollment (such as continuing professional education).
- Requesting to be placed in inactive retirement status.
- Being suspended or disbarred by the Office of Professional Responsibility for violating the regulations governing practice before the IRS.

Any practitioner or unenrolled return preparer may be disbarred, censured or suspended from practice before the IRS for incompetence or disreputable conduct.

The following list contains examples of conduct that is considered disreputable:

- Being convicted of any criminal offense under the revenue laws or of any offense involving dishonesty or breach of trust.



- Knowingly giving false or misleading information in connection with Federal tax matters or participating in such activity.
- Soliciting employment by prohibited means as discussed in [Section 10.30 of Circular 230](#).
- Willfully failing to file a Federal tax return, evading or attempting to evade any Federal tax or payment, or participating in such actions.
- Misappropriating, or failing to properly and promptly remit, funds received from clients for payment of taxes or other obligations due the United States.
- Directly or indirectly attempting to influence the official action of IRS employees by the use of threats, false accusations, duress, or coercion, or by providing gifts, favors, or any special inducements.
- Being disbarred or suspended from practice as an attorney, CPA, public accountant, or actuary, by the District of Columbia or any state, possession, territory, commonwealth, or any Federal court, or any Federal agency, body, or board.
- Knowingly aiding and abetting another person to practice before the IRS during a period of suspension, disbarment, or ineligibility of that other person.
- Using abusive language, making false accusations and statements knowing them to be false, circulating or publishing malicious or libelous matter, or engaging in any contemptuous conduct in connection with practice before the IRS.
- Giving a false opinion knowingly, recklessly, or through gross incompetence; or following a pattern of providing incompetent opinions in questions arising under the Federal tax laws.

The Office of Professional Responsibility may censure or institute proceedings to censure, suspend or disbar any attorney, CPA, or enrolled agent who has violated Circular 230. A practitioner will be given the opportunity to demonstrate compliance with the rules before any disciplinary action is taken.

Unenrolled return preparers may only represent taxpayers before revenue agents, customer service representatives, or similar officers and employees of the Internal Revenue Service (including the Taxpayer Advocate Service) during an examination of the taxable year or period covered by the tax return they prepared and signed. Unenrolled return preparers cannot represent taxpayers, regardless of the circumstances requiring representation, before appeals officers, revenue officers, counsel or similar officers or employees of the Internal Revenue Service or the Department of Treasury. Unenrolled return preparers cannot execute closing agreements, extend the statutory period for tax assessments or collection of tax, execute waivers, execute claims for refund, or sign any document on behalf of a taxpayer.

The Return Preparer Office can grant enrollment to practice before the IRS to an applicant who demonstrates special competence in tax matters by passing a 3-part written examination administered by the IRS. Enrollment also can be granted to an applicant who qualifies because of past service and technical experience in the IRS. In either case, certain application forms must be filed. Additionally, an applicant must not have engaged in any conduct that would justify suspension or disbarment from practice before the IRS. Applicants can apply to take the special enrollment examination by filing [Form 2587- Application for Special Enrollment Examination](#). Form 2587 can be filed online, by mail, or by fax.

Individuals who have passed the 3-part examination or are applying on the basis of past service and technical experience with the IRS can apply for enrollment by filing [Form 23 - Application for Enrollment to Practice Before the Internal Revenue Service](#) or [Form 23-EP - Application for Enrollment to Practice Before the Internal Revenue Service as an Enrolled Retirement Plan Agent](#). The application must include a check or money order in the amount of the fee shown on Form 23 or Form 23-EP. Alternatively, payment may be made electronically pursuant to instructions on the forms.

An individual may apply as an enrolled actuary on the basis of past employment with the IRS and technical experience by filing [Form 5434 - Application for Enrollment](#) with the Joint Board for the Enrollment of Actuaries. The application must include a check or money order in the amount of the fee shown on Form 5434.

An enrollment card will be issued to each individual whose enrollment application is approved. The individual is enrolled until the expiration date shown on the enrollment card or certificate. To continue practicing beyond the expiration date, the individual must request renewal of the enrollment by filing [Form 8554 - Application for Renewal of Enrollment to Practice Before the Internal Revenue Service](#) or [Form 8554-EP - Application for Renewal of Enrollment to Practice Before the Internal Revenue Service as an Enrolled Retirement Plan Agent \(ERPA\)](#).



Limited Practice Based on Relationship to the Taxpayer

An individual may represent him or herself before the IRS by presenting satisfactory identification. The individual does not have to file a written declaration of authority. Because of their special relationship with a taxpayer, unenrolled individuals can represent the specified taxpayers before the IRS without having actually prepared the tax return in question.

The following must provide satisfactory identification and documented authority (e.g., [Form 2848 - Power of Attorney and Declaration of Representative](#)) to represent the taxpayer: ⁽³⁾

- **A family member** - an individual may represent members of his or her immediate family. Immediate family generally means a spouse, child, parent, brother or sister of the individual. In other cases, the determination of whether an individual is a member of a taxpayer's immediate family can be complex, and the Office of Associate Chief Counsel (General Legal Services) or the Office of Associate Chief Counsel (Procedure and Administration) should be consulted.
- **An officer** - a bona fide officer of a corporation (including a parent subsidiary or other affiliated corporation), association or organized group may represent the corporation, association or organized group. An officer of a governmental unit, agency, or authority in the course of his or her official duties, may represent the organization before the IRS.
- **A partner** - a general partner may represent the partnership before the IRS.
- **An employee** - a regular full-time employee may represent his or her employer. An employer may be, but is not limited to, an individual, partnership, corporation (including a parent, subsidiary, or other affiliated corporation), association, trust, receivership, guardianship, estate, organized group, governmental unit, agency, or authority.
- **A fiduciary** (trustee, executor, administrator, receiver, or guardian) - a fiduciary stands in the position of a taxpayer and acts as the taxpayer, not as a representative.

Power of Attorney

The taxpayer has the right to represent him or herself or have someone represent him or her before the IRS in connection with a Federal tax matter. The taxpayer's representative must be an individual authorized to practice before the IRS. If the taxpayer wants someone to represent him or her before the IRS, he or she must submit a power of attorney with the IRS office where he or she wants the representative to act for him or her. The [Form 2848 - Power of Attorney and Declaration of Representative](#) can be used for this purpose. The taxpayer's signature on Form 2848 allows the individual or individuals named to represent him or her before the IRS and to receive his or her tax information for the matter(s) and tax year(s)/period(s) specified on the Form 2848.

Except as specified in other IRS guidance, the power attorney authorizes the listed representative(s) to receive and inspect confidential tax information and to perform all acts (that is, sign agreements, consents, waivers or other documents) that a taxpayer can perform with respect to matters described in the power of attorney. However, this authorization does not include the power to receive a check issued in connection with any liability for tax or any act specifically excluded in the power of the attorney.

A power of attorney is not required when the third party is not dealing with the IRS as the taxpayer's representative. The following situations do not require a power of attorney: ⁽¹⁾

- Providing information to the IRS.
- Authorizing the disclosure of tax return information through [Form 8821 - Tax Information Authorization](#) or other written or oral disclosure consent.
- Allowing the IRS to discuss return information with a third party via the checkbox provided on a tax return or other document.
- Allowing a tax matters partner or person (TMP) to perform acts for the partnership.
- Allowing the IRS to discuss return information with a fiduciary.

The IRS will accept a power of attorney other than Form 2848 provided the document satisfies the requirements for a power of attorney.



Practice Before the Department

Per USC Section 330, Practice before the Department, subject to Section 500 of Title 5, the Secretary of the Treasury may:

1. Regulate the practice of representatives of persons before the Department of the Treasury; and
2. Before admitting a representative to practice, require that the representative demonstrate:
 - a. Good character.
 - b. Good reputation.
 - c. Necessary qualifications to enable the representative to provide to persons valuable service.
 - d. Competency to advise and assist persons in presenting their cases.

After notice and opportunity for a proceeding, the Secretary may reprimand, suspend or disbar from practice before the Department, or censure, a representative who:

1. Is incompetent.
2. Is disreputable.
3. Violates regulations prescribed under this section.
4. With intent to defraud, willfully and knowingly misleads or threatens the person being represented or a prospective person to be represented.

The Secretary may impose a monetary penalty on any representative described in the preceding sentence. If the representative was acting on behalf of an employer or any firm or other entity in connection with the conduct giving rise to such penalty, the Secretary may impose a monetary penalty on such employer, firm, or entity if it knew, or reasonably should have known, of such conduct. Such penalty shall not exceed the gross income derived (or to be derived) from the conduct giving rise to the penalty and may be in addition to, or in lieu of, any suspension, disbarment, or censure of the representative.

After notice and opportunity for a hearing to any appraiser, the Secretary may:

1. Provide that appraisals by such appraiser shall not have any probative effect in any administrative proceeding before the Department of the Treasury or the Internal Revenue Service.
2. Bar such appraiser from presenting evidence or testimony in any such proceeding.

Confidentiality Privileges

With the introduction of the Federal tax practitioner privilege under Internal Revenue Code (IRC) Section 7525, the attorney-client privilege has become of major importance to accountants, enrolled agents and other tax practitioners because the IRC Section 7525 privilege is, to the extent it applies, coextensive with the attorney-client privilege and has the same limitations. Generally, with respect to tax advice, the same common law protections of confidentiality which apply to a communication between a taxpayer and an attorney shall also apply to a communication between a taxpayer and any “Federally authorized tax practitioner” to the extent the communication would be considered a privileged communication if it were between a taxpayer and an attorney. The privilege may only be asserted in any noncriminal tax matter before the Internal Revenue Service and any noncriminal tax proceeding in Federal court brought by or against the United States.

The term “Federally authorized tax practitioner” means any individual who is authorized under Federal law to practice before the Internal Revenue Service if such practice is subject to Federal regulation under Section 330 of title 31, United States Code. The term “tax advice” means advice given by an individual with respect to a matter which is within the scope of the individual's authority to practice.

The privilege shall not apply to any written communication which is between a “Federally authorized tax practitioner” and any person, any director, officer, employee, agent, or representative of the person, or any other person holding a capital or profits interest in the person in connection with the promotion of the direct or indirect participation of the person in any tax shelter.



Sarbanes-Oxley Act of 2002

On July 30, 2002, President Bush signed into law the [Sarbanes-Oxley Act of 2002](#), which he characterized as "the most far reaching reforms of American business practices since the time of Franklin Delano Roosevelt." The Act mandated a number of reforms to enhance corporate responsibility, enhance financial disclosures and combat corporate and accounting fraud, and created the Public Company Accounting Oversight Board (PCAOB) to oversee the activities of the auditing profession.

The Sarbanes-Oxley Act requires that auditors of U.S. public companies be subject to external and independent oversight. Previously the profession was self-regulated. The PCAOB is a non-profit corporation established by Congress to oversee the audits of public companies to protect investors and the public interest by promoting accurate, independent audit reports. The PCAOB also monitors the audits of brokers and dealers, including compliance reports filed pursuant to Federal securities laws. The U.S. Securities and Exchange Commission (SEC) has authority over the PCAOB, including its rules, standards and budget. ⁽⁴⁾

Rules for Tax Preparers – Circular 230

This section is designed to help you understand your ethical obligations as a paid tax preparer. Because tax preparers are trusted by their clients to comply with tax laws, tax preparers are required to comply with the ethical standards of [Treasury Department Circular 230 – Rules for Tax Preparers](#). ⁽⁵⁾

Who exactly is a tax return preparer? Under USC [Section 7701\(a\)\(36\)](#), a tax return preparer is any person who prepares for compensation, or employs others to prepare for compensation, all or a substantial portion of any tax return or claim for refund under the IRC. The IRS recognizes attorneys, CPAs, enrolled actuaries, enrolled retirement plan agents, enrolled agents and all others paid to prepare returns as paid tax return preparers subject to the ethics rules.

However, a person shall not be a tax return preparer merely because such he or she: ⁽⁶⁾

- Furnishes typing, reproducing, or other mechanical assistance.
- Prepares a return or claim for refund of the employer (or of an officer or employee of the employer) by whom he is regularly and continuously employed.
- Prepares as a fiduciary a return or claim for refund for any person.
- Prepares a claim for refund for a taxpayer in response to any notice of deficiency issued to such taxpayer or in response to any waiver of restriction after the commencement of an audit of such taxpayer or another taxpayer if a determination in such audit of such other taxpayer directly or indirectly affects the tax liability of such taxpayer.

Enforcement of the rules is administered by the Office of Professional Responsibility (OPR) within the IRS. OPR's organizational structure includes three major segments: Office of the Director, Legal Analysis Branch, and Operations Management Branch.

These branches of the OPR are committed to: ⁽⁷⁾

- Independent, fair and equitable treatment of all tax practitioners consistent with their Title 31 authority and principles of due process.
- Rendering fair and independent determinations regarding alleged misconduct in violation of Circular 230 - Regulations Governing Practice before the Internal Revenue Service.
- Educating/maintaining tax professionals' knowledge of relevant Circular 230 provisions.
- Providing guidance and feedback to field/agency sources regarding essential referral criteria for each relevant Circular 230 provision.
- Strengthening partnerships with other parts of the IRS and with external practitioner organizations.
- Developing procedures that ensure timely case resolution.
- Developing policies and regulations that ensure fair and equitable disposition of Circular 230 cases.
- Developing and implementing proactive strategies for identifying violations of Circular 230.



Examples of misconduct typically referred to OPR include, but are not limited to:

- Inaccurate or unreasonable entries/omissions on tax returns, financial statements and other documents.
- A lack of due diligence exercised by the practitioner.
- A willful attempt by the practitioner to evade the payment/assessment of any Federal tax.
- Cashing, diverting or splitting a taxpayer's refund by any means, electronic or otherwise.
- Patterns of misconduct involving multiple years, multiple clients or inappropriate/unprofessional conduct demonstrated to multiple IRS employees.
- Potential conflict of interest situations, such as representation of both spouses who have a joint liability or when representation is affected by competing interests of the practitioner.
- Any willful violation of Circular 230 provisions.

The Treasury Department Circular 230 contains ethics rules governing the recognition of attorneys, certified public accountants, enrolled agents, enrolled retirement plan agents, registered tax return preparers, and other persons representing taxpayers before the Internal Revenue Service. Circular 230 is the body of regulations promulgated under the enabling statute found at Title 31, United States Code Section 330. This statute and the body of regulations are the source of the OPR's authority. Circular 230 defines "practice" and who may practice before the IRS; describes a tax professional's duties and obligations while practicing before the IRS; authorizes specific sanctions for violations of the duties and obligations; and, describes the procedures that apply to administrative proceedings for discipline. The Circular 230 is divided into five distinct subparts:

- *Subpart A* - sets forth rules relating to the authority to practice before the Internal Revenue Service.
- *Subpart B* - prescribes the duties and restrictions relating to such practice.
- *Subpart C* - prescribes the sanctions for violating the regulations.
- *Subpart D* - contains the rules applicable to disciplinary proceedings.
- *Subpart E* - contains general provisions relating to official records.

The Office of Professional Responsibility shall generally have responsibility for matters related to practitioner conduct and shall have exclusive responsibility for discipline, including disciplinary proceedings and sanctions.

Circular 230 discipline includes Censure (essentially a public reprimand), Suspension of practice privileges and Disbarment. A suspension can be for a fixed term or may be indefinite, and a practitioner must request and be granted reinstatement by the OPR before practice privileges are restored. When a practitioner is suspended for a fixed term, the individual may not petition to be reinstated to practice before the end of the term. When a practitioner is disbarred, s/he may not petition for reinstatement for five years.

The OPR also may propose a monetary penalty on any practitioner who engages in conduct subject to sanction. The monetary penalty may be proposed against the individual or a firm, or both, and can be in addition to any Censure, Suspension or Disbarment. The amount of the penalty may be up to the amount of gross income derived or to be derived from the conduct giving rise to the penalty. If formal discipline is not appropriate, the OPR may issue a private reprimand or a cautionary "soft letter." The "soft letter" typically advises a practitioner of allegations and warns against noncompliance with obligations under Circular 230 but does not reach a conclusion as to whether a violation was actually committed.

Subpart A

Rules Governing Authority to Practice

Subpart A contains rules governing attorneys, certified public accountants, enrolled agents, enrolled retirement plan agents, registered tax return preparers, and other persons representing taxpayers before the IRS. Subpart A also outlines the requirements for annual continuing professional education.

Eligibility

In order to be eligible to become an enrolled agent or enrolled retirement plan agent, the applicant must:

- Be 18 years of age or older.



- Demonstrate competence in tax matters.
- Possess a current preparer tax identification number (PTIN).
- Has not engaged in any conduct justifying suspension or disbarment.

Application

In order to become an enrolled agent or enrolled retirement plan agent, the applicant must:

- Submit an application to the IRS.
- Pay a non-refundable registration fee.
- Pass an examination.
- Pass certain suitability checks.

Suitability checks include verification on filing personal and/or business tax returns, payment of any tax liabilities and inquiry regarding any conduct which would justify suspension or disbarment from practice. Upon application completion and approval, the IRS will issue an enrollment registration card or certificate. This will include a preparer tax identification number (PTIN) which must be included next to your signature on all returns that you prepare. It is your IRS license to prepare taxes.

If the applicant does not pass the tax compliance or suitability check, the applicant will not be issued an enrollment card or certificate. The applicant will be informed in writing as to the reason(s) for any denial of an application. The applicant may, within 30 days after receipt of the notice of denial of the application, file a written protest of the denial as prescribed by the Internal Revenue Service in forms, guidance, or other appropriate guidance.

Attorneys

People with this credential are licensed by state courts or their designees, such as the state bar. Generally, requirements include completion of a degree in law, passage of an ethics and bar exam and on-going continuing professional education. Attorneys can offer a range of services; some attorneys specialize in tax preparation and planning.

Enrolled Agents

People with this credential are licensed by the IRS and specifically trained in Federal tax planning, preparation and representation. Enrolled agents hold the most expansive license the IRS grants and must pass a suitability check, as well as a three-part Special Enrollment Examination, a comprehensive 3-part exam that covers individual tax, business tax and representation issues. An individual should follow these steps to become an enrolled agent:

1. Obtain a Preparer Tax Identification Number (PTIN).
2. Apply to take the Special Enrollment Examination (SEE).
3. Achieve passing scores on all 3 parts of the SEE:
 - a. Review old SEE questions and answers.
 - b. Review the SEE Candidate Information Bulletin.
4. Apply for enrollment and pay enrollment fee electronically at [Pay.gov](https://www.pay.gov) or by downloading [Form 23 - Application for Enrollment to Practice Before the Internal Revenue Service](#) and mailing the completed form and a check to the IRS.
5. Pass a tax compliance check to ensure that he or she has filed all necessary tax returns and there are no outstanding tax liabilities. This check is conducted on the individual's behalf after submission of Form 23.

Enrolled agents must obtain 72 hours of continuing professional education (CPE) every three years. A minimum of 16 hours must be earned per year, two of which must be on ethics. Enrolled agents must use an IRS approved CE provider.



Former IRS employees may be granted enrollment based on past service and technical experience in the IRS without having to take the SEE.



Term and Renewal

Anyone who prepares or assists in preparing Federal tax returns for compensation must have a valid preparer tax identification number (PTIN) before preparing returns. All enrolled agents must also have a PTIN. PTINs must be renewed by December 31st. Additionally, enrolled agents must renew their credentials with the IRS between November 1 and January 31 of every subsequent third year according to the last number of the individual's Social Security number. Enrolled retirement plan agents must renew their status between April 1 and June 30 of every third year subsequent to their enrollment. Upon renewal and payment of a renewal fee, a new card or certificate will be issued. Changes of address must be reported to the IRS within 60 days of the address change. Failure to receive renewal notification from the IRS does not justify the practitioner failure to satisfy renewal requirements. Forms for renewal are available by written request, published bulletins and on the IRS webpage (www.irs.gov/for-Tax-Pros).

An Enrolled Agent will be automatically classified as "inactive" if he or she fails to:

- Meet the CPE requirements for his or her EA license renewal.
- Submit his or her enrolled agent license renewal by the due date.
- Meet any other condition of renewal.

The Office of Professional Responsibility will notify the EA by first class mail. The notice will describe the reason for denial of renewal. An EA will have 60 days from the date of the notice to reply and provide information for reconsideration. An enrolled individual will be placed on the roster of inactive enrolled individuals for a period of three years, if he or she:

- Fails to respond timely to the notice of noncompliance with the renewal requirements.
- Fails to file timely the application for renewal.
- Does not satisfy the requirements of eligibility for renewal.

The enrolled individual must file an application for renewal and satisfy all requirements for renewal after being placed in inactive status. Otherwise, at the conclusion of the next renewal cycle, he or she will be removed from the roster and the enrollment status will be terminated.

An EA can request to be placed on inactive retirement status when he or she fills out his or her renewal [Form 8554 - Application for Renewal of Enrollment to Practice Before the Internal Revenue Service](#). Specifically, he or she marks a checkbox in Part 1 of the Application for Renewal of Enrollment. The checkbox states "I want approval to remain or be placed into Inactive Retirement status."

The cost to become inactive or remain on inactive status is the same as the cost to be on active status. An inactive EA must still pay the renewal fee every 3 years however no CPE is required while in inactive status.

Enrolled individuals who request to be placed in an inactive retirement status will be ineligible to practice before the IRS. They must continue to adhere to all renewal requirements. They can be reinstated to active enrollment status by filing an application for renewal and providing evidence that they have completed the required continuing professional education hours for the enrollment cycle or registration year.

Generally speaking, there is no advantage to selecting inactive status unless the enrolled individual plans to remain inactive for 6 or more years. If he or she decides to return to active status say after 4 year, he or she has to complete 72 hours to reactivate. Then in 2 years the individual has to submit 72 hours to renew his or her license. So the enrolled individual has to remain inactive for more than 6 years in order to skip a cycle of CPE requirements.

Certified Public Accountants

People with this credential are licensed by state boards of accountancy, the District of Columbia, and U.S. territories, and have passed the Uniform CPA Examination. They also must meet education, experience, and good character requirements established by their boards of accountancy. In addition, CPAs must comply with ethical requirements as well as complete specified levels of continuing professional education in order to maintain an active CPA license. CPAs can offer a range of services; some CPAs specialize in tax preparation and planning.



Generally, an individual has three requirements for licensure: ⁽⁸⁾

1. Education.
2. Exam or Uniform Certified Public Accountant Examination.
3. Experience.

To obtain the required body of knowledge and to develop the skills and abilities needed to be successful CPAs, students should complete 150 semester hours of education. Many states/jurisdictions now require or will require 150 semester hours of education for obtaining the CPA certification. Colleges and universities in these states/jurisdictions determine the curriculum for pre-licensure education of CPAs; it typically features a good balance of accounting, business, and general education.

In general, state boards require the following:

- A total of 150 semester credits from a college or university whose accreditation is accepted by the state (Colleges and universities typically offer a curriculum designed to meet the 150-credit requirement).
- A minimum of a bachelor's degree.
- A specified number of accounting course.
- A specified number of business courses.

The uniform CPA examination is a computer-based format consisting of four sections: ⁽⁸⁾

- Auditing and Attestation (AUD).
- Business Environment and Concepts (BEC).
- Financial Accounting and Reporting (FAR).
- Regulation (REG).

The exam is the same regardless of location taken. The passing score is 75 on a 0-99 scale. The question types include multiple choice, simulation and written communication. Eligibility to sit for the exam depends on state requirements.

Many states require a candidate to have one to two years of experience under a CPA. Additional requirements vary based on the candidate's education, employer(s) and type of work. CPA licenses give the individual the right to practice public accounting. Some states require an Ethics exam and the individual must comply with rules of professional conduct.

Continuing Professional Education Requirement - CPA

To maintain his or her license, a CPA typically must complete 40 hours (varies by state) of continuing professional education (CPE) per year. Types of eligible CPE hours vary based on jurisdiction. Subjects also vary on type or license and area of employment. Many jurisdictions may require ethics training and compliance. The National Association of State Boards of Accountancy (NASBA) Regulatory Compliance Services division offers several programs that assist state boards and their licensees by determining high quality CPE providers. For more information about the state board of accountancy in each of the 55 jurisdictions visit the [NASBA website](#).

Documentation of CPE is not required but should be maintained. The member is responsible for retaining any documentation that may be required. The reporting period begins the calendar year after joining the American Institute of Certified Public Accounts (AICPA). There is a two-month grace period immediately following the reporting period. Hours credited toward a deficiency may not be counted toward the reporting period in which they are taken. Qualifying programs are those programs which contribute to the member's professional competence and are formal programs. No specific subject areas are required. Examples of qualifying programs are in-house training courses, trade association conferences, self-study programs or college and university classes. Members bear primary responsibility of documenting compliance with CPE requirements.

For each program the member should be able to document the following: ⁽⁹⁾

- Sponsor.
- Title and description of content.



- Date(s).
- Location.
- Number of CPE contact hours.

AICPA members in the following categories are automatically exempted from AICPA CPE Requirements: ⁽⁹⁾

- Retired and do not hold themselves out as CPAs to third parties.
- Temporarily Left the Work Force and do not hold themselves out as CPAs to third parties.
- Unemployed and do not hold themselves out as CPAs to third parties.
- Members who have formally placed their CPA certificate/license in 'inactive' status with the State Board of Accountancy and do not hold themselves out as CPAs to third parties.

AICPA members may request a waiver for AICPA membership CPE requirements if the member is unable to comply due to unique circumstances such as: ⁽⁹⁾

- Health.
- Military Service.
- Extreme natural disasters (in circumstances where the State Board grants any exemption, reduction or other adjustment with regard to CPE requirements).
- Other similar circumstances that might prevent a member from complying with the CPE requirements.

For more information see the [Statement on Standards for Continuing Professional Education \(CPE\) Programs](#).

Members who place their licenses/certificate on inactive status with their state board of accountancy AND do not hold themselves out as CPAs are exempt from the AICPA's CPE requirement as long as their state board does not require CPE while on inactive status.

If a CPA is short of the required 40 CPE hours in the first year, he or she may be penalized with a citation and receive a fine. The individual would also be required to make up the hours to reach a minimum of 80 for the two-year reporting period. Penalties and fines vary and are determined by the individual's state board of accountancy. For more information about the state board of accountancy in each of the 55 jurisdictions visit the [NASBA website](#).

Continuing Professional Education Requirement - EA

For an enrolled agent or enrolled retirement plan agent, during a three year enrollment cycle, 72 hours of continuing professional education, including 6 hours of ethics or professional conduct is required. At a minimum, 16 hours, including two hours of ethics or professional conduct, must be completed in any one year of the three year enrollment cycle.

When an enrolled agent is newly enrolled in the middle of an enrollment cycle, the individual must complete two hours of qualified continuing professional education for each month enrolled during the enrollment cycle. Two hours of qualified ethics or professional conduct is required for every year an enrolled agent becomes enrolled during an enrollment cycle.

Practitioner's records of completed continuing professional education must be retained for four years subsequent to the renewal date. If a tax practitioner did not complete his or her continuing professional education requirements, he or she must fill out [Form 14392 - Continuing Education Waiver Request](#) and submit it to the IRS. To be considered, a request for a continuing education waiver must be received no later than the last day of the renewal application period. In addition, those who are granted waivers are required to file timely applications for renewal of enrollment or registration. The IRS states that all waiver requests will be processed within 90 days.

Once the waiver is approved, the practitioner still has to make up the hours in 2019 that he or she missed in 2018. However, the practitioner will still be able to have a valid PTIN and prepare taxes this year. He or she will not have problems with his or her PTIN renewal until 2019. Reasons for requesting a waiver include:

- Health, which prevented, or will prevent, compliance with the continuing professional education requirements (supporting documentation such as medical certificate must be provided with request).
- Extended active military duty (supporting documentation such as military orders must be provided with request).



- Absence from the United States for an extended period of time due to employment or other reasons provided the individual does not practice before the Internal Revenue Service during such absence.
- Other compelling reasons, which will be considered on a case-by-case basis.

Rules for Qualified Continuing Professional Education

- *For Certified Public Accountants*, CPE is required for CPAs to maintain their professional competence and provide quality professional services. CPAs are responsible for complying with all applicable CPE requirements, rules and regulations of state boards of accountancy, as well as those of membership associations and other professional organizations.
- *For enrolled agents*, the course must be a qualifying continuing professional education program in Federal tax and must be consistent with IRC and tax administration.
- *For enrolled retirement plan agents*, the course must be a qualifying continuing professional education program designed to enhance professional knowledge in qualified retirement plan matters and be a qualifying continuing professional education program consistent with the Internal Revenue Code and effective tax administration.
- *Annual Filing Season Program (AFSP)*, this program aims to recognize the efforts of non-credentialed return preparers who aspire to a higher level of professionalism. Tax practitioners meet the AFSP requirements by obtaining 18 hours of continuing education, including a six-hour Annual Federal Tax Refresher (AFTR) course with a comprehensive exam. Upon completion, the practitioner will receive an Annual Filing Season Program – Record of Completion from the IRS.

Formal qualified continuing professional education programs must require attendance and provide each attendee with a certificate of attendance, taught by a qualified instructor, include a written outline or educational materials, and it must satisfy the requirements established for a qualified continuing professional education program. Self-study programs are allowed provided that they require registration of the participants, measure the successful completion of the program by the participants with issuance of a certificate, provide educational materials, and satisfy the requirements established for a qualified continuing professional education program.

Continuing professional education providers and educational programs also must comply with specific requirements. Providers must be an accredited educational institution, must be licensed for continuing professional education, and be recognized by the IRS as an approved provider. Educational program offerings must be current, taught by qualified instructors, and include a means of evaluating content. Additionally, the provider must issue certificates to participants upon completion of the courses. The provider is also subject to record retention rules.

IRSTaxTraining.com, Inc. is an approved education provider for the Internal Revenue Service (IRS). Our IRS provider number is RP5CH and can be verified at the IRS list of [Approved Continuing Education Providers](#).

Category	IRS CPE Requirement	Credit Breakdown
Annual Filing Season Program (AFSP)	18 Hours per year - Voluntary	6 hours Annual Federal Tax Refresher (AFTR) Course* 2 hours of Ethics 10 hours of Federal Tax Law
Enrolled Agent	72 Hours (over 3-year enrollment cycle)	Minimum of 16 hours per year (2 of which must be on ethics)
Enrolled Retirement Plan Agent	72 Hours (over 3-year enrollment cycle)	Minimum of 16 hours per year (2 of which must be on ethics)

*Former RTRPs can substitute the 3-hour Updates for the 6-hour AFTRC to earn their AFSP.

Table 1-1- IRS CE Requirements for Tax Professionals (2019)

Annual Filing Season Program (AFSP)



AFSP participants will also be included in a public database of return preparers on the IRS website. The Directory of Federal Tax Return Preparers with Credentials and Select Qualifications will include the name, city, state, zip code, and credentials of all attorneys, CPAs, enrolled agents, enrolled retirement plan agents and enrolled actuaries with a valid PTIN, as well as all AFSP – Record of Completion holders.



Anyone who passed the Registered Tax Return Preparer test offered between November 2011 and January 2013 only needs to meet their original 15 hour continuing education requirement each year to obtain an AFSP – Record of Completion. Those who passed the RTRP test and certain other recognized national and state tests (including California and Oregon) are exempt from the six-hour Annual Federal Tax Refresher (AFTR) course with test.

The AFSP is voluntary. Anyone with a preparer tax identification number (PTIN) can prepare tax returns for compensation, but continuing professional education is encouraged for all tax return preparers. To obtain an AFSP – Record of Completion a tax preparer must:

1. Take 18 hours of continuing education from IRS-Approved CE Providers, including:
 - a. A six (6) hour Annual Federal Tax Refresher (AFTR) course that covers filing season issues and tax law updates, as well as a knowledge-based comprehension test administered at the end of the course by the CE Provider;
 - b. Ten (10) hours of other federal tax law topics; **and**
 - c. Two (2) hours of ethics.
2. Have an active preparer tax identification number (PTIN).
3. Consent to adhere to specific practice obligations outlined in Subpart B and Section 10.51 of Treasury Department Circular No. 230.

In addition to being included in the public directory of tax return preparers, the AFSP – Record of Completion differentiates tax practitioners who have completed the program in the marketplace. The IRS launched a public education campaign encouraging taxpayers to select return preparers carefully and seek those with professional credentials or other select qualifications.

After PTIN renewal season began in October of 2018, a Record of Completion was generated to the tax preparer once all requirements have been met, including renewal of his or her PTIN for 2019 and consent to the Circular 230 obligations. If the tax preparer has an online PTIN account, he or she will receive an e-mail from TaxPro_PTIN@irs.gov with instructions on how to sign the Circular 230 consent and receive his or her certificate in his or her online secure mailbox. If the tax preparer does not have an online PTIN account, he or she will receive a letter with instructions for completing the application process and obtaining his or her certificate.



The consent to certain Circular 230 requirements for the Annual Filing Season Program Record of Completion for 2019 is especially important for those who want to continue to have limited representation rights for clients whose returns they prepare after December 31, 2018.

Also, in 2016, there were changes to the representation rights of return preparers. Attorneys, CPAs, and enrolled agents will continue to be the only tax professionals with unlimited representation rights, meaning they can represent their clients on any matters including audits, payment/collection issues, and appeals. However, AFSP participants will have limited representation rights, meaning they can represent clients whose returns they prepared and signed, but only before revenue agents, customer service representatives, and similar IRS employees, including the Taxpayer Advocate Service.

PTIN holders without an AFSP – Record of Completion or other professional credential will only be permitted to prepare tax returns. They will not be allowed to represent clients before the IRS. The following tax return preparers who have successfully completed one of the following national or state tests are exempt from taking the Annual Federal Tax Refresher (AFTR) course:

- Anyone who passed the Registered Tax Return Preparer test administered by the IRS between November 2011 and January 2013.
- Established state-based return preparer program participants with current testing requirements such as return preparers who are active members of the Oregon Board of Tax Practitioners, California Tax Education Council, and/or Maryland State Board of Individual Tax Preparers. For example, The IRS has exempted California Registered Tax Preparers (CRTP) from having to take the Annual Federal Tax Refresher (AFTR) course and passing the course's competency examination to obtain a Record of Completion because they have already demonstrated their competency by passing a 60-hour qualifying education course and annually maintaining their continuing professional education. In addition, their California Tax Education Council (CTEC) education requirements will meet the IRS requirements. Therefore, a CRTP in good standing will have already met all of the IRS requirements of the AFSP and will have a simplified process to obtain a Record of



Completion. Also, a CRTP was granted the authority to represent, before the IRS, clients whose returns the CRTP prepared, as long as the CRTP is properly registered with CTEC for both the year the tax return was prepared as well as the year the review takes place.

- SEE Part I Test-Passers: Tax practitioners who have passed the Special Enrollment Exam Part I within the past two years as of the first day of the upcoming filing season.
- VITA volunteers: Quality reviewers and instructors with active PTINs.
- Other accredited tax-focused credential-holders: The Accreditation Council for Accountancy and Taxation's Accredited Business Accountant/Advisor (ABA) and Accredited Tax Preparer (ATP) programs.

To be eligible for an AFSP – Record of Completion, a return preparer must complete and pass the AFTR course and obtain their other CPE by December 31 prior to the start of the tax season. As AFTR courses are offered by CPE providers, return preparers are subject to the schedule of courses offered by these providers. In no circumstance will the AFSP – Record of Completion be issued before a return preparer has registered or renewed their PTIN for the upcoming year.

Instructors

It is possible to earn continuing professional education credits by serving as the instructor or discussion leader of a qualified continuing professional education program. One hour of continuing professional education credit will be awarded for each contact hour completed as an instructor, discussion leader, or speaker at an educational program. Only four hours annually can be earned from instructing by a tax return preparer. Additionally, only six hours annually can be earned from instructing by an enrolled agent or an enrolled retirement agent. A CPA who serves as an instructor, speaker or discussion leader of an approved course will be allowed CPE course credit for actual presentation time, plus actual preparation time of up to 2 hours for each hour of presentation. The maximum continuing professional education credits a CPA can earn annually for instructing a course varies by state. The program must meet all the requirements of a qualified continuing professional educational program as discussed above.

Measurement

All continuing professional education programs will be measured in terms of contact hours. The shortest recognized program will be one contact hour. A contact hour is 50 minutes of continuous participation in a program. Credit is granted only for a full contact hour, which is 50 minutes or multiples thereof. For example, a program lasting more than 50 minutes but less than 100 minutes will count as only one contact hour. Individual segments at continuous conferences, conventions and the like will be considered one total program. For example, two 90-minute segments (180 minutes) at a continuous conference will count as three contact hours. For university or college courses, each semester hour credit will equal 15 contact hours and a quarter hour credit will equal 10 contact hours.



Waiver from the continuing professional education requirements may be allowed for health issues, active military duty, absence from the United States and other case-by-case reasons. A request for waiver must be accompanied by documentation and can be filed no later than last day of the renewal period.

The IRS will provide notice to any person who fails to complete the continuing professional education and fee requirements. Individuals must reply within 60 days of notice to be considered for renewal. If reply is not attempted or the IRS denies renewal the individual may be placed on a roster of inactive enrolled or registered individuals. While on the inactive roster, the individual is not eligible to practice before the IRS.

The individual may, within 30 days after receipt of the notice of denial of renewal, file a written protest of the denial as prescribed by the Internal Revenue Service in forms, instructions, or other appropriate guidance. A protest under [Section 10.6 of Circular 230](#) is not governed by subpart D of Circular 230.

Individuals placed in inactive status and individuals ineligible to practice before the Internal Revenue Service may not state or imply that they are eligible to practice before the Internal Revenue Service, or use the terms enrolled agent, enrolled retirement plan agent, or registered tax return preparer, the designations EA or ERPA or other form of reference to eligibility to practice before the Internal Revenue Service. An individual placed in inactive status may be reinstated to an active status by filing an application for renewal and providing evidence of the completion of all required continuing professional education hours for the enrollment cycle or registration year.



An individual placed in inactive status must file an application for renewal and satisfy the requirements for renewal as set forth in this section within three years of being placed in inactive status. Otherwise, the name of such individual will be removed from the inactive status roster and the individual's status as an enrolled agent, enrolled retirement plan agent, or registered tax return preparer will terminate. Future eligibility for active status must then be reestablished by the individual.

An individual who no longer practices before the Internal Revenue Service may request to be placed in an inactive retirement status at any time and such individual will be placed in an inactive retirement status. The individual will be ineligible to practice before the Internal Revenue Service. An individual who is placed in an inactive retirement status may be reinstated to an active status by filing an application for renewal and providing evidence of the completion of the required continuing professional education hours for the enrollment cycle or registration year. Inactive retirement status is not available to an individual who is ineligible to practice before the Internal Revenue Service or an individual who is the subject of a pending disciplinary matter under this part.

Recordkeeping

Each individual applying for renewal must retain for a period of four years following the date of renewal the information required with regard to qualifying continuing professional education credit hours. Such information includes: ⁽¹⁰⁾

- The name of the CPE Provider organization.
- The location of the program.
- The title of the program, approval number received for the program, and copy of the program content.
- Written outlines, course syllabi, textbook, and/or electronic materials provided or required for the program.
- The date(s) attended.
- The credit hours claimed.
- The name(s) of the instructor(s), discussion leader(s), or speaker(s), if appropriate.
- The certificate of completion and/or signed statement of the hours of attendance obtained from the continuing professional education provider.

Continuing Professional Education Providers

Continuing professional education providers must be accredited educational institutions recognized by the IRS as a professional organization, society or business. Each continuing professional education provider is required to obtain a provider number and pay applicable user fees. Requirements for qualified continuing professional education programs include:

- Development by qualified individual.
- Current subject matter.
- Qualified instructors, discussion leaders and speakers.
- Evaluation of technical content and presentation.
- Certificate of completion.
- Maintenance of participant attendance and completion for four years.

To qualify for continuing professional education credit the course of learning must:

1. Be a qualifying continuing professional education program designed to enhance professional knowledge in Federal taxation or Federal tax related matters (programs comprised of current subject matter in Federal taxation or Federal tax related matters, including accounting, tax return preparation software, taxation, or ethics).
2. Be a qualifying continuing professional education program consistent with the Internal Revenue Code and effective tax administration.

Qualifying programs include formal and correspondence or individual self-study programs. A formal program qualifies as a continuing professional education program if it:

1. Requires attendance and provides each attendee with a certificate of attendance.
2. Is conducted by a qualified instructor, discussion leader, or speaker (in other words, a person whose background, training, education, and experience is appropriate for instructing or leading a discussion on the subject matter of the particular program).



3. Provides or requires a written outline, textbook, or suitable electronic educational materials.
4. Satisfies the requirements established for a qualified continuing professional education program pursuant to [Section 10.9 of Circular 230](#).

Qualifying continuing professional education programs include correspondence or individual self-study programs that are conducted by continuing professional education providers and completed on an individual basis by the enrolled individual. The allowable credit hours for such programs will be measured on a basis comparable to the measurement of a seminar or course for credit in an accredited educational institution.

Such programs qualify as continuing professional education programs only if they:

1. Require registration of the participants by the continuing professional education provider.
2. Provide a means for measuring successful completion by the participants (for example, a written examination), including the issuance of a certificate of completion by the continuing professional education provider.
3. Provide a written outline, textbook, or suitable electronic educational materials.
4. Satisfy the requirements established for a qualified continuing professional education program pursuant to [Section 10.9 of Circular 230](#).

Representing Oneself and Limited Practice

Upon presentation of satisfactory identification, an individual may appear on their own behalf before the IRS. Additionally, subject to the limitations, an individual who is not a practitioner may represent a taxpayer before the Internal Revenue Service under the following circumstances:

- An individual may represent a member of his or her immediate family.
- A regular full-time employee of an individual employer may represent the employer.
- A general partner or a regular full-time employee of a partnership may represent the partnership.
- A bona fide officer or a regular full-time employee of a corporation (including a parent, subsidiary, or other affiliated corporation), association, or organized group may represent the corporation, association, or organized group.
- A regular full-time employee of a trust, receivership, guardianship, or estate may represent the trust, receivership, guardianship, or estate.
- An officer or a regular 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.
- An individual may represent any individual or entity, who is outside the United States, before personnel of the Internal Revenue Service when such representation takes place outside the United States.

An individual who is under suspension or disbarment from practice before the IRS may not participate in limited practice. Additionally, after notice, a delegate of the IRS may also deny eligibility for an individual to engage in limited practice.

Preparer Tax Identification Number (PTIN)

Any person that prepares or assists in preparing Federal tax returns for compensation must have a valid preparer tax identification number (PTIN) before preparing returns. The PTIN application process may be completed online. [Form W-12 - IRS Paid Preparer Tax Identification Number Application and Renewal](#) is available for paper applications and renewals, but takes four to six weeks to process. A tax preparer must renew his or her PTIN every year during the renewal season. The renewal season generally runs from mid-October to December 31st. The renewal process can be completed online and only takes a few moments. Failure to have and use a valid PTIN may result in penalties. All enrolled agents, regardless of whether they prepare returns, must have a PTIN in order to maintain their status.

On January 18, 2013, the United States District Court for the District of Columbia enjoined the Internal Revenue Service from enforcing the regulatory requirements for registered tax return preparers. In accordance with this order, tax return preparers covered by this program are not required to complete competency testing or secure continuing education. The ruling does not affect the regulatory practice requirements for CPAs, attorneys, enrolled agents, enrolled retirement plan agents or enrolled actuaries or the continuing professional education requirements of individual states.



On February 1, 2013 the court modified its order to clarify that the order does not affect the requirement for all paid tax return preparers to obtain a preparer tax identification number (PTIN). IRS regulations still require all paid tax return preparers (including attorneys, CPAs, and enrolled agents) to apply for a Preparer Tax Identification Number (PTIN) before preparing any future Federal tax returns.



On June 1, 2017, the United States District court for the District of Columbia upheld the Internal Revenue Service's authority to require the use of a Preparer Tax Identification Number (PTIN), but enjoined the IRS from charging a user fee for the issuance and renewal of PTINs.

Subpart B

Duties and Restrictions Relating to Practice Before the IRS

Subpart B covers relationships between the practitioner and the IRS and the practitioner and the client. There are 19 specific rules about the relationships between the IRS and the client. In basic terms, a practitioner must submit information to the IRS if requested and must advise a client of any known omissions or errors in any filings with the IRS. Additionally, a practitioner must be diligent in their work to prevent mistakes in representations to the IRS. The fees charged by a practitioner must be reasonable. Also, a practitioner cannot withhold client records that prevent the client from complying with IRS filing rules. There cannot be any conflicts of interest between the client and the practitioner and in relation to conflicts of interest rules, a practitioner that prepares tax returns cannot endorse or negotiate checks issued to a client in settlement of a tax liability.⁽⁵⁾

Information Furnished to the IRS



Information requested by the IRS is to be promptly submitted unless the practitioner has good reason to believe the information is subject to attorney/client privilege. Unreasonable delays by a practitioner are not permitted in matters before the IRS. If the requested records are not in the possession or control of the practitioner or client, the IRS must be informed and any information regarding the whereabouts of the records must be provided to the IRS.

The practitioner must make reasonable inquiries of the client regarding location of the records, but the practitioner does not have to make inquiries of any other person or verify any information provided by the client. The practitioner must also provide any information and/or testify concerning any alleged violations when questioned by a duly authorized representative of the IRS, unless the practitioner believes in good faith that the information is privileged.

To the Internal Revenue Service, a practitioner must:

1. On a proper and lawful request by a duly authorized officer or employee of the Internal Revenue Service, promptly submit records or information in any matter before the Internal Revenue Service unless the practitioner believes in good faith and on reasonable grounds that the records or information are privileged.
2. Where the requested records or information are not in the possession of, or subject to the control of, the practitioner or the practitioner's client, the practitioner must promptly notify the requesting Internal Revenue Service officer or employee and the practitioner must provide any information that the practitioner has regarding the identity of any person who the practitioner believes may have possession or control of the requested records or information. The practitioner must make reasonable inquiry of his or her client regarding the identity of any person who may have possession or control of the requested records or information, but the practitioner is not required to make inquiry of any other person or independently verify any information provided by the practitioner's client regarding the identity of such persons.
3. When a proper and lawful request is made by a duly authorized officer or employee of the Internal Revenue Service, concerning an inquiry into an alleged violation of the regulations in this part, a practitioner must provide any information the practitioner has concerning the alleged violation and testify regarding this information in any proceeding instituted under this part, unless the practitioner believes in good faith and on reasonable grounds that the information is privileged.

A practitioner may not interfere, or attempt to interfere, with any proper and lawful effort by the Internal Revenue Service, its officers or employees, to obtain any record or information unless the practitioner believes in good faith and on reasonable grounds that the record or information is privileged.



Client Omissions

If a practitioner knows that a client has made an error or has omitted information from any return, document, affidavit, or other submitted documents, the practitioner must promptly advise the client of the omission or error and the consequences. Due diligence must be exercised by the practitioner in preparing documents and oral and/or written representations to be submitted to the IRS. When relying on the work of others, it is presumed that the practitioner has exercised due care in the oversight of the work of others.

Accuracy

In general, tax return preparers should understand the underlying substantive law affecting an item of income or deduction. Tax return preparers must exercise due diligence in preparing or assisting in the preparation, approval, and filing of returns, documents, affidavits or other papers relating to IRS matters.

Tax return preparers also must exercise due diligence in determining:

1. The correctness of oral and written representations made by the tax return preparer to the IRS.
2. The correctness of representations made by the tax return preparer to the client with reference to any matter administered by the IRS.

Due diligence, in the context of tax return preparation, is the diligence or care that a reasonable tax preparer would use under the same circumstances. It is an objective standard. Under the general due diligence standards set out in Circular 230, the preparer can on most occasions rely in good faith and without verification on information provided by the client or third parties and contained in previously filed returns. However, in some situations the preparer will be required to make further inquiries to verify the accuracy and completeness of the information provided to meet the due diligence requirements.



The Internal Revenue Code (IRC) provides for enhanced due diligence requirements with respect to claims for the Earned Income Tax Credit. Also, preparers are required to exercise due diligence in determining whether a client has met the requirements for reporting foreign bank and other financial accounts.

A practitioner must apply due diligence to assure accuracy when:

- Preparing or assisting in the preparation of, approving, and filing tax returns, documents, affidavits, and other papers relating to Internal Revenue Service matters.
- Determining the correctness of oral or written representations made by the practitioner to the Department of the Treasury.
- Determining the correctness of oral or written representations made by the practitioner to clients with reference to any matter administered by the Internal Revenue Service.

A practitioner will be presumed (except for certain circumstances) to have exercised due diligence for purposes of Section 10.22 of Circular 230 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.

A practitioner who knows that his or her client has not complied with the revenue laws or has made an error or omission in any return, document, affidavit, or other required paper, has the responsibility to advise the client promptly of the noncompliance, error, or omission. The practitioner also must advise the client of any consequences as provided under the IRC and regulations of such noncompliance, error, or omission. Under Circular 230, the practitioner is not required to notify the IRS.

Prompt Disposition of Pending Matters

A practitioner may not unreasonably delay the prompt disposition of any matter before the Internal Revenue Service.

Disbarred/Suspended, Former IRS Employees

Practitioners cannot accept any help or provide assistance to other practitioners that are disbarred or suspended from



practice before the IRS. Assistance from former IRS employees is not allowed when Federal law will be violated or when rules regarding practice by former government employees, their partners and their associates will be violated.

Former Government Employees

Former government employees are limited in their practice to ensure that no conflicts or undue influence arise. Specifically, former government employees:

- Cannot represent or assist, in any particular matter, any person who is or was a specific party to that particular matter in which the practitioner participated while a government employee.
- Cannot represent anyone in any matter before the IRS if the representation would violate the law.
- Who had official responsibility during the last year of government employment for a particular matter involving specific parties may not represent in that particular matter any person who is or was a specific party to that particular matter within two years subsequent to employment.
- Cannot, within one year subsequent to employment, influence any employee of the Treasury Department regarding rules of the Treasury Department for which the former employee had responsibility.

When the former government employee is a member of a firm which represent clients before the IRS, the former government employee must be isolated from matters in which he or she participated in while a government employee.

Notaries

A tax practitioner cannot perform any official act as a notary in regards to any matter overseen by the IRS. A notary is also excluded from acting as a notary for any matter for which he or she is employed as counsel, attorney or agent.

Fees

A practitioner's fee must be reasonable in matters before the IRS. Contingent fees are only allowed when the IRS is examining or challenging an original tax return; an amended return, claim for a refund or credit where the amended return or claim was filed within 120 days of taxpayer receipt of an IRS examination notice. Contingent fees are also allowed for services to a client in connection with the determination of interest or penalties assessed by the Service and for services provided with any judicial proceeding arising under the IRC.

Return of Client's Records

Upon request, a practitioner must promptly return any and all client records required for Federal tax obligation compliance (unless applicable state law provides otherwise). The practitioner may keep copies of the returned records. IRC Section 6107(b) requires a practitioner to retain a copy or list of a return or claim for the period ending 3 years after the close of the return.



The existence of a fee dispute generally does not relieve the practitioner of the responsibility to return client records.

Conflict of Interest

According to Circular 230, a conflict of interest exists if:

1. The representation of one client will be directly adverse to another client.
2. There is a significant risk that the representation of one or more clients will be materially limited by the practitioner's responsibilities to another client, a former client or a third person, or by a personal interest of the practitioner.

However, if a practitioner believes a competent representation that is not prohibited by law is reasonable, each of the affected clients can waive the conflict of interest and give informed consent, confirmed in writing, at the time the existence of the conflict of interest is known by the practitioner. The confirmation may be made within a reasonable period of time after the informed consent, but in no event later than 30 days.



Copies of the written consents must be retained by the practitioner for at least 36 months from the date of the conclusion of the representation of the affected clients, and the written consents must be provided to any officer or employee of the Internal Revenue Service on request.

Solicitation

There are several rules regarding advertising and solicitation of business. In general, an advertisement or solicitation cannot be false, fraudulent, coercive, misleading or deceptive. An example of a business name that is misleading is "Pay Less Tax Service." Additionally, enrolled agents cannot use the term certified or give the impression of an employee relationship with the IRS. Allowed fee arrangements used in solicitations include: fixed fees, hourly rates, a range of fees for services, fees charged for an initial consultation. The method of communicating the fee information must not be deceptive. A copy of direct mail and e-commerce communications must be retained by the practitioner for 36 months from the date of last use.

Negotiation of Taxpayer Checks

A practitioner who prepares tax returns may not endorse or otherwise negotiate any check (including directing or accepting payment by any means, electronic or otherwise into an account owned or controlled by the practitioner or any firm or other entity with whom the practitioner is associated) issued to a client by the government in respect to a Federal tax liability.

Practice of Law

Treasury Department Circular 230 should not be construed as an authorization for persons not members of the bar to practice law. Therefore, nothing in the regulations in the circular may be construed as authorizing persons not members of the bar to practice law.

Best Practices

Tax advisors should provide their clients with the highest quality representation concerning Federal tax issues by adhering to best practices in providing advice and in preparing or assisting in the preparation of a submission to the Internal Revenue Service. In addition to compliance with the standards of practice provided elsewhere in this part, best practices include the following: ⁽¹¹⁾

1. 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.
2. Establishing the facts, determining which facts are relevant, evaluating the reasonableness of any assumptions or representations, relating applicable law (including potentially applicable judicial doctrines) to the relevant facts, and arriving at a conclusion supported by the law and the facts.
3. Advising the client regarding the import 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.
4. Acting fairly and with integrity in practice before the Internal Revenue Service.

Tax Returns and Documents Standards



A tax preparer cannot willfully sign a tax return or advise a client knowing that the return, documentation, or other submitted papers lack a reasonable basis, or is an unreasonable position, or is a willful attempt to understate the tax liability or a reckless disregard of rules by the preparer. A practitioner may not advise a client to take a frivolous tax position on any document, affidavit or other submitted papers or to impede the administration of Federal tax law.

Any penalties that are likely to be applied must be communicated to the client by the practitioner if the practitioner advised the client with respect to the position, prepared or signed the tax return or any other document submitted to the IRS. The practitioner can rely on information provided by the client without verification, but the practitioner may not ignore implications of information furnished that appears to be incorrect or inconsistent with other factual assumptions.



A practitioner advising a client to take a position on a tax return, document, affidavit or other paper submitted to the Internal Revenue Service or preparing or signing a tax return as a preparer, generally may rely in good faith without verification upon information furnished by the client. The practitioner may not, however, ignore the implications of information furnished to, or actually known by, the practitioner, and must make reasonable inquiries if the information as furnished appears to be incorrect, inconsistent with an important fact or another factual assumption, or incomplete.

Competence

Section 10.35 previously titled *Covered Opinions* has been eliminated and a completely new section has been added. Tax practitioners will no longer need to follow a separate set of standards regarding covered opinions when providing written advice to their clients. Section 10.35 now states a practitioner must possess the necessary competence to engage in practice before the Internal Revenue Service. Competent practice requires the appropriate level of knowledge, skill, thoroughness and preparation necessary for the matter for which the practitioner is engaged. A practitioner may become competent for the matter for which the practitioner has been engaged through various methods, such as consulting with experts in the relevant area or studying the relevant law.

Also, extensive changes to wording and terminology are reflected in Section 10.36 including the text that an individual who has the principal authority and responsibility for overseeing the firm's practice must now take reasonable steps to ensure that adequate procedures are in place for all members, associates or employees of the firm to comply with Circular 230. The term "individual" has replaced the term practitioner.



Many individuals currently use a Circular 230 disclaimer at the conclusion of every e-mail or other writing to remove the communication from the covered opinion rules in former Section 10.35. In many instances, these disclaimers are inserted without regard to whether the disclaimer is necessary or appropriate. These types of disclaimers are routinely inserted in any written transmission, including writings that do not contain any tax advice. The removal of former Section 10.35 eliminates the detailed provisions concerning covered opinions and disclosures in written opinions. Because amended Section 10.37 does not include the disclosure provisions in the current covered opinion rules, Treasury and the IRS expect that these amendments will eliminate the use of a Circular 230 disclaimer in e-mail and other writings. These rules do not, however, prohibit the use of an appropriate statement describing any reasonable and accurate limitations of the advice rendered to the client.

Written Advice

Section 10.37, requirements for written advice, has been extensively revised. Key areas of change include a definition of a "Federal tax matter" as any matter concerning the application or interpretation of a revenue provision or law impacting a person's obligation to comply with the Federal tax law in addition to the obligation to file Federal tax returns and comply with any other law or regulation under the IRS umbrella. A Federal tax matter, as used in Section 10.37, is any matter concerning the application or interpretation of:

1. A revenue provision as defined in Section 6110(i)(1)(B) of the Internal Revenue Code.
2. Any provision of law impacting a person's obligations under the internal revenue laws and regulations, including but not limited to the person's liability to pay tax or obligation to file returns.
3. Any other law or regulation administered by the Internal Revenue Service.



Final Section 10.37 replaces the covered opinion rules with principles to which all practitioners must adhere when rendering written advice. Specifically, Section 10.37 states affirmatively the standards to which a practitioner must adhere when providing written advice on a Federal tax matter.

Section 10.37 requires, among other things, that the practitioner:

1. Base the written advice on reasonable factual and legal assumptions (including assumptions as to future events).
2. Reasonably consider all relevant facts and circumstances that the practitioner knows or reasonably should know.
3. Use reasonable efforts to identify and ascertain the facts relevant to written advice on each Federal tax matter.
4. Not rely upon representations, statements, findings, or agreements (including projections, financial forecasts, or appraisals) of the taxpayer or any other person if reliance on them would be unreasonable.
5. Relate applicable law and authorities to facts.



6. Not, in evaluating a Federal tax matter, take into account the possibility that a tax return will not be audited or that a matter will not be raised on audit.

Also, the revised Section 10.37 does not require that the practitioner describe in the written advice the relevant facts (including assumptions and representations), the application of the law to those facts, and the practitioner's conclusion with respect to the law and the facts. Rather, the scope of the engagement and the type and specificity of the advice sought by the client, in addition to all other appropriate facts and circumstances, are factors in determining the extent to which the relevant facts, application of the law to those facts, and the practitioner's conclusion with respect to the law and the facts must be set forth in the written advice.

Also, under the revised Section 10.37, the practitioner may consider these factors in determining the scope of the written advice. Further, the determination of whether a practitioner has failed to comply with the requirements of Section 10.37 will be based on all facts and circumstances, not on whether each requirement is addressed in the written advice.

Additionally, a section on a Standard of Review has been included and states in evaluating whether a practitioner giving written advice concerning one or more Federal tax matters complied with the requirements of this section, the Commissioner, or delegate, will apply a reasonable practitioner standard, considering all facts and circumstances, including, but not limited to, the scope of the engagement and the type and specificity of the advice sought by the client. In the case of an opinion the practitioner knows or has reason to know will be used or referred to by a person other than the practitioner (or a person who is a member of, associated with, or employed by the practitioner's firm) in promoting, marketing, or recommending to one or more taxpayers a partnership or other entity, investment plan or arrangement a significant purpose of which is the avoidance or evasion of any tax imposed by the Internal Revenue Code, the Commissioner, or delegate, will apply a reasonable practitioner standard, considering all facts and circumstances, with emphasis given to the additional risk caused by the practitioner's lack of knowledge of the taxpayer's particular circumstances, when determining whether a practitioner has failed to comply with this section.

Reliance Opinions

Written advice is a reliance opinion if the advice concludes at a confidence level of "at least more likely than not" (a greater than 50% likelihood) that one or more significant Federal tax issues would be resolved in the taxpayer's favor.

Marketed Opinions

Written advice is a marketed opinion if the practitioner knows or has reason to know that the written advice will be used or referred to by a person other than the practitioner (or a person who is a member of, associated with, or employed by the practitioner's firm) in promoting, marketing or recommending a partnership or other entity, investment plan or arrangement to one or more taxpayer(s).

Compliance

In Section 10.36, the regulations impose demanding oversight responsibilities on those individuals with principal authority and responsibility for overseeing a firm's practice governed by Circular 230 to manage Circular 230 compliance by all members, associates and employees. The final regulations specifically provide that the tax practice managers not only must ensure that the firm has adequate procedures in place but must ensure that those procedures are properly followed.

Any such individual who has (or such individuals who have or share) principal authority as described above will be subject to discipline for failing to comply with the requirements of this section if: ⁽¹⁾

- The individual through willfulness, recklessness, or gross incompetence does not take reasonable steps to ensure that the firm has adequate procedures to comply with this part, as applicable, 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 this part, as applicable.
- The individual through willfulness, recklessness, or gross incompetence does not take reasonable steps to ensure that firm procedures in effect are properly followed, 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 this part, as applicable.



- The individual 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, that does not comply with this part, as applicable, and the individual, through willfulness, recklessness, or gross incompetence fails to take prompt action to correct the noncompliance.

Although Circular 230 expressly applies only to those who practice before the IRS, the regulations advocate that the IRS is, at a minimum, encouraging firm management to oversee the tax compliance not just of its partners who practice before the IRS but of all of its members, associates and employees. In the absence of a firm designating responsibility for oversight to particular persons, the IRS may identify such person or persons.

Advisory Committees

To promote and maintain the public's confidence in tax advisors, the Internal Revenue Service is authorized to establish one or more advisory committees composed of at least six individuals authorized to practice before the Internal Revenue Service. Membership of an advisory committee must be balanced among those who practice as attorneys, accountants, enrolled agents, enrolled actuaries, enrolled retirement plan agents and registered tax return preparers.

Subpart C

Sanctions for Violation of the Regulations

The Secretary of the Treasury, or delegate, has the authority to disbar or censure a practitioner from practice before the IRS for violations of the rules or for misleading clients or potential clients. Additionally, the authority extends to imposing monetary penalties on the practitioner or on the practitioner's employer if the employer was responsible for the infraction. The amount of any monetary penalty is not to be greater than the gross income derived from the conduct giving rise to the penalty.

Examples of incompetence and disreputable conduct include: ⁽¹⁾

- Conviction of any criminal offense under the Federal tax laws.
- Conviction of any criminal offense involving dishonesty or breach of trust.
- Conviction of any felony under Federal or State law for which the conduct involved renders the practitioner unfit to practice before the Internal Revenue Service.
- Giving false or misleading information to the Department of the Treasury.
- The use of false or misleading representations with intent to deceive a client or prospective client in order to procure employment.
- Willfully failing to make a Federal tax return in violation of the Federal tax laws.
- Willfully assisting, counseling, encouraging a client or prospective client in violating, or suggesting to a client or prospective client to violate, any Federal tax law, or knowingly counseling or suggesting to a client or prospective client an illegal plan to evade Federal taxes or payment.
- Misappropriation of, or failure properly or promptly to remit, funds received from a client for the purpose of payment of taxes or other obligations due the United States.
- Directly or indirectly attempting to influence, or providing or agreeing to attempt to influence, the official action of any officer or employee of the Internal Revenue Service by the use of threats, false accusations, duress or coercion, by providing any special inducement or promise of an advantage or by the bestowing of any gift, favor or thing of value.
- Disbarment or suspension from practice as an attorney, certified public accountant, public accountant, or actuary by any duly constituted authority of any State, territory, or possession of the United States.
- Knowingly aiding and abetting another person to practice before the Internal Revenue Service during a period of suspension, disbarment or ineligibility of such other person.
- Contemptuous conduct in connection with practice before the Internal Revenue Service, including the use of abusive language, making false accusations or statements, knowing them to be false, or circulating or publishing malicious or libelous matter.
- Giving a false opinion, knowingly, recklessly, or through gross incompetence, including an opinion which is intentionally or recklessly misleading, or engaging in a pattern of providing incompetent opinions on questions arising under the Federal tax laws.



- Willfully failing to sign a tax return prepared by the practitioner when the practitioner's signature is required by Federal tax laws unless the failure is due to reasonable cause and not due to willful neglect.
- Willfully disclosing or otherwise using a tax return or tax return information in a manner not authorized by the Internal Revenue Code.
- Willfully failing to file on magnetic or other electronic media a tax return prepared by the practitioner when the practitioner is required to do so by the Federal tax laws unless the failure is due to reasonable cause and not due to willful neglect.
- Willfully preparing all or substantially all of, or signing, a tax return or claim for refund when the practitioner does not possess a current or otherwise valid preparer tax identification number or other prescribed identifying number.
- Willfully representing a taxpayer before an officer or employee of the Internal Revenue Service unless the practitioner is authorized to do so pursuant to this part.

Disciplinary Proceedings

"Practitioner" is Circular 230's collective term for individuals who are eligible to practice before the IRS: attorneys, certified public accountants, enrolled agents, enrolled actuaries, and enrolled retirement plan agents. Practitioners who fail to comply with any of Circular 230's regulations are subject to the sanctions of private reprimand, public censure, suspension or disbarment from practice before the IRS, and imposition of a monetary penalty. ⁽¹²⁾

Appraisers are individuals who present evidence or testimony in administrative proceedings before the IRS or the Department of the Treasury. Appraisers who violate applicable Circular 230 rules are subject to disqualification from presenting testimony or evidence. Employers, firms, and other entities which knew or should have known that a practitioner acting on their behalf engaged in misconduct subject to discipline under Circular 230 are subject to a monetary penalty.

Receipt of Information Concerning Practitioner

If an officer or employee of the Internal Revenue Service has reason to believe a practitioner has violated any provision of Circular 230, the officer or employee will promptly make a written report of the suspected violation to the Director of the Office of Professional Responsibility (OPR). The report will explain the facts and reasons upon which the officer's or employee's belief rests and must be submitted to the office(s) of the Internal Revenue Service responsible for administering or enforcing the action.

Any person other than an officer or employee of the Internal Revenue Service having information of a violation of any provision of this part may make an oral or written report of the alleged violation to the office(s) of the Internal Revenue Service responsible for administering or enforcing the action or any officer or employee of the Internal Revenue Service.

If the report is made to an officer or employee of the Internal Revenue Service, the officer or employee will make a written report of the suspected violation and submit the report to the office(s) of the Internal Revenue Service responsible for administering or enforcing Circular 230.

No report described above shall be maintained unless retention of the report is permissible under the applicable records control schedule as approved by the National Archives and Records Administration and designated in the Internal Revenue Manual. Reports must be destroyed as soon as permissible under the applicable records control schedule. The destruction of any report will not bar any proceeding under subpart D of this part, but will preclude the use of a copy of the report in a proceeding under subpart D of Circular 230.



Please see the Internal Revenue Code, corresponding Treasury Regulations, and other related published guidance for additional information on each penalty section.

Institution of Proceeding

Whenever it is determined that a practitioner (or employer, firm or other entity, if applicable) violated any provision of the laws governing practice before the Internal Revenue Service or the regulations in Subpart C, the practitioner may be reprimanded or, in accordance with [Section 10.62 - Contents of Complaint](#), subject to a proceeding for sanctions.



Whenever a penalty has been assessed against an appraiser under the Internal Revenue Code and an appropriate officer or employee in an office established to enforce this part determines that the appraiser acted willfully, recklessly, or through gross incompetence with respect to the proscribed conduct, the appraiser may be reprimanded or, in accordance with [Section 10.62 - Contents of Complaint](#), subject to a proceeding for disqualification. A proceeding for disqualification of an appraiser is instituted by the filing of a complaint, the contents of which are more fully described in [Section 10.62 - Contents of Complaint](#).

The proceeding for a violation of Circular 230 regulations is instituted when the IRS representative signs a complaint naming the attorney, CPA, registered tax return preparer, enrolled agent, or enrolled actuary, and files the complaint with the Administrative Law Judge (ALJ). Except as provided elsewhere, a proceeding will not be instituted under Circular 230 unless the proposed respondent previously has been advised in writing of the law, facts and conduct warranting such action and has been accorded an opportunity to dispute facts, assert additional facts, and make arguments. ⁽¹¹⁾

Subpart D

Rules Applicable to Disciplinary Proceedings

Subpart D of Circular 230 covers details of disciplinary hearings and their procedures. Once a complaint is made against a practitioner, a hearing is held to determine the merits of the complaint. This subpart of the circular outlines the contents of a complaint, how the complaint is processed and filed, and how the practitioner is to respond to the complaint. Ultimately, the complaint can be argued in front of an Administrative Law Judge with jurisdiction over these matters. ⁽⁵⁾

The Office of Professional Responsibility (OPR) has exclusive authority for all matters related to practitioner discipline, including disciplinary proceedings and sanctions. (See [Circular 230, Section 10.1 – Offices](#)). OPR is committed to processing referrals and conducting investigations in a timely and fair manner. The investigative process and disciplinary proceedings follow established due process guidelines designed to ensure that practitioners receive notice of the allegations against them and an opportunity to present their side of the story at multiple stages. ⁽¹³⁾

OPR receives referrals about practitioners from a variety of sources. The majority of referrals come directly from IRS field personnel, such as Revenue Agents, Revenue Officers, Special Agents and Appeals/Settlement Officers. OPR also receives referrals from other government agencies, such as the Treasury Inspector General for Tax Administration (TIGTA), the Department of Justice and state licensing authorities. An OPR manager reviews all referrals when they arrive in OPR. If it appears that a violation of Circular 230 has occurred, the manager will assign the case to an attorney or paralegal for communication with the referred individual and for further investigation.

If it is determined a practitioner violated any laws governing practice before the IRS, the practitioner may be reprimanded or sanctioned. Whenever a penalty assessed against a practitioner demonstrates willful, reckless or gross incompetence, the practitioner may be subject to disqualification. A conference with the practitioner may occur concerning allegations of misconduct. Rather than proceeding, a practitioner may provide consent for sanction under Subpart C of the Circular 230. It is up to the discretion of the OPR delegate to accept or decline the voluntary sanction.

Complaint

A complaint must be served by certified mail, first class mail, a private delivery service, in person or other means agreed to by the respondent.

The complaint must provide the following contents to the practitioner: ⁽¹³⁾

- Clear and concise description of the facts and law that constitute the proceeding.
- Specific sanction sought.
- Time for answering the complaint.



The time for answering a complaint cannot be less than 30 days from the date of service of the complaint and must include the address of the Administrative Law Judge and the name and address of the IRS representative. ⁽⁵⁾



Answer

The practitioner's answer must be filed with the Administrative Law Judge and served on the Internal Revenue Service within the time specified in the complaint. The answer must provide the following contents:

- Grounds of Defense (general denials are not permitted).
- Admission or denial of each allegation.
- Acknowledging statement and signature.

Every allegation in the complaint that is not denied in the answer is deemed admitted and will be considered proved; no further evidence in respect of such allegation need be adduced at a hearing. Failure to file an answer within the time prescribed (or within the time for answer as extended by the Administrative Law Judge), constitutes an admission of the allegations of the complaint and a waiver of hearing, and the Administrative Law Judge may make the decision by default without a hearing or further procedure.

OPR encourages the practitioner to submit any evidence that will aid in resolving the issue as early as possible in the investigative stage. If the matter proceeds to an administrative hearing, the judge does not have to admit evidence that is brought before the court at the last minute. ⁽¹³⁾

Hearing

An evidentiary hearing must be held in all proceeding prior to the issuance of a decision. All hearings will be recorded and transcribed. The testimony of witnesses will be taken under oath or affirmation. Proceedings are conducted by an Administrative Law Judge (ALJ). The Administrative Law Judge (ALJ) has the authority to do the following: ⁽⁵⁾

- Administer oaths and affirmations.
- Make rulings on motions and requests, which rulings may not be appealed prior to the close of a hearing except in extraordinary circumstances and at the discretion of the Administrative Law Judge (ALJ).
- Determine the time and place of the hearing and regulate its course and conduct.
- Adopt rules of procedure and modify the same from time to time as needed for the orderly disposition of proceedings.
- Rule on offers of proof, receive relevant evidence, and examine witnesses.
- Take or authorize the taking of depositions or answers to requests for admission.
- Receive and consider oral or written argument on facts or law.
- Hold or provide for the holding of conferences for the settlement or simplification of the issues with the consent of the parties.
- Perform such acts and take such measures as are necessary or appropriate to the efficient conduct of any proceeding.
- Make decisions.

Decision

Within 180 days after the conclusion of a hearing the Administrative Law Judge should enter a decision in the case. A copy of the decision will be provided to the Internal Revenue Service's representative and to the respondent. In the absence of an appeal or further proceedings, after 30 days it becomes the decision of the agency. When the final decision in a case is against the respondent the following effects may apply: ⁽⁵⁾

- *Disbarment* - the practitioner will not be allowed to practice before the IRS unless and until authorized to do so.
- *Suspension* - the practitioner will not be allowed to practice before the IRS during the suspension period.
- *Censure* - the practitioner will be permitted to practice before the IRS but may be subject to conditions.

In general, a disbarred practitioner may petition for reinstatement five years following disbarment, suspension or disqualification (or immediately following the expiration of the suspension or disqualification period, if shorter than 5 years). Reinstatement will not be granted unless the Internal Revenue Service is satisfied that the petitioner is not likely to engage thereafter in conduct contrary to the regulations in this part, and that granting such reinstatement would not be contrary to the public interest.



Suspension or Disbarment

Under [Section 10.79 of Circular 230](#), when a final agency decision results in suspension or disbarment of a practitioner/respondent or when the practitioner/respondent has provided his or her consent to suspension or disbarment and such consent has been accepted by the Director of OPR, the practitioner/respondent will not be permitted to practice before the IRS for the period of time imposed by the final agency decision or as agreed to by consent.

A suspended or disbarred individual may not: ⁽¹⁴⁾

1. **Prepare or file documents (including tax returns) or other correspondence with the IRS.** The restriction applies regardless of whether the individual signs the document or correspondence and regardless of whether the individual personally files, or directs another person to file, documents or correspondence with the IRS. Also, as a result of a suspension or disbarment, the individual will have any preparer tax identification number (PTIN) revoked.
2. **Render written advice with respect to any entity, transaction, plan or arrangement, or other plan or arrangement having a potential for tax avoidance or evasion.** The prohibition applies regardless of whether the written advice is a part of a larger document or a component of a set of documents and regardless of whether the individual signs the written advice.
3. **Represent a client at conferences, hearings, and meetings.** The prohibition applies to all forms of conferences, hearings, and meetings, including those conducted person-to-person or by telephone or by teleconferencing facilities. The prohibition bars the individual from representing the taxpayer, that is, from advocating, disputing, arguing, or otherwise negotiating on the taxpayer's behalf with respect to the taxpayer's rights, privileges, or liabilities under laws or regulations administered by the Internal Revenue Service, including provisions outside Title 26 which have been delegated to the Commissioner by the Treasury Secretary or Congress (e.g., foreign bank account reporting; health care insurance premium provisions). The prohibition applies regardless of whether the taxpayer is a paying client and also applies to all of the limited forms of practice defined in [Section 10.7\(c\)](#). The prohibition does not affect a taxpayer's right to the services of the individual as a witness or any right of the taxpayer to be accompanied by the individual to conferences, hearings, or meetings. However, OPR will consider any instances of the individual's advocating or negotiating on the taxpayer's behalf at conferences, hearings, or meetings, to be attempted practice in violation of the individual's suspended or disbarred status.
4. **Execute waivers, consents, or closing agreements; receive a taxpayer's refund check; or sign a tax return on behalf of a taxpayer.** Because these acts require the filing of a power of attorney authorizing the representative to perform these acts, they are considered to be practice before the IRS. See [Section 601.504\(a\)](#) of the IRS Conference and Practice Requirements, which are in 26 C.F.R. Sections 601.501 through 601.509 and are also in pamphlet form as [Publication 216 - Conference and Practice Requirements](#).
5. **File powers of attorney with the IRS.** OPR will consider the filing of a power of attorney appointing an individual as a representative who is under suspension or disbarment to be an attempt to practice in violation of the individual's suspended or disbarred status. An individual who seeks to practice before the IRS must declare (usually on [Form 2848 - Power of Attorney and Declaration of Representative](#)) that he or she is not under suspension or disbarment from practice before the IRS. OPR will refer false declarations to the Treasury Inspector General for Tax Administration.
6. **Accept assistance from another person (or request assistance) or assist another person (or offer assistance) if the assistance relates to a matter constituting practice before the IRS or enlist another person for the purpose of aiding and abetting practice before the IRS.** [Sections 10.24\(a\)](#) and [10.51\(a\)\(11\)](#) prohibit individuals who are eligible to practice before the IRS from accepting assistance from, or assisting, or aiding or abetting a suspended or disbarred individual in matters constituting practice. OPR will consider both a suspended or disbarred individual and any other individual's/firm's participation in such relationships to be in violation of [Sections 10.24\(a\)](#) and [10.51\(a\)\(11\)](#) and evidence of disreputable conduct under [Section 10.51\(a\)](#).
7. **State or imply that he or she is eligible to practice before the IRS.** OPR will consider such express or implied statements to be false, misleading, or deceptive, and to constitute a violation of [Section 10.30](#). In addition, under [Section 10.6\(j\)\(4\)](#), individuals may not use the terms enrolled agent, enrolled retirement plan agent, or registered tax return preparer, the designation EA or ERPA, or other form of reference to eligibility to practice before the IRS while disbarred, suspended, or in inactive status. These prohibitions apply to business cards, business stationary, and websites.



A suspended or disbarred individual may:⁽¹⁴⁾

1. Represent him or herself with respect to any matter. Authorized under Section 10.7(a).
2. Appear before the IRS as a trustee, receiver, guardian, administrator, executor, or other fiduciary if duly qualified/authorized under the law of the relevant jurisdiction. Authorized under Section 10.7(e). Fiduciaries should file [Form 56 - Notice Concerning Fiduciary Relationship](#).
3. Appear as a witness for the taxpayer. Authorized under Section 10.8(b) and Revenue Procedure 68-29, reprinted in pamphlet form as Publication 499. A witness is limited to providing factual information, and he or she may not advocate particular positions on issues or controversies arising during a tax examination.
4. Furnish information at the request of the IRS or any of its officers or employees. Authorized under Section 10.8(b).
5. Receive information concerning a taxpayer from the IRS pursuant to a valid tax information authorization. A suspended or disbarred individual's appointment on [Form 8821 - Tax Information Authorization](#) entitles him or her to receive taxpayer information but does not entitle him or her to practice before the IRS on behalf of that taxpayer.

Notice of Disbarment, Suspension, Censure, or Disqualification

On the issuance of a final order censuring, suspending, or disbaring a practitioner or a final order disqualifying an appraiser, notification of the censure, suspension, disbarment or disqualification will be given to appropriate officers and employees of the Internal Revenue Service and interested departments and agencies of the Federal government. The Internal Revenue Service may determine the manner of giving notice to the proper authorities of the State by which the censured, suspended, or disbarred person was licensed to practice.

Appeal from Administrative Decision

Both OPR and the practitioner have the right to appeal the Initial Decision and Order of the ALJ to the Department of the Treasury within 30 days of being served. A specially designated senior attorney (called the Appellate Authority) within The Department of Treasury's Office of Chief Counsel reviews the appeals and accompanying briefs and renders the Final Agency Decision in the case (See [Circular 230, Section 10.77](#)).

Filing Suit in U.S. Federal District Court

If the practitioner disagrees with the Appellate Authority's Final Agency Decision, he or she may file a complaint against the OPR in U.S. Federal District Court in the district where he or she resides. The Administrative Procedure Act contains provisions governing that proceeding (See [5 USC Sections 551-559, 702](#)). The proceeding will not be a new trial. Rather, the district court will review the entire administrative record already in existence in the case to determine if the agency's action against the practitioner was arbitrary, capricious, contrary to law or otherwise an abuse of discretion.⁽¹³⁾

Final Agency Decisions in Disciplinary Cases

Final regulations issued under Circular 230 on September 26, 2007 allowed the Office of Professional Responsibility (OPR) to publish decisions on its cases, once they become final agency decision.

A decision becomes the final agency decision at one of two points:⁽¹⁵⁾

1. After an Administrative Law Judge issues a decision and either party has not appealed the decision to the Secretary of the Treasury or his designee within 30 days.
2. After the Secretary of the Treasury or his designee has issued his or her decision. Although the practitioner may further appeal the decision of the Secretary of the Treasury to the Federal District Court, the decision may be made public, and the term of any suspension or disbarment will begin at that point.

Petition For Reinstatement

In general, a practitioner disbarred or suspended under Section 10.60, or suspended under Section 10.82, or a disqualified appraiser may petition for reinstatement before the Internal Revenue Service after the expiration of 5 years following such disbarment, suspension, or disqualification (or immediately following the expiration of the suspension or disqualification period, if shorter than 5 years). Reinstatement will not be granted unless the Internal Revenue



Service is satisfied that the petitioner is not likely to engage thereafter in conduct contrary to the regulations in this part, and that granting such reinstatement would not be contrary to the public interest.

Expedited Suspension



Circular 230 Section 10.82 authorizes the immediate suspension of a practitioner engaged in certain prohibited conduct, but the revised final regulations extend the expedited disciplinary proceedings against practitioners who have “willfully failed to comply with their Federal tax filing obligations”.

The regulations state that a pattern of willful disreputable conduct would be defined as failing to file an annual Federal tax return in four of the five tax years immediately before an expedited suspension proceeding or failing to file a return required more frequently than annually in five of seven tax periods immediately before a suspension proceeding. Also, Section 10.82 has been expanded as to the categories where an expedited proceeding would apply.

Subpart E

General Provisions

Subpart E contains general provisions relating to the availability of official records. The IRS maintains records for public inspection with various rosters which include:

- Individuals (and employers, firms, or other entities, if applicable) censured, suspended, or disbarred from practice before the Internal Revenue Service or upon whom a monetary penalty was imposed.
- Enrolled agents and inactive enrolled agents.
- Enrolled retirement plan agents and those in inactive status.
- Tax return preparers and those in inactive status.
- Disqualified appraisers.
- Qualified continuing professional education providers, including providers:
 - Who have obtained a qualifying continuing professional education provider number.
 - Whose qualifying continuing professional education number has been revoked for failure to comply with the requirements of this part of Circular 230.

The Internal Revenue Service will also maintain and make available for public inspection in the time and manner prescribed by the Secretary, or delegate, other records of the Director of the Office of Professional Responsibility that may be disclosed upon specific request, in accordance with the applicable law.

Saving Provision



Any proceeding instituted under Circular 230 prior to June 12, 2014, for which a final decision has not been reached or for which judicial review is still available is not affected by the Circular 230 revisions. Any proceeding based on conduct engaged in prior to June 12, 2014, which is instituted after that date, will apply subpart D and E as revised, but the conduct engaged in prior to the effective date of these revisions will be judged by the regulations in effect at the time the conduct occurred.

Individual Income Tax Penalties

Accuracy Related Penalties

The 20% accuracy related penalty is imposed on the underpayment of tax due to:

1. Negligence or disregard of rules or regulations.
2. Substantial understatement of tax.
3. Substantial valuation misstatement (increased to 40% for gross valuation misstatement).
4. Transaction lacking economic substance (increased to 40% for undisclosed transaction lacking economic substance).
5. Undisclosed foreign financial asset understatement (40% in all cases).



The two most common accuracy related penalties are the substantial understatement penalty and the negligence or disregard of the rules or regulations penalty. These penalties are calculated as a flat 20% of the net understatement of the tax.⁽¹⁶⁾

Substantial Understatement

The understatement is substantial if it is more than 10% of the correct tax or \$5,000. To properly disclose the position, complete and attach IRS Form 8275 - Disclosure Statement to the tax return and disclose all relevant facts. As of December 31, 2015, if the taxpayer fails to report a substantial amount of income, then the IRS has 6 years (instead of 3 years) to create an audit assessment. In this case, the taxpayer must have failed to report 25% or more of his or her total income. The taxpayer may avoid the substantial understatement penalty if he or she has substantial authority for his or her tax treatment of the item or through adequate disclosure. To avoid the substantial understatement penalty by adequate disclosure, the taxpayer must properly disclose the position on the tax return and there must at least be a reasonable basis for the position.

To properly disclose the position, the taxpayer completes and attaches IRS Form 8275 - Disclosure Statement to his or her tax return and discloses all relevant facts. A reasonable basis is a relatively high standard of tax reporting, that is, significantly higher than not frivolous or not patently improper. The position must be more than just merely arguable or merely a colorable claim. The position must be reasonably based on authority supporting the position.⁽¹⁶⁾

Negligence or Disregard of the Rules

Negligence includes (but is not limited to) any failure to:⁽¹⁶⁾

- Make a reasonable attempt to comply with the internal revenue laws.
- Exercise ordinary and reasonable care in preparation of a tax return.
- Keep adequate books and records or to substantiate items properly.

This penalty may be asserted if the taxpayer carelessly, recklessly or intentionally disregards IRS rules and regulations - by taking a position on his or her return with little or no effort to determine whether the position is correct or knowingly taking a position that is incorrect. The taxpayer will not have to pay a negligence penalty if there was a reasonable cause for a position he or she took and he or she acted in good faith. Negligence includes any failure to make reasonable attempts to comply with the tax code. The understatement of tax is considered substantial if the taxpayer understates his or her income by more than 10% or \$5,000.00.

Failure to File Penalties

The failure to file penalty is assessed for each month or partial month from the date the tax return is due. The penalty is 5% per month, up to a maximum of 25%. In almost all cases, the taxpayer will also be assessed, in addition to the failure to file penalty, a failure to pay penalty. For tax years beginning in 2019, the amount of the additional tax payable for failure to file a tax return within 60 days of the due date shall not be less than the lesser of \$435 or 100% of the amount required to be shown as tax on the return.

Failure to Pay Penalty

The failure to pay penalty is .05% for each month or partial month until the tax is paid. Note that an extension to file does not extend the time to pay tax. For example, if the tax return is due on April 15 and the taxpayer files an automatic six-month extension until October 15, he or she still must pay at least 90% of the tax shown on the return when filed or he or she will incur a failure to pay penalty.

Civil Fraud Penalty

Investors of abusive tax schemes that try to escape their legal tax responsibilities are still liable for taxes, interest, and civil penalties. Violations of the Internal Revenue Code with the intent to evade income taxes may result in a civil fraud penalty or criminal prosecution. Civil fraud can include a penalty of up to 75% of the underpayment of tax attributable to fraud, in addition to the taxes owed. Criminal convictions of promoters and investors may result in fines up to \$250,000 and up to five years in prison.



Frivolous Tax Return Penalty

A tax practitioner may not advise a taxpayer to take a position on a document that will be submitted to the IRS unless the position is not frivolous. If a taxpayer files a frivolous return, the penalty may be \$5,000. Jointly file the return, and the taxpayer and his or her spouse may be liable for \$5,000 each. This penalty is added to other penalties.

Fixing America's Surface Transportation (FAST) Act

The Fixing America's Surface Transportation (FAST) Act was signed into law in December 2015. The purpose of the FAST Act was to provide long-term funding for transportation projects, including new highways. Also included in the bill was a new tax law that requires the Department of State to deny a passport (or renewal of a passport) to a seriously delinquent taxpayer or revoke any passport previously issued to a seriously delinquent taxpayer. For purposes of the law, a "seriously delinquent tax debt" is defined as "an unpaid, legally enforceable Federal tax liability" when a debt greater than \$52,000 for 2019, including interest and penalties, has been assessed and a notice of lien or a notice of levy has been filed. The \$52,000 limit is adjusted each year for inflation and cost of living. The limit is not per year but cumulative meaning that it is the total tax debt that matters.

Tax Return Preparer Penalties

The IRS has penalty and injunctive authority to address improper tax return preparation, and abusive transaction promoters. The Internal Revenue Code (IRC) contains penalties to stop fraudulent, unscrupulous and/or incompetent tax return preparers, abusive transaction promoters, and material advisors whose failure to furnish information or maintain lists with respect to reportable transactions. Penalty assertion is one enforcement vehicle for noncompliant return preparers, promoters, and material advisors.

Sanctionable Acts

The Secretary of the Treasury may censure, suspend or disbar from practice before the IRS any attorney, CPA or enrolled agent who:

- Is shown to be incompetent or disreputable.
- Fails to comply with any regulations relating to practice before the IRS.
- Willfully and knowingly, with intent to defraud, misleads or threatens any claimant or potential claimant.

Reporting Requirements for Tax Return Preparers

Section 6060, Reporting Requirements for Tax Return Preparers, applies to any person who employs one or more income tax return preparers to prepare any return of tax under the IRC. The general rule states any person who employs a tax return preparer to prepare any return or claim for refund other than for such person at any time during a return period shall make a return setting forth the name, taxpayer identification number, and place of work of each tax return preparer employed by him at any time during such period. For purposes of this section, any individual who in acting as a tax return preparer is not the employee of another tax return preparer shall be treated as his own employer.

The return required by this section shall be filed, in such manner as the Secretary may by regulations prescribe, on or before the first July 31 following the end of such return period. In lieu of the return required by subsection (a), the Secretary may approve an alternative reporting method if he determines that the necessary information is available to him from other sources. The term return period means the 12-month period beginning on July 1 of each year, except that the first return period shall be the 6-month period beginning on January 1, 1977 and ending on June 30, 1977. ⁽¹⁷⁾

Paid Preparer's Due Diligence Checklist

The due diligence requirement was originally designed to reduce errors on returns claiming the Earned Income Tax Credit (EITC). Legislation in 2015 expanded the due diligence requirements to include the Child Tax Credit (CTC), Additional Child Tax Credit (ACTC), and American Opportunity Tax Credit (AOTC). Under the Tax Cuts and Jobs Act (TCJA), the due diligence requirement now also applies to individual income tax returns claiming the head of household (HOH) filing status and Credit for Other Dependents (ODC).



Paid preparers must submit [Form 8867 - Paid Preparer's Due Diligence Checklist](#) with every tax return claiming any of the covered tax benefits. The form is designed as a checklist to help paid preparers meet the requirement by obtaining eligibility information from their clients. Paid preparers are required to keep copies of the form or comparable documentation for their records, which is also subject to review by the IRS. Completing the form is not a substitute for actually performing the necessary due diligence and completing all required forms and schedules when preparing the return.



Also, the paid tax return preparer due diligence penalty under IRC Section 6695(h) is now indexed for inflation. Therefore, the penalty for failure to meet the due diligence requirements with respect to returns and claims for refund filed in 2019 is \$530 per credit per return.

A paid tax return preparer is required to exercise due diligence when preparing any client's return or claim for refund. As part of exercising due diligence, the tax preparer must interview the client, ask adequate questions, and obtain appropriate and sufficient information to determine correct reporting of income, claiming of tax benefits (such as deductions and credits), and compliance with the tax laws.

A paid tax return preparer must meet specific due diligence requirements set forth in Treasury Regulations when he or she prepares returns and claims for refund involving the HOH filing status, EITC, the AOTC and/or the CTC/ACTC/ODC. To meet these due diligence requirements, the tax preparer may need to ask additional questions and obtain additional information to determine eligibility for and the amount of the HOH status, EITC, AOTC, and CTC/ACTC/ODC.

A tax preparer has complied with the due diligence requirements set forth in Treasury Regulations with respect to the HOH filing status, EITC, AOTC, and/or CTC/ACTC/ODC claimed on a return or claim for refund if he or she:

1. Completes Form 8867 truthfully and accurately and completes the actions described on Form 8867 for each credit claimed for which he or she is the paid tax return preparer.
2. Submits Form 8867 in the manner required.
3. Meets the knowledge requirement by interviewing the taxpayer, asking adequate questions, documenting the taxpayer's responses on the return or in his or her notes, reviewing adequate information to determine if the taxpayer is eligible to claim the credit(s) and in what amount(s), **and**
4. The tax preparer keeps all five of the following records for three years from last of the due date of the tax return (without extensions), the date the return was filed, the date the return was presented to the taxpayer for signature or the date the tax preparer submitted to the signing tax return preparer:
 - a. A copy of Form 8867.
 - b. The applicable worksheet(s) or his or her own worksheet(s) for any credits claimed.
 - c. Copies of any taxpayer documents you may have relied upon to determine eligibility for and the amount of the credit(s).
 - d. A record of how, when, and from whom the information used to prepare Form 8867 and worksheet(s) was obtained.
 - e. A record of any additional questions he or she may have asked to determine eligibility for and amount of the credits, and the taxpayer's answers.

Completing Form 8867

Form 8867 covers the HOH filing status, EITC, the AOTC, and the CTC/ACTC/ODC. A tax preparer should only complete columns corresponding to credits actually claimed on the taxpayer's return that he or she prepared. Only paid tax return preparers should complete Form 8867. Form 8867 is divided into questions that relate to all four topics and has questions that are specifically related to HOH filing status only, EITC only, CTC/ACTC/ODC only, and the AOTC only.

Due Diligence Requirements

The tax preparer completes the appropriate column for each credit for which he or she was the paid tax return preparer determining the taxpayer's eligibility for and amount of the credit. Columns for credits for which he or she was not the paid tax return preparer should be left blank.



Due Diligence Questions for Returns Claiming EITC

A paid tax return preparer must exercise due diligence to determine whether a taxpayer meets all of the eligibility requirements for the EITC. Although Lines 9a, 9b and 9c only ask three specific questions about EITC eligibility related to claiming a qualifying child, the tax preparer's client must meet all of the eligibility requirements for claiming the EITC. Therefore, the tax preparer's client cannot claim the EITC if all of the eligibility requirements for the EITC are not satisfied, even if the tax preparer answers "yes" to Lines 9a, 9b and 9c.

Due Diligence Questions for Returns Claiming CTC, ACTC and/or ODC

A paid tax return preparer must exercise due diligence to determine whether a taxpayer meets all of the eligibility requirements for the CTC, ACTC and/or ODC. Lines 10, 11, and 12 only ask three specific questions about CTC, ACTC and ODC eligibility. However, the tax preparer's client must meet all of the eligibility requirements for claiming the CTC, ACTC and/or ODC. Therefore, the tax preparer's client cannot claim the CTC, ACTC and/or ODC if all of the eligibility requirements for these credits are not satisfied, regardless of the answers to questions on line 10.

Due Diligence Questions for Returns Claiming AOTC

A paid tax return preparer must exercise due diligence to determine whether a taxpayer meets all of the eligibility requirements for the AOTC. Although line 13 only asks about substantiation of qualified tuition and related expenses, the tax preparer's client must meet all of the eligibility requirements for claiming the AOTC. Therefore, the tax preparer's client cannot claim the AOTC if all of the eligibility requirements for the AOTC are not satisfied, even if the tax preparer answers "yes" on line 13.

Due Diligence Questions for Returns Claiming HOH Filing Status

A paid tax return preparer must exercise due diligence to determine whether a taxpayer meets all of the eligibility requirements for the HOH filing status. Although line 14 only asks about whether the taxpayer was unmarried or considered unmarried on the last day of the tax year and provided more than half of the cost of keeping up a home for the year for a qualifying person, the tax preparer's client must meet all of the eligibility requirements for claiming the HOH filing status. Therefore, the tax preparer's client cannot claim the HOH filing status if all of the eligibility requirements for the HOH filing status are not satisfied, even if the tax preparer answers "yes" on line 14.

Credit Eligibility Certification

The tax preparer must certify that all of the answers on Form 8867 are, to the best of his or her knowledge, true, correct and complete. In 2019, failure to meet due diligence requirements with respect to claiming the HOH filing status, EITC, the AOTC, and the CTC/ACTC/ODC could result in a \$530 penalty for each failure. For example, if a paid tax return preparer prepares a return claiming the HOH filing status, EITC, the AOTC and the CTC/ACTC/ODC and he or she failed to meet the due diligence requirements for all of these credits, the tax preparer could be subject to a penalty of \$1,590.

Document Retention

To meet the due diligence requirements for the HOH filing status, EITC, the AOTC, and the CTC/ACTC/ODC, you must keep all of the following records: ⁽¹⁸⁾

1. A copy of Form 8867.
2. The applicable worksheet(s) or your own worksheet(s) for any credits claimed specified in Due Diligence Requirements.
3. Copies of any taxpayer documents you may have relied upon to determine eligibility for and the amount of the credit(s).
4. A record of how, when, and from whom the information used to prepare Form 8867 and worksheet(s) was obtained.
5. A record of any additional questions you may have asked to determine eligibility for and amount of the credits, and the taxpayer's answers.

You must keep those records for three years from the latest of the following dates: ⁽¹⁸⁾

- The due date of the tax return (not including extensions).



- The date the return was filed (if you are a signing tax return preparer electronically filing the return).
- The date the return was presented to the taxpayer for signature (if you are a signing tax return preparer not electronically filing the return).
- The date you submitted to the signing tax return preparer the part of the return for which you were responsible (if you are a nonsigning tax return preparer).

These records may be kept on paper or electronically in the manner described in Revenue Procedure 97-22 (or later update).⁽¹⁸⁾

Consequences of Filing EITC Returns Incorrectly

People who come to you, a tax return preparer, expect you to know the tax law and prepare an accurate return. Also, if you are paid and prepare EITC claims, you must meet EITC due diligence requirements. If the IRS examines your client's return and denies all or a part of EITC, your client:⁽¹⁹⁾

- Must pay back the amount in error with interest.
- May need to file the [Form 8862 - Information to Claim Earned Income Tax Credit after Disallowance](#).
- May be banned from claiming EITC for the next two years if the IRS finds the error is because of reckless or intentional disregard of the rules.
- May be banned from claiming EITC for the next ten years if the IRS finds the error is because of fraud.

In 2019, if the IRS examines the EITC claims you prepared and finds you did not meet all four due diligence requirements, you can get:⁽¹⁹⁾

- A \$530 penalty for each failure to comply with EITC due diligence requirements. The penalty amounts are covered in IRC Section 6695(g).
- A minimum penalty of \$1,000 if you prepare a client return and IRS finds any part of the amount of taxes owed is due to an unreasonable position (For reference see IRC [Section 6694\(a\)](#)).
- A minimum penalty of \$5,000 if you prepare a client return and IRS finds any part of the amount of taxes owed is due to your reckless or intentional disregard of rules or regulations (For reference see IRC [Section 6694\(b\)](#)).

The IRS can also penalize an employer or employing firm if an employee fails to comply with the EITC due diligence requirements. However, there are only specific circumstances when an employer is subject to the due diligence penalty:⁽²⁰⁾

- Management participated in or, prior to the time the return was filed, knew of the failure to comply with the due diligence requirements.
- The firm failed to establish reasonable and appropriate procedures to ensure compliance with the due diligence requirements.
- The firm establishes appropriate compliance procedures but disregards those procedures through willfulness, recklessness, or gross indifference, including ignoring facts that would lead a person of reasonable prudence and competence to investigate or figure out the employee was not complying.

Additional Tax Return Preparer Penalties

Understatement of Taxpayer's Liability

Several potential penalties may be assessed against tax return preparers. Below is a summary of the Preparer Penalties under Title 26 of Internal Revenue Code, [Sections 6694 and 6695](#).⁽²¹⁾

- *Due to unreasonable position* – a first-tier penalty for an understatement due to unreasonable position is the greater of \$1,000 or 50% of income derived with respect to the refund claim.
- *Due to willful or reckless conduct* – a second-tier penalty for an understatement due to willful or reckless conduct is the greater of \$5,000 or 75% of income derived with respect to the refund claim.



The Protecting Americans from Tax Hikes Act of 2015 expanded the penalty for tax preparers who engage in willful or reckless conduct, which was the greater of \$5,000 or 50% of the preparer's income with respect to the return, by increasing the 50% amount to 75% (IRC 6694(b)).



Failure to Follow Procedures

In 2019, penalties assessable for failure to meet the requirements described previously, unless such failure is due to reasonable cause and not to willful neglect, are:

- *Failure to furnish copy to taxpayer* - \$50 for each failure to furnish a copy of a return or claim with a maximum penalty of \$26,500 in a calendar year.
- *Failure to sign return* - \$50 for each failure to sign a return for refund with a maximum penalty of \$26,500 in a calendar year.
- *Failure to furnish identifying number (PTIN)* - \$50 for each failure to furnish an identifying number on a return with a maximum penalty of \$26,500 in a calendar year.
- *Failure to retain copy or list* - \$50 for each failure to comply with IRC Section 6107(b) to retain a copy or list of a return or claim for the period ending 3 years after the close of the return. There is a maximum penalty of \$26,500 in a return period.
- *Failure to file correct information* - \$50 for each failure with a maximum penalty of \$26,500 in a return period.

Negotiation of Taxpayer Checks

In 2019, a \$530 penalty may be imposed for a tax preparer who endorse or otherwise negotiate any check (including directing or accepting payment by any means, electronic or otherwise into an account owned or controlled by the practitioner or any firm or other entity with whom the practitioner is associated) issued to a client by the government in respect to a Federal tax liability.

Promoting Abusive Tax Shelters

The penalty for promoting abusive tax shelters is generally equal to \$1,000 or, if lesser, 100% of income derived from each organization or sale of the abusive plan. IRS, the Office of Chief Counsel and Treasury issue formal guidance on certain tax avoidance transactions that are referred to as listed transactions. Taxpayers are required to disclose their participation in listed transactions.

Aiding or Abetting in Tax Liability Understatement

Tax return preparers also may be penalized \$1,000 for aiding or abetting in an understatement of tax liability on a return. The penalty is \$10,000 if conduct relates to a corporation's tax return.

Disclosure or Use of Information

Internal Revenue Code Section 7216 is a criminal provision enacted by the U.S. Congress in 1971 that prohibits preparers of tax returns from knowingly or recklessly disclosing or using tax return information. Tax return information consists of all the information tax return preparers obtain from taxpayers or other sources in any form or manner that is used to prepare tax returns or is obtained in connection with the preparation of returns. Tax return information also includes all computations, worksheets, and printouts preparers create; correspondence from IRS during the preparation, filing and correction of returns; statistical compilations of tax return information; and tax return preparation software registration information.

- *Unauthorized disclosure* - The penalty is \$250 for each unauthorized disclosure or use of information furnished in connection with a taxpayer return with a maximum penalty of \$10,000 per calendar year.
- *Knowing or reckless disclosure* – Upon conviction of a misdemeanor a fine of up to \$1,000 or imprisonment for up to one year or both along with the costs of prosecution.

Willful Preparation of a False or Fraudulent Return

- *Guilty of a felony* – Upon conviction, the practitioner may face a fine of up to \$100,000 or imprisonment for up to 3 years or both. The practitioner may also be responsible for costs of prosecution. A fine amount up to \$500,000 may be imposed if fraud involves a corporation.
- *Guilty of a misdemeanor* – Upon conviction, the practitioner may face a fine up to \$10,000 or imprisonment of up to 1 year or both. A fine amount up to \$50,000 may be imposed if fraud involves a corporation.

Please see the Internal Revenue Code, corresponding Treasury Regulations, and other related published guidance for additional information on each penalty section.



Review

The following pages contain several review questions that are designed to help you learn the material you have just studied and prepare you for the exam. Review questions are for instructional use only and you will not be graded on these questions. We also provide you both the answers to each question and an explanation or feedback as to how we arrived at each answer.

Best practice suggests that you should try to answer these questions on your own first, and only then refer to the answer key and feedback to see how well you did in terms of learning the material.

Review Questions

Answers appear in [Review Feedback](#)

- Generally, individuals can lose their eligibility to practice before the IRS in all of the following ways except:
 - Not meeting the requirements for renewal of enrollment (such as failing to complete continuing professional education in the specified time period)
 - Requesting to be placed in inactive retirement status
 - Being suspended or disbarred by the Office of Professional Responsibility for violating the regulations governing practice before the IRS
 - Providing public information to the IRS
- Which of the following is considered a tax return preparer?
 - A daughter who enters tax return information into a computer program and prints a return
 - A neighbor who prepares tax returns in her home during filing season and accepts payment for her services
 - A friend who assists with preparation of depreciation schedule
 - A volunteer at a local church who prepares tax returns but accepts no payment
- Any person that prepares a return or assists in the preparation of a significant portion of a return in exchange for compensation is required to have which of the following?
 - Individual Taxpayer Identification Number (ITIN)
 - Preparer Tax Identification Number (PTIN)
 - Electronic Filing Identification Number (EFIN)
 - All of the above
- All of the following are examples of misconduct typically referred to the Office of Professional Responsibility (OPR) except:
 - Inaccurate or unreasonable omissions on tax returns, financial statements and other documents
 - A lack of due diligence exercised by the practitioner
 - Incomplete Identity Theft Affidavits
 - A willful attempt by the practitioner to evade the assessment of any Federal tax
- Tax return preparers may be penalized what amount for aiding or abetting in an understatement of tax liability on an individual's tax return?
 - \$500
 - \$1,000
 - \$5,000
 - \$10,000



Review Feedback

[Return to Review Questions](#)

Question 1 - D. Providing information to the IRS

Generally, individuals lose their eligibility to practice before the IRS in the following ways:

- Not meeting the requirements for renewal of enrollment (such as failing to complete continuing professional education in the specified time period).
- Requesting to be placed in inactive retirement status.
- Being suspended or disbarred by the Office of Professional Responsibility for violating the regulations governing practice before the IRS.

Providing information to the IRS is not included on this list.

Topic - [Restrictions](#)

Source - [Publication 947 - Who Cannot Practice Before the IRS?](#)

Question 2 - B. A neighbor who prepares tax returns in her home during filing season and accepts payment for her services

The term “tax return preparer” means any person who prepares for compensation, or who employs one or more persons to prepare for compensation, any return of tax imposed by this title or any claim for refund of tax imposed by this title. For purposes of the preceding sentence, the preparation of a substantial portion of a return or claim for refund shall be treated as if it were the preparation of such return or claim for refund.

Lesson 1 - [Rules for Tax Preparers – Circular 230](#)

Source - [GPO.GOV - 26 USC Section 7701 - Definitions](#)

Question 3 - B. Preparer Tax Identification Number (PTIN)

A preparer tax identification number (PTIN) is required of any person that prepares a return or assists in the preparation of a significant portion of a return in exchange for compensation. In order to get a preparer tax identification number, the preparer must be a CPA, attorney, a registered tax return preparer, an enrolled actuary, an enrolled retirement plan agent, an enrolled agent or unenrolled return preparer.

Topic - [Return Preparation](#)

Source - [Circular 230 - Section 10.8](#)

Question 4 - C. Incomplete Identity Theft Affidavits

Examples of misconduct typically referred to OPR include, but are not limited to:

- Inaccurate or unreasonable entries/omissions on tax returns, financial statements and other documents.
- A lack of due diligence exercised by the practitioner.
- A willful attempt by the practitioner to evade the payment/assessment of any Federal tax.
- Cashing, diverting or splitting a taxpayer’s refund by any means, electronic or otherwise.
- Patterns of misconduct involving multiple years, multiple clients or inappropriate/unprofessional conduct demonstrated to multiple IRS employees.
- Potential conflict of interest situations, such as representation of both spouses who have a joint liability or when representation is affected by competing interests of the practitioner.
- Any willful violation of Circular 230 provisions.

Incomplete Identity Theft Affidavits is not included on this list.

Topic - [Rules for Tax Preparers – Circular 230](#)

Source - [IRS.GOV - OPR Frequently Asked Questions \(FAQ's\)](#)



Question 5 - B. \$1,000

Tax return preparers may be penalized \$1,000 for aiding or abetting in an understatement of tax liability on a return. The penalty is \$10,000 if conduct relates to a corporation's tax return. Any person subject to the penalty shall be penalized only once for documents relating to the same taxpayer for a single tax period or event.

Topic - Aiding or Abetting in Tax Liability Understatement

Source - IRS.GOV - Summary of Preparer Penalties under Title 26

Representation Before the IRS

Practice Before the IRS

Practice before the IRS covers all matters connected with a presentation relating to presentations regarding a taxpayer's rights, privileges, or liabilities under laws and regulations administered by the IRS. Such presentations include, but are not limited to:

- Corresponding and communicating with the IRS.
- Representing a taxpayer at conferences, hearings, or meetings with the IRS.
- Preparing and filing documents with the IRS for a taxpayer.
- Providing written advice with respect to any entity, transaction plan or arrangement, or other plan or arrangement having a potential for tax avoidance or evasion.

"Exchange of Information" is not practice. Individuals who are not practitioners may appear before the IRS as a witness or communicate to the IRS on a taxpayer's behalf and appear as a witness - but they may not advocate. In general terms, these individuals are merely assisting with the exchange of information and are not themselves advocating on the taxpayer's behalf. An example of an individual assisting with information exchange but not practicing would be a taxpayer's friend serving as a translator when the taxpayer does not speak English.

Power of Attorney

A power of attorney authorizes the listed representative(s) to receive and inspect confidential tax information and to perform all acts (that is, sign agreements, consents, waivers or other documents) that a taxpayer can perform with respect to matters described in the power of attorney. However, this authorization, does not include the power to receive a check issued in connection with any liability for tax or any act specifically excluded on line 5 of the power of the attorney. Additionally, unless specifically provided in the power of attorney, this authorization does not include the power to substitute another representative or add another representative, the power to sign certain returns or the power to execute a request for disclosure of tax returns or return information to a third party.

Any representative, other than a registered tax return preparer or an unenrolled return preparer, can usually perform the following acts: ⁽²²⁾

- Represent the taxpayer before any office of the IRS.
- Sign an offer or a waiver of restriction on assessment or collection of a tax deficiency, or a waiver of notice of disallowance of claim for credit or refund.
- Sign a consent to extend the statutory time period for assessment or collection of a tax.
- Sign a closing agreement.

The representative named under a power of attorney is not permitted to sign another individual's income tax return unless: ⁽²²⁾

- The signature is permitted under the Internal Revenue Code and the related regulations (see Regulations Section 1.6012-1(a)(5)).
- The individual specifically authorizes this in his or her power of attorney.

For example, the regulation permits a representative to sign a return if the taxpayer is unable to sign the return due to: ⁽²²⁾

- Disease or injury.
- Continuous absence from the United States (including Puerto Rico) for a period of at least 60 days prior to the date required by law for filing the return.
- Other good cause if specific permission is requested of and granted by the IRS.



When a return is signed by a representative, it must be accompanied by a power of attorney (or copy) authorizing the representative to sign the return. A recognized representative can substitute or delegate authority under the power of attorney to another recognized representative only if the act is specifically authorized by the taxpayer on the power of attorney. After a substitution has been made, only the newly recognized representative will be recognized as the taxpayer's representative. If a delegation of power has been made, both the original and the delegated representative will be recognized by the IRS to represent the taxpayer.

The taxpayer's representative cannot execute consents that will allow the IRS to disclose tax return or return information to a third party unless the taxpayer specifically delegates this authority to his or her representative on line 5 of Form 2848.

In order for the power of attorney to be valid, the representative must enter the description of the matter, the tax form number (where applicable), and the year(s) or period(s) (where applicable). He or she may list the current year/period and any tax years or periods that have already ended as of the date he or she signs the power of attorney. The representative may also list future tax years or periods. However, the IRS will not record on the CAF system future tax years or periods listed that exceed 3 years from December 31 of the year that the IRS receives the power of attorney.

A power of attorney is generally terminated if the taxpayer becomes incapacitated or incompetent. The power of attorney can continue, however, in the case of his or her incapacity or incompetency if he or she authorizes this on line 5 "Other" of the Form 2848 and if his or her non-IRS durable power of attorney meets all the requirements for acceptance by the IRS.

Use [Form 2848 - Power of Attorney and Declaration of Representative](#) to authorize an individual to represent a taxpayer before the IRS. The individual the taxpayer authorizes must be a person eligible to practice before the IRS. The taxpayer may authorize a student who works in a qualified Low-Income Taxpayer Clinic (LITC) or Student Tax Clinic Program (STCP) to represent him or her under a special order issued by the Office of Professional Responsibility. The taxpayer's authorization of a qualifying representative will also allow that individual to receive and inspect his or her confidential tax information.

By signing Form 2848 the representative declares under the penalty of perjury that: ⁽²³⁾

- He or she is not currently under suspension or disbarment from practice before the Internal Revenue Service.
- He or she is aware of regulations contained in Circular 230 (31 CFR, Part 10), as amended, concerning practice before the Internal Revenue Service.
- He or she is authorized to represent the taxpayer identified in Part I for the matter(s) specified there.
- He or she is one of the following:
 - Attorney - a member in good standing of the bar of the highest court of the jurisdiction.
 - Certified Public Accountant - duly qualified to practice as a certified public accountant in the jurisdiction.
 - Enrolled Agent - enrolled as an agent under the requirements of Circular 230.
 - Officer - a bona fide officer of the taxpayer's organization.
 - Full-Time Employee - a full-time employee of the taxpayer.
 - Family Member - a member of the taxpayer's immediate family (for example, spouse, parent, child, grandparent, grandchild, step-parent, stepchild, brother, or sister).
 - Enrolled Actuary - enrolled as an actuary by the Joint Board for the Enrollment of Actuaries under 29 U.S.C. 1242 (the authority to practice before the Internal Revenue Service is limited by Section 10.3(d) of Circular 230).
 - Unenrolled Return Preparer - authority to practice before the Internal Revenue Service is limited. The Unenrolled Return Preparer must have been eligible to sign the return under examination and have signed the return.
 - Registered Tax Return Preparer - registered as a tax return preparer under the requirements of Section 10.4 of Circular 230. The authority to practice before the Internal Revenue Service is limited. The Registered Tax Return Preparer must have been eligible to sign the return under examination and have signed the return.
 - Student Attorney or CPA - receives permission to practice before the IRS by virtue of his or her status as a law, business, or accounting student working in LITC or STCP under Section 10.7(d) of Circular 230.



- Enrolled Retirement Plan Agent - enrolled as a retirement plan agent under the requirements of Circular 230 (the authority to practice before the Internal Revenue Service is limited by Section 10.3(e)).

Use **Form 8821 - Tax Information Authorization**, if a taxpayer wants to authorize any individual, corporation, firm, organization, or partnership he or she designates to inspect and/or receive his or her confidential information for the type of tax and the years or periods he or she lists on Form 8821. The taxpayer may file his or her own tax information authorization without using Form 8821, but it must include all the information that is requested on Form 8821.



Form 8821 does not authorize the appointee to advocate the taxpayer's position with respect to Federal tax laws; to execute waivers, consents, or closing agreements; or to otherwise represent the taxpayer before the IRS.

Use **Form 4506-T - Request for Transcript of Tax Return**, if a taxpayer wants to authorize an individual or organization to receive or inspect transcripts of his or her confidential return information, but do not want to authorize an individual to represent him or her before the IRS. This form is often used by third parties to verify tax compliance.

The IRS will accept a non-IRS power of attorney, but a completed Form 2848 must be attached in order for the power of attorney to be entered on the Centralized Authorization File (CAF) system. If the taxpayer wants to use a power of attorney other than Form 2848, it must contain the following information: ⁽²⁴⁾

- The taxpayer's name and mailing address.
- The taxpayer's Social Security number and/or employer identification number.
- The taxpayer's employee plan number, if applicable.
- The name and mailing address of the taxpayer's representative(s).
- The types of tax involved.
- The Federal tax form number.
- The specific year(s) or period(s) involved.
- For estate tax matters, the decedent's date of death.
- A clear expression of the taxpayer's intention concerning the scope of authority granted to his or her representative(s).
- The taxpayer's signature and date

These alternative powers of attorney cannot, however, be recorded on the Centralized Authorization File (CAF) unless a completed Form 2848 is attached. The taxpayer is not required to sign the Form 2848 when it is attached to an alternative power of attorney that has been signed by him or her, but his or her representative must sign the Declaration of Representative on the Form 2848. ⁽²³⁾

The taxpayer also must attach to the non-IRS power of attorney a signed and dated statement made by his or her representative. This statement, which is referred to as the Declaration of Representative, is contained in Part II of Form 2848. The statement should read: ⁽²²⁾

1. I am not currently under suspension or disbarment from practice before the Internal Revenue Service or other practice of my profession by any other authority,
2. I am aware of the regulations contained in Circular 230,
3. I am authorized to represent the taxpayer(s) identified in the power of attorney, and
4. I am an individual described in 26 CFR 601.502(b).

The IRS will not accept the taxpayer's non-IRS power of attorney if it does not contain all the information listed above. He or she can sign and submit a completed Form 2848 or a new non-IRS power of attorney that contains all the information. If the taxpayer cannot sign an acceptable replacement document, his or her attorney-in-fact may be able to perfect (make acceptable to the IRS) the taxpayer's non-IRS power of attorney by using the procedure described next.

Under the following conditions, the attorney-in-fact named in a taxpayer's non-IRS power of attorney can sign a Form 2848 on his or her behalf: ⁽²²⁾

1. The original non-IRS power of attorney grants authority to handle Federal tax matters (for example, general authority to perform any acts).



2. The attorney-in-fact attaches a statement (signed under penalty of perjury) to the Form 2848 stating that the original non-IRS power of attorney is valid under the laws of the governing jurisdiction.

The IRS has a centralized computer database system called the CAF system. This system contains information on the authority of taxpayer representatives. Generally, when the taxpayer submits a power of attorney document to the IRS, it is processed for inclusion on the CAF system. Entry of his or her power of attorney on the CAF system enables IRS personnel, who do not have a copy of the taxpayer's power of attorney, to verify the authority of his or her representative by accessing the CAF. It also enables the IRS to automatically send copies of notices and other IRS communications to the taxpayer's representative if he or she specifies that his or her representative should receive those communications.

If an individual wants to revoke an existing power of attorney and does not want to name a new representative, or if a representative wants to withdraw from representation, mail or fax a copy of the previously executed power of attorney to the IRS office handling the matter. If the taxpayer is revoking the power of attorney, the taxpayer must write "REVOKE" across the top of the first page with a current signature and date below this annotation. If the representative is withdrawing from the representation, the representative must write "WITHDRAW" across the top of the first page with a current signature and date below this annotation. ⁽²³⁾

A recognized representative can substitute or delegate authority under the power of attorney to another recognized representative only if the act is specifically authorized by the taxpayer on the power of attorney. After a substitution has been made, only the newly recognized representative will be recognized as the taxpayer's representative. If a delegation of power has been made, both the original and the delegated representative will be recognized by the IRS to represent the taxpayer.

A substitution is made by filing all of the following items with the IRS:

1. A notice of substitution or delegation signed by the practitioner who was appointed under the power of attorney.
2. A declaration of representative made by the new representative.
3. A power of attorney that authorizes the substitution or delegation.

If the individual does not have a copy of the power of attorney he or she wants to revoke or withdraw, send a statement to the IRS. The statement of revocation or withdrawal must indicate that the authority of the power of attorney is revoked, list the matters and periods, and must be signed and dated by the taxpayer or representative as applicable. If the taxpayer is revoking, list the name and address of each recognized representative whose authority is revoked. When the taxpayer is completely revoking authority, the form should state "remove all years/periods" instead of listing the specific tax matter, years, or periods. If the representative is withdrawing, list the name, TIN, and address (if known) of the taxpayer. ⁽²³⁾

Accountants, attorneys, enrolled agents or other representatives from whom a taxpayer has requested assistance on tax problems submit inquiries to IRS. The third party expects a reply to the inquiries so that problems can be explained to the taxpayer. To authorize this third party reply, the representative may submit a [Form 2848 - Power of Attorney and Declaration of Representative](#), or [Form 8821 - Tax Information Authorization](#).

A Centralized Authorization File (CAF) number is assigned to a tax practitioner when a Form 2848 or Form 8821 is filed. This number represents a file that contains information regarding the type of authorization that taxpayers have given representatives for the various modules within their accounts. Specific use authorizations generally are not recorded on the CAF database. These authorizations must be provided by the representative with each contact with the IRS.

The purpose of the CAF number is to facilitate the processing of a power of attorney or a tax information authorization submitted by a recognized representative or an appointee. A recognized representative or an appointee should include the same CAF number on every power of attorney or tax information authorization filed. However, because the CAF number is not a substantive requirement, a tax information authorization or power of attorney will not be rejected based on the absence of a CAF number.



Building the Taxpayer's Case

Preliminary Work

An IRS audit is a review/examination of an organization's or individual's accounts and financial information to ensure information is being reported correctly, according to the tax laws, and to verify the amount of tax reported is accurate. Selecting a return for audit does not always suggest that an error has been made. Returns are selected using a variety of methods, including: ⁽²⁵⁾

- **Random selection and computer screening** - sometimes returns are selected based solely on a statistical formula.
- **Document matching** - when payor records, such as Forms W-2 or Form 1099, do not match the information reported.
- **Related examinations** - returns may be selected for audit when they involve issues or transactions with other taxpayers, such as business partners or investors, whose returns were selected for audit.

An audit may be conducted by mail or through an in-person interview and review of the taxpayer's records. The interview may be at an IRS office (office audit) or at the taxpayer's home, place of business, or accountant's office (field audit). The IRS will tell the taxpayer what records are needed. Audits can result in no changes or changes. Any proposed changes to a return will be explained.

Should the taxpayer's account be selected for audit, he or she will be notified by mail or by telephone. In the case of a telephone contact, the IRS will still send a letter confirming the audit. E-mail notification is not used by the IRS.

If the IRS examined the taxpayer's return for the same items in either of the 2 previous years and proposed no change to the tax liability, contact the IRS as soon as possible so they can determine if the examination should be discontinued.

The taxpayer will be provided with a written request for specific documents needed. The law requires the taxpayer to retain records used to prepare his or her return. Those records generally should be kept for three years from the date the tax return was filed. The IRS does accept some electronic records. If records are kept electronically, the IRS may request those in lieu of or in addition to other types of records. The responsibility to prove entries, deductions, and statements made on the tax returns is known as the burden of proof. The taxpayer must be able to prove (substantiate) certain elements of expenses to deduct them.

The length of each audit varies depending on the type of audit, the complexity of items being reviewed, the availability of information being requested, the availability of both parties for scheduling of meetings and the taxpayer's agreement or disagreement with the findings. An audit can be concluded in one of three ways: ⁽²⁵⁾

- **No change:** an audit in which the taxpayer has substantiated all of the items being reviewed and results in no changes.
- **Agreed:** an audit where the IRS proposed changes and the taxpayer understands and agrees with the changes.
- **Disagreed:** an audit where the IRS has proposed changes and the taxpayer understands but disagrees with the changes.

If the taxpayer agrees with the proposed changes, he or she can sign an agreement form and pay any additional tax owed. The taxpayer must pay interest on any additional tax. If he or she pays when signing the agreement, the interest is generally figured from the due date of the return to the date of the payment.

If the taxpayer does not pay the additional tax when he or she signs the agreement, the taxpayer will receive a bill that includes interest. If he or she pays the amount due within 10 business days of the billing date, he or she will not have to pay more interest or penalties. This period is extended to 21 calendar days if the amount due is less than \$100,000.

If the taxpayer is due a refund, he or she will receive it sooner if he or she signs the agreement form. The taxpayer will be paid interest on the refund. If the IRS accepts the taxpayer's tax return as filed, he or she will receive a letter in a few weeks stating that the examiner proposed no changes to the return. The taxpayer should keep this letter with his or her tax records.



If the taxpayer does not agree with the proposed changes, the examiner will explain his or her appeal rights. If the examination takes place in an IRS office, the taxpayer can request an immediate meeting with the examiner's supervisor to explain his or her position. If an agreement is reached, the case will be closed.

If the taxpayer cannot reach an agreement with the supervisor at this meeting, or if the examination took place outside of an IRS office, the examiner will write up the case explaining the taxpayer's position and the IRS' position. The examiner will forward the case for processing.

Tax Return Transcript

A tax return transcript shows most line items from the taxpayer's tax return (Form 1040) as it was originally filed, including any accompanying forms and schedules. In most cases, the transcript includes all the information a lender or government agency needs. It does not show any changes the taxpayer, his or her representative or the IRS made after the return was filed. The tax return transcript is generally available for the current and past three years. ⁽²⁶⁾

Tax Account Transcript

The IRS can also provide a tax account transcript. The tax account transcript shows basic data from the taxpayer's return, including marital status, type of return filed, adjusted gross income and taxable income. It also includes any adjustments the taxpayer or the IRS made after the return was filed. Like the tax return transcript, the tax account transcript is generally available for the current and past three years. ⁽²⁶⁾

Taxpayer Financial Situation

Enforced Collection Actions

If taxes are not paid timely, and the IRS is not notified why the taxes cannot be paid, the law requires that enforcement action be taken, which could include the following:

- Issuing a Notice of Levy on salary and other income, bank accounts or property (legally seize property to satisfy the tax debt).
- Assessing a Trust Fund Recovery Penalty for certain unpaid employment taxes.
- Issuing a Summons to the taxpayer or third parties to secure information to prepare unfiled tax returns or determine the taxpayer's ability to pay.

To collect delinquent tax debts, certain Federal payments (vendor, OPM, SSA, federal salary, and Federal employee travel) disbursed by the Department of the Treasury, Financial Management Service (FMS) may be subject to a levy through the Federal Payment Levy Program (FPLP). Employment taxes are:

1. The amounts an employer should withhold from employees for income, social security, and Medicare taxes (also called withheld or trust fund taxes), plus
2. The amount of social security tax and Medicare taxes an employer pays on behalf of each employee.

Paying employment taxes late, or not including payment with a return if required, could result in additional penalties and interest on any unpaid balance. Failure to Deposit (FTD) penalties of up to 15% of the amount not deposited may be charged, depending on how many days the payment is late. Enrolling in and making current tax deposits through the Electronic Federal Tax Payment System (EFTPS) can help employers stay up-to-date with their payment requirements.

The IRS will generally not take enforced collection actions:

- When an installment agreement is being considered.
- While an agreement is in effect.
- For 30 days after a request is rejected.
- During the period the IRS evaluates an appeal of a rejected or terminated agreement.



Installment Agreements

If a taxpayer is financially unable to pay his or her tax debt immediately, he or she can make monthly payments through an installment agreement. As long as the taxpayer pays his or her tax debt in full, he or she can reduce or eliminate his or her payment of penalties or interest, and avoid the fee associated with setting up the agreement. Before applying for any payment agreement, the taxpayer must file all required tax returns.

The following taxpayers may request a pre-assessment installment agreement on current tax liabilities by using the [Online Payment Agreement \(OPA\)](#) application on the www.irs.gov website:

- Individuals who owe \$50,000 or less in combined individual income tax, penalties and interest, and have filed all required returns.
- Businesses that owe \$25,000 or less in payroll taxes and have filed all required returns.

The taxpayer may also submit [Form 9465 - Installment Agreement Request](#), or attach a written request for a payment plan to the front of the return.

Most installment agreements meet the IRS streamlined installment agreement criteria. The maximum term for a streamlined agreement is 72 months. In certain circumstances, a taxpayer can have longer to pay or his or her agreement can be approved for an amount that is less than the amount of tax he or she owes.

The taxpayer is eligible for a guaranteed installment agreement if the tax he or she owes is not more than \$10,000 and:

1. During the past 5 tax years, the taxpayer (and his or her spouse if filing a joint return) have timely filed all income tax returns and paid any income tax due, and have not entered into an installment agreement for payment of income tax;
2. The taxpayer agrees to pay the full amount he or she owes within 3 years and to comply with the tax laws while the agreement is in effect; and,
3. The taxpayer is financially unable to pay the liability in full when due.



It is the practice of the Internal Revenue Service (IRS) to grant these installment agreements even if the taxpayer can pay his or her liability in full if the tax, he or she owes is not more than \$10,000 and he or she meets the other criteria.

If the taxpayer owes more than \$50,000 or cannot pay the amount he or she owes in six years or less, his or her request for an installment agreement begins with an IRS collector's analyzing his or her Collection Information Statement on Form 433-A. The collector uses the information on the form to determine the amount the taxpayer can pay. Payment amounts are at the discretion of the IRS.

The IRS provides various options for making monthly payments, such as: ⁽²⁷⁾

- Direct debit from the taxpayer's bank account.
- Payroll deduction from the taxpayer's employer.
- Payment via check or money order.
- Payment by Electronic Federal Tax Payment System (EFTPS).
- Payment by credit card via phone or Internet.
- Payment by Online Payment Agreement (OPA).



The IRS has revised the user fee schedule for installment agreements. The new fee schedule applies to installment agreements entered into, restructured or reinstated on or after January 2, 2017. The final regulations increase the existing user fees (except for low-income taxpayers) and create two new types of online installment agreements, each subject to a separate fee. Five of these rates are based on the full cost of establishing and monitoring installment agreements, while the sixth rate is for low-income taxpayers. The new fees are:

1. A top rate of \$225, up from the current rate of \$120, applies to taxpayers who enter into installment agreements in person, over the phone, by mail, or by filing Form 9465 - Installment Agreement Request, with the IRS. This includes taxpayers requesting installment agreements with their e-filed returns.
2. A reduced rate of \$107, up from \$52, applies to a direct debit agreement.



3. A taxpayer who sets up an installment agreement through IRS.gov and agrees to make payments either by mailing a check or through the Electronic Federal Tax Payment System (EFTPS) will pay \$149.
4. A taxpayer who sets up an installment agreement online and agrees to make automatic payments through direct debit will pay a \$31 fee.
5. The fee for a restructured/reinstated installment agreement is \$89, up from the current rate of \$50.
6. A low-income taxpayer pays a \$43 fee, the same as the current rate, when setting up any type of installment agreement, other than a direct debit online payment agreement or when restructuring or reinstating any installment agreement.

The IRS [Form 1040 V Payment Voucher](#) should be completed and sent in with the payment with a tax return having a balance due to the IRS. Taxpayer(s) must simply fill in the amount he or she is paying, their name, address and Social Security Number(s).



The IRS can deny the request, and a request cannot be made if the taxpayer is already making payments on an existing installment agreement.

A payment plan is not always the taxpayer's best option, there are definite drawbacks. The biggest disincentive is that interest and penalties continue to accrue while the taxpayer still owes. Combined with penalties, the interest rate is often 8% to 10% per year. It is possible to pay for years and owe more than when the taxpayer started.

If the taxpayer can pay the full amount he or she owes within 120 days, he or she should call 1-800-829-1040 to establish his or her request to pay in full. If the taxpayer can do this, he or she can avoid paying the fee to set up an installment agreement. Instead of calling, the taxpayer can apply online.

Offer in Compromise (OIC)

An offer in compromise allows a taxpayer to settle his or her tax debt for less than the full amount he or she owes. It may be a legitimate option if the taxpayer cannot pay his or her full tax liability or doing so creates a financial hardship.

The IRS will consider the taxpayer's unique set of facts and circumstances including: ⁽²⁸⁾

- Ability to pay.
- Income.
- Expenses.
- Asset equity.

The IRS generally approves an offer in compromise when the amount offered represents the most it can expect to collect within a reasonable period of time. Explore all other payment options before submitting an offer in compromise. The Offer in Compromise program is not for everyone. The taxpayer must be current with all filing and payment requirements. The taxpayer is not eligible if he or she is in an open bankruptcy proceeding.

Bankruptcy and the Collection of Taxes

This provision of the Bankruptcy Code imposes an automatic stay (prohibition) on certain actions of creditors, including the United States, as of the petition date. Exceptions to the automatic stay are found in 11 USC Section 362(b). The Bankruptcy Reform Act of 1994 (BRA 94) expanded the list of exceptions to include: assessment of tax, issuance of notices of deficiencies, audits to determine tax liability, solicitation of tax returns, and the issuance of a notice and demand for payment of an assessment. The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA) added exceptions for the setoff of prepetition income tax refunds against prepetition income tax liabilities and the interception of income tax refunds for setoff against past due domestic support obligations.

The filing of a bankruptcy petition immediately affects the collection of taxes. The actions the IRS may take depend on various factors, including, but not limited to the: ⁽²⁹⁾

1. Debtor's being an individual, corporation, or partnership.
2. Chapter of bankruptcy filed.
3. Date the bankruptcy commenced.
4. Presence of complex or unusual issues, such as trust fund, adequate protection, or pyramiding of taxes.



5. The tax liability's being for prepetition or postpetition periods.
6. The progress of the case as it moves through the bankruptcy processing stream.
7. Debtor's prior history of filing bankruptcy, for cases filed on or after October 17, 2005.

Section 553 - Setoff

A creditor's right to set off a mutual debt owed by the creditor to the debtor that arose before the bankruptcy proceeding began is preserved. This authority allows the IRS to credit a refund that arose before the petition date against a prepetition tax liability of the debtor provided the automatic stay has been lifted for cases filed prior to October 17, 2005. The IRS may freeze a refund to protect its right of setoff without permission of the court. BAPCPA has eliminated the requirement to ask the court for a lift of stay to apply prepetition income tax refunds to prepetition income tax liabilities on cases filed on or after October 17, 2005.

Collection Financial Standards

Collection Financial Standards are used to help determine a taxpayer's ability to pay a delinquent tax liability. Allowable living expenses include those expenses that meet the necessary expense test. The necessary expense test is defined as expenses that are necessary to provide for a taxpayer's (and his or her family's) health and welfare and/or production of income. National Standards for food, clothing and other items apply nationwide.

Taxpayers are allowed the total National Standards amount monthly for their family size, without questioning the amounts they actually spend. If the amount claimed is more than the total allowed by the National Standards for food, housekeeping supplies, apparel and services, and personal care products and services, the taxpayer must provide documentation to substantiate those expenses are necessary living expenses. Deviations from the standard amount are not allowed for miscellaneous expenses. Generally, the total number of persons allowed for National Standards should be the same as those allowed as exemptions on the taxpayer's most recent year income tax return.

Expense	One Person	Two Persons	Three Persons	Four Persons
Food	\$385	\$715	\$779	\$947
Housekeeping supplies	\$45	\$67	\$73	\$71
Apparel & services	\$85	\$158	\$192	\$251
Personal care products & services	\$43	\$73	\$74	\$88
Miscellaneous	\$157	\$285	\$315	\$383
Total	\$715	\$1,298	\$1,433	\$1,740
More than four persons			Additional Persons Amount	
For each additional person, add to four-person total allowance:			\$4378	
IRS Collection Financial Standards are intended for use in calculating repayment of delinquent taxes.				

Table 2-1 - National Standards: Food, Clothing and Other Items (2020)

National Standards have also been established for minimum allowances for out-of-pocket health care expenses. Taxpayers and their dependents are allowed the standard amount on a per person basis, without questioning the amount actually spent. Out-of-pocket health care expenses include medical services, prescription drugs, and medical supplies (e.g. eyeglasses, contact lenses, etc.). The out-of-pocket health care standard amount is allowed in addition to the amount taxpayers pay for health insurance.

Out-of-Pocket Costs	
Under 65	\$56
65 and Older	\$125
IRS Collection Financial Standards are intended for use in calculating repayment of delinquent taxes.	

Table 2-2 - National Standards: Out-of-Pocket Health Care (2020)

The housing and utilities standards are derived from U.S. Census Bureau, American Community Survey and BLS data, and are provided by state down to the county level. The standard for a particular county and family size includes



both housing and utilities allowed for a taxpayer's primary place of residence. Housing and utilities standards are also provided for Puerto Rico.

Housing and Utilities standards include mortgage or rent, property taxes, interest, insurance, maintenance, repairs, gas, electric, water, heating oil, garbage collection, residential telephone service, cell phone service, cable television, and internet service. The tables include five categories for one, two, three, four, and five or more persons in a household and are state (or territory) and county specific. See [Local Standards: Housing and Utilities](#) on the IRS website for complete details.

Supporting Documentation

The audit notice will give the taxpayer specific information as to what items are being examined. The taxpayer should only bring documentation requested in the original audit notice. He or she should not bring any additional records and items not requested. If records are missing the taxpayer should obtain duplicates immediately. Without supporting documents the deduction in question will be denied. Additionally, the taxpayer should not bring original documents to the audit. If he or she does bring originals, do not give them to the agent. Request that the agent make copies and give the originals back to the taxpayer.

Good records will help the taxpayer monitor the progress of his or her business, prepare his or her financial statements, identify source of receipts, keep track of deductible expenses, prepare his or her tax returns, and support items reported on tax returns.

The responsibility to prove entries, deductions, and statements made on the tax returns is known as the burden of proof. The taxpayer must be able to prove (substantiate) certain elements of expenses to deduct them. Generally, taxpayers meet their burden of proof by having the information and receipts (where needed) for the expenses. The taxpayer should keep adequate records to prove the expenses or have sufficient evidence that will support his or her own statement. The taxpayer generally must have documentary evidence, such as receipts, canceled checks, or bills, to support the expenses. Additional evidence is required for travel, entertainment, gifts, and auto expenses. The following are some of the types of records the taxpayer should keep: ⁽³⁰⁾

Gross receipts are the income the taxpayer receives from his or her business. The taxpayer should keep supporting documents that show the amounts and sources of his or her gross receipts. Documents for gross receipts include the following: ⁽³⁰⁾

- Cash register tapes.
- Bank deposit slips.
- Receipt books.
- Invoices.
- Credit card charge slips.
- Forms 1099-MISC.

Purchases are the items the taxpayer buys and resells to customers. If the taxpayer is a manufacturer or producer, this includes the cost of all raw materials or parts purchased for manufacture into finished products. The taxpayer's supporting documents should show the amount paid and that the amount was for purchases. Documents for purchases include the following: ⁽³⁰⁾

- Canceled checks.
- Cash register tape receipts.
- Credit card sales slips.
- Invoices.

Expenses are the costs the taxpayer incurs (other than purchases) to carry on his or her business. The taxpayer's supporting documents should show the amount paid and that the amount was for a business expense. Documents for expenses include the following: ⁽³⁰⁾

- Canceled checks.
- Cash register tapes.



- Account statements.
- Credit card sales slips.
- Invoices.
- Petty cash slips for small cash payments.

Assets are the property, such as machinery and furniture, that the taxpayer owns and use in his or her business. The taxpayer must keep records to verify certain information about his or her business assets. The taxpayer needs records to compute the annual depreciation and the gain or loss when he or she sells the assets. Documents for assets include the following: ⁽³⁰⁾

- When and how the taxpayer acquired the assets.
- Purchase price.
- Cost of any improvements.
- Section 179 deduction taken.
- Deductions taken for depreciation.
- Deductions taken for casualty losses, such as losses resulting from fires or storms.
- How the taxpayer used the asset.
- When and how the taxpayer disposed of the asset.
- Selling price.
- Expenses of sale.

If the taxpayer deducts travel, entertainment, gift or transportation expenses, he or she must be able to prove (substantiate) certain elements of expenses.

Legal Authority and References

Internal Revenue Code

Federal tax law begins with the Internal Revenue Code (IRC) of 1986, enacted by Congress in Title 26 of the United States Code (26 U.S.C.). The IRC is the primary source of Federal tax law. It is complex and its sections must be read in the context of the entire Code and the court decisions that interpret it. At a minimum, please do not be misled by the false interpretations of the IRC promoted by the purveyors of anti-tax law evasion schemes.

Treasury Regulations

Treasury Regulations, which most tax professionals simply call "the Regs," are the IRS's interpretation of the Internal Revenue Code. Unfortunately, the Code is not always as clear as most of us would prefer. It is not uncommon for someone to look something up in the Code, and still not find the answer. At this point you turn to the Regs. They will often give not only an explanation of the part of the Code that you may not understand, but also examples of how the IRS sees the Code in various situations. Like the Code itself, the Regulations have the force of the law.

There are three levels of Treasury Regulations:

- **Proposed** - a public comment period (variable, commonly 30 to 60 days) during which interested parties can review the proposed regulations and submit written comments.
- **Temporary** - may be issued before the normal public comment and review process when guidance is urgently needed.
- **Final** - interpret an IRC section and provide guidance to tax professionals for tax compliance and planning purposes.

Revenue Rulings

Every year, the IRS issues numerous so-called Revenue Rulings. Just as the Regs are an interpretation of the Code, the Revenue Rulings are the IRS's interpretation of the Regs and the Code in very specific, factual situations. For example, they often start out with a hypothetical taxpayer problem. After going over the facts of the problem, the Ruling will then tell what the IRS thinks is the law used to solve the problem, and the conclusion that the IRS has come to regarding the hypothetical taxpayer. Revenue Rulings do not have the same force of law as the Code or Regulations.



They are only the IRS's opinion about a given tax situation. However, they are quite useful in that they will tell taxpayers who might have the same or similar tax problem as the hypothetical taxpayer how the IRS will deal with that problem.

Court Decisions

Sooner or later, a taxpayer is going to disagree with the IRS. For example, the taxpayer may interpret the Code or Regs to say that he is allowed to take a particular deduction on his tax return. The IRS, on the other hand, may interpret the same Code section or Regulation to say that the taxpayer cannot. If the taxpayer and the IRS cannot settle the argument between themselves, the case may end up in a court of law. There are various courts to which taxpayers can go to resolve a dispute with the IRS, including the United States Tax Court (if tax is unpaid), the local Federal District Court (if tax is paid), and the U.S. Court of Claims (if tax is paid). When these courts decide an IRS-taxpayer dispute, they give the reasons for their decisions in writing. These decisions are then published and made available to all taxpayers.

Internal Revenue Bulletins

The Internal Revenue Bulletin (IRB) is the authoritative instrument for announcing official rulings and procedures of the IRS and for publishing Treasury Decisions, Executive Orders, Tax Conventions, legislation, court decisions, and other items of general interest.

Revenue Procedures

A revenue procedure is an official statement of a procedure that affects the rights or duties of taxpayers or other members of the public under the Internal Revenue Code, related statutes, tax treaties and regulations and that should be a matter of public knowledge. It is also published in the Internal Revenue Bulletin. While a revenue ruling generally states an IRS position, a revenue procedure provides return filing or other instructions concerning an IRS position. For example, a revenue procedure might specify how those entitled to deduct certain automobile expenses should compute them by applying a certain mileage rate in lieu of calculating actual operating expenses.⁽³¹⁾

IRS Notice or Letter

If the taxpayer receives a letter or notice from the IRS, it will explain the reason for the correspondence and provide instructions. Many of these letters and notices can be dealt with simply, without having to call or visit an IRS office. The notice the taxpayer receives covers a very specific issue about his or her account or tax return. Generally, the IRS will send a notice if it believes the taxpayer owes additional tax, are due a larger refund, if there is a question about the tax return or a need for additional information.

Currently, the IRS is in the process of redesigning and revising its correspondence with taxpayers for clarity, effectiveness and efficiency. The new format includes a plain language explanation of the nature of the correspondence, clearly states what action the taxpayer must take and presents a clear, clean design. Visit [Understanding Your IRS Notice or Letter](#) on the IRS website for notice details including numbers, descriptions and topics.

Per 26 USC Section 7422, no suit or proceeding shall be maintained in any court for the recovery of any internal revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Secretary, according to the provisions of law in that regard, and the regulations of the Secretary established in pursuance thereof.

Additionally, per 26 USC Section 6532, no suit or proceeding under Section 7422 for the recovery of any internal revenue tax, penalty, or other sum, shall be begun before the expiration of 6 months from the date of filing the claim required under such section unless the Secretary renders a decision thereon within that time, nor after the expiration of 2 years from the date of mailing by certified mail or registered mail by the Secretary to the taxpayer of a notice of the disallowance of the part of the claim to which the suit or proceeding relates.

Internal Revenue Manual

The Internal Revenue Manual (IRM) contains the policies, procedures, instructions, guidelines, and delegations of



authority which direct the operation and administration of the Internal Revenue Service. Topics include tax administration, personnel and office management, and others.

IRS Publications and Forms

The forms and publications available from the IRS website (www.irs.gov/Forms-&-Pubs) are the most current versions available. All products have a revision date, showing the year or month and year the product was revised. Many products are revised once each year and display a year in the revision date column. Some products are only changed when legislation or procedure changes and display a month/year date. For example, a product revised in March 2009 will appear as 0309, but is the most recent version. Some products have separate instructions, and some have included instructions. Notices included are general notices, not taxpayer correspondence.

Tax Treaties

The United States has tax treaties with a number of foreign countries. Under these treaties, residents (not necessarily citizens) of foreign countries are taxed at a reduced rate or are exempt from U.S. taxes on certain items of income they receive from sources within the United States. These reduced rates and exemptions vary among countries and specific items of income. Under these same treaties, residents or citizens of the United States are taxed at a reduced rate, or are exempt from foreign taxes, on certain items of income they receive from sources within foreign countries. Most income tax treaties contain what is known as a "saving clause" which prevents a citizen or resident of the United States from using the provisions of a tax treaty in order to avoid taxation of U.S. source income.

If the treaty does not cover a particular kind of income, or if there is no treaty between the taxpayer's country and the United States, he or she must pay tax on the income in the same way and at the same rates shown in the instructions for the applicable U.S. tax return. Many of the individual states of the United States tax income which is sourced in their states. Therefore, the taxpayer should consult the tax authorities of the state from which he or she derives income to find out whether any state tax applies to any of his or her income. Some states of the United States do not honor the provisions of tax treaties.



Review

The following pages contain several review questions that are designed to help you learn the material you have just studied and prepare you for the exam. Review questions are for instructional use only and you will not be graded on these questions. We also provide you both the answers to each question and an explanation or feedback as to how we arrived at each answer.

Best practice suggests that you should try to answer these questions on your own first, and only then refer to the answer key and feedback to see how well you did in terms of learning the material.

Review Questions

Answers appear in [Review Feedback](#)

1. A representative named under a power of attorney is not permitted to sign another individual's income tax return unless the signature is permitted under the Internal Revenue Code and the related regulations (see Regulations Section 1.6012-1(a)(5)) or the individual specifically authorizes this in his or her power of attorney. For example, the regulation permits a representative to sign a return if the taxpayer is unable to sign the return for all of the following reasons except:
 - A. Disease
 - B. Injury
 - C. Continuous absence from the United States (including Puerto Rico) for a period of at least 30 days prior to the date required by law for filing the return
 - D. Other good cause if specific permission is requested of and granted by the IRS
2. John Elm, a taxpayer, signs a non-IRS durable power of attorney that names his neighbor and CPA, Ed Larch, as his attorney-in-fact. The power of attorney grants Ed the authority to perform any and all acts on John's behalf. However, it does not list specific tax-related information such as types of tax or tax form numbers. Shortly after John signs the power of attorney, he is declared incompetent. Later, a Federal tax matter arises concerning a prior year return filed by John. Ed attempts to represent John before the IRS but is rejected because the durable power of attorney does not contain required information. If Ed attaches a statement (signed under the penalty of perjury) that the durable power of attorney is valid under the laws of the governing jurisdiction, which of the following is true?
 - A. Ed can sign a completed Form 2848 and submit it on John's behalf
 - B. Ed cannot sign a completed Form 2848 and submit it on John's behalf
 - C. Ed can name himself as representative on Form 2848 even if he cannot practice before the IRS
 - D. Ed cannot name another individual who can practice before the IRS as representative
3. If a taxpayer's account is selected for audit, he or she will be notified by which of the following methods?
 - A. By mail
 - B. By telephone
 - C. By e-mail
 - D. Both A and B
4. Bruce does not pay his additional tax when he signs his audit (examination) agreement. He receives a bill for \$110,200 that includes interest. If Bruce pays the amount due within how many business days of the billing date, he will not have to pay more interest or penalties?
 - A. 10 business days
 - B. 14 business days
 - C. 21 business days
 - D. 30 business days
5. In 2019, a one-time installment agreement user fee of what amount will be charged when the taxpayer enters into a standard installment agreement or a payroll deduction installment agreement and he or she chooses to pay through a direct debit from his or her bank account?
 - A. \$0
 - B. \$43
 - C. \$107
 - D. \$225



Review Feedback

[Return to Review Questions](#)

Question 1 - C. Continuous absence from the United States (including Puerto Rico) for a period of at least 30 days prior to the date required by law for filing the return

The regulation permits a representative to sign a taxpayer's return if he or she is unable to sign the return due to continuous absence from the United States (including Puerto Rico) for a period of at least 60 days prior to the date required by law for filing the return.

Topic - [Power of Attorney](#)

Source - [Publication 947 - What Is a Power of Attorney?](#)

Question 2 - A. Ed can sign a completed Form 2848 and submit it on John's behalf

Under the following conditions, the attorney-in-fact named in a taxpayer's non-IRS power of attorney can sign a Form 2848 on his or her behalf:

1. The original non-IRS power of attorney grants authority to handle Federal tax matters (for example, general authority to perform any acts).
2. The attorney-in-fact attaches a statement (signed under penalty of perjury) to the Form 2848 stating that the original non-IRS power of attorney is valid under the laws of the governing jurisdiction.

In this case, if Ed attaches a statement (signed under the penalty of perjury) that the durable power of attorney is valid under the laws of the governing jurisdiction, he can sign a completed Form 2848 and submit it on John's behalf. If Ed can practice before the IRS, he can name himself as representative on Form 2848. Otherwise, he must name another individual who can practice before the IRS.

Topic - [Power of Attorney](#)

Source - [Publication 947 - When Is a Power of Attorney Required?](#)

Question 3 - D. Both A and B

Should the taxpayer's account be selected for audit, he or she will be notified by mail or by telephone. In the case of a telephone contact, the IRS will still send a letter confirming the audit. E-mail notification is not used by the IRS.

Topic - [Preliminary Work](#)

Source - [IRS.GOV - Audits](#)

Question 4 - A. 10 business days

If the taxpayer does not pay the additional tax when he or she signs the agreement, the taxpayer will receive a bill that includes interest. If he or she pays the amount due within 10 business days of the billing date, he or she will not have to pay more interest or penalties. This period is extended to 21 calendar days if the amount due is less than \$100,000.

Topic - [Preliminary Work](#)

Source - [Publication 556 - If Your Return Is Examined](#)

Question 5 - C. \$107.00

The IRS has revised the user fee schedule for installment agreements. The new fee schedule applies to installment agreements entered into, restructured or reinstated on or after January 2, 2017. The final regulations increase the existing user fees (except for low-income taxpayers) and create two new types of online installment agreements, each subject to a separate fee. Five of these rates are based on the full cost of establishing and monitoring installment agreements, while the sixth rate is for low-income taxpayers. The new fees are:

1. A top rate of \$225 applies to taxpayers who enter into installment agreements in person, over the phone, by mail, or by filing Form 9465 - Installment Agreement Request, with the IRS. This includes taxpayers requesting installment agreements with their e-filed returns.
2. A reduced rate of \$107 applies to a direct debit agreement.
3. A taxpayer who sets up an installment agreement through IRS.gov and agrees to make payments either by mailing a check or through the Electronic Federal Tax Payment System (EFTPS) will pay \$149.



4. A taxpayer who sets up an installment agreement online and agrees to make automatic payments through direct debit will pay a \$31 fee.
5. The fee for a restructured/reinstated installment agreement is \$89.
6. A low-income taxpayer pays a \$43 fee when setting up any type of installment agreement, other than a direct debit online payment agreement or when restructuring or reinstating any installment agreement.

The IRS Form 1040 V Payment Voucher should be completed and sent in with the payment with a tax return having a balance due to the IRS. Taxpayer(s) must simply fill in the amount he or she is paying, their name, address and Social Security Number(s).

Topic - Installment Agreements

Source - IRS.GOV - Topic 202 - Tax Payment Options

Specific Types of Representation

Representing a Taxpayer in the Collection Process

Each tax assessment has a collection statute expiration date (CSED). Internal Revenue Code Section 6502 provides that the length of the period for collection after assessment of a tax liability is 10 years. The collection statute expiration ends the government's right to pursue collection of a liability.

Representation During the Collection Process

During the collection process, a hearing, or an appeal, a taxpayer can be represented by him or herself, an attorney, a certified public accountant, an enrolled agent, an immediate family member, or any person enrolled to practice before the IRS. If the taxpayer is a business, he or she can also be represented by full-time employees, general partners, or bona fide officers. To have a representative appear before the IRS, contact the IRS on the taxpayer's behalf, and/or receive the taxpayer's confidential material, file Form 2848 - Power of Attorney and Declaration of Representative.

Sharing Tax Information

During the collection process, the IRS is authorized to share the taxpayer's tax information in some cases with city and state tax agencies, the Department of Justice, Federal agencies, people the taxpayer authorizes to represent him or her, and certain foreign governments (under tax treaty provisions).

Third Party Contact

The IRS must give the taxpayer reasonable notice before contacting other persons about his or her tax matters. The taxpayer must be given reasonable notice in advance that, in examining or collecting the tax liability, the IRS may contact third parties such as his or her neighbors, banks, employers, or employees. The IRS must also give the taxpayer notice of specific contacts by providing him or her with a record of persons contacted on both a periodic basis and upon the taxpayer's request. This provision does not apply: ⁽³²⁾

- To any pending criminal investigation.
- When providing notice would jeopardize collection of any tax liability.
- Where providing notice may result in reprisal against any person.
- When the taxpayer authorized the contact.

If the IRS serves a third-party summons to determine tax liability, the taxpayer will receive a notice indicating that the IRS is contacting a third party. Third parties can be financial institutions, record keepers, or people with relevant information to the case. The IRS will not review their information or receive testimony until the end of the 23rd day after the notice was given. The taxpayer also has the right to:

- Petition to reject ("quash") the summons before the end of the 20th day after the date of the notice.
- Petition to intervene in a suit to enforce a summons to which the third party didn't comply.

If the IRS issues a third-party summons to collect taxes the taxpayer already owes, he or she will not receive notice or be able to petition to reject or intervene in a suit to enforce the summons.

The IRS Collection Process

After the taxpayer files his or her tax return, the IRS will determine if he or she owes taxes. If the taxpayer does owe, the IRS will send a bill for the amount due, including any penalties and interest. The taxpayer is required to pay this amount, so if he or she avoids payment, the IRS can take collection actions to recover the debt.



If the taxpayer owes taxes, the IRS will send a bill. This is the taxpayer's first bill for tax due. Based on the return, the IRS will calculate how much tax is owed, plus any interest and penalties. If the taxpayer does not pay the first bill, the IRS will send him or her at least one more bill. Interest and penalties continue to accrue until the full amount due is paid. If the taxpayer still does not pay after he or she receives the final bill, the IRS will begin collection actions. Collection actions can range from applying the previous tax year's refund to tax due to seizing property and assets.

A taxpayer should use [Form 1127 - Application for Extension of Time for Payment of Tax Due to Undue Hardship](#) to request an extension of time under Internal Revenue Code Section 6161 for payment of the following amounts: ⁽³³⁾

- The tax shown or required to be shown on a return.
- An amount determined as a deficiency (an amount he or she owes after an examination of his or her return).

The taxpayer can file Form 1127 if he or she will owe any of the following, and paying the tax at the time it is due will cause an undue hardship: ⁽³³⁾

- Income taxes.
- Self-employment income taxes.
- Withheld taxes on nonresident aliens and foreign corporations.
- Taxes on private foundations and certain other tax-exempt organizations.
- Taxes on qualified investment entities.
- Taxes on greenmail.
- Taxes on structured settlement factoring transactions.
- Gift taxes.

The term "undue hardship" means more than an inconvenience. The taxpayer must show he or she will have a substantial financial loss (such as selling property at a sacrifice price) if he or she pays the tax on the date it is due.

Installment Agreements

An Installment Agreement means the IRS will allow the taxpayer to make smaller periodic payments over time if he or she cannot pay the full amount at once. There are several ways to apply for an Installment Agreement: ⁽³³⁾

- Online at www.irs.gov (Only individuals who owe \$50,000 or less can apply online).
- By phone by calling the number on the taxpayer's bill or 1-800-829-1040.
- By mail by completing [Form 9465 - Installment Agreement Request](#), if the taxpayer owes \$25,000 or less. Complete [Form 9465-FS - Installment Agreement Request](#), if the taxpayer owes more than \$25,000. Or the taxpayer can use [Form 2159 - Payroll Deduction Agreement](#). Mail the form to the address on the bill.
- In person at a local IRS office.

To be eligible for an Installment Agreement, the taxpayer must file all required tax returns. Prior to approving the Installment Agreement request, the IRS may ask the taxpayer to complete a Collection Information Statement (Form 433-F, 433-A and/or Form 433-B) and provide proof of his or her financial status.

If the IRS approves the request, they will still charge applicable interest and penalties until he or she pays the amount or balance due in full and may file a Notice of Federal Tax Lien. If the IRS rejects the Installment Agreement request, the taxpayer may request that the Office of Appeals review the case.

Offer in Compromise (OIC)

The taxpayer may be eligible for an Offer in Compromise if he or she cannot pay the amount he or she owes in full or through installments. By requesting an Offer in Compromise, the taxpayer is asking to settle unpaid taxes for less than the full amount owed. The IRS may accept an Offer in Compromise if: ⁽³³⁾

- They agree that the tax debt may not be accurate.
- The taxpayer has insufficient assets and income to pay the amount due.
- Because of the taxpayer's exceptional circumstances, paying the amount due would cause an economic hardship or would be unjust.



For an Offer in Compromise to be considered, the taxpayer must pay an application fee and make an initial or periodic payment. However, low income taxpayers may qualify for a waiver of the application fee and initial or periodic payment.

While the offer is being evaluated:

1. The taxpayer's non-refundable payments and fees will be applied to the tax liability (he or she may designate payments to a specific tax year and tax debt).
2. A Notice of Federal Tax Lien may be filed.
3. Other collection activities are suspended.
4. The legal assessment and collection period is extended.
5. The taxpayer should make all required payments associated with the offer.
6. The taxpayer is not required to make payments on an existing installment agreement.
7. The offer is automatically accepted if the IRS does not make a determination within two years of the IRS receipt date.

If the offer is accepted:

1. The taxpayer must meet all the Offer Terms listed in Section 8 of Form 656, including filing all required tax returns and making all payments.
2. Any refunds due within the calendar year in which his or her offer is accepted will be applied to the tax debt.
3. Federal tax liens are not released until the taxpayer's offer terms are satisfied.
4. Certain offer information is available for public review at designated IRS offices.

If the offer is rejected the taxpayer may appeal a rejection within 30 days using [Form 13711 - Request for Appeal of Offer in Compromise](#).

Revenue Agent Reports (RAR)

Revenue Agent Reports (RARs) should contain all the information necessary to ensure a clear understanding of the adjustments and demonstrate how the tax liability was computed. Based upon the importance of the RAR, examiners should take all necessary steps to ensure report accuracy.

Workpapers are the written records kept by the examiner that provide the principal support for the RAR and document the procedures applied, tests performed, information obtained, and the conclusions reached in the examination. They should include all the information necessary to conduct the examination and support the audit results.

A regular agreed report (Form 4549 - Income Tax Examination Changes) may contain up to three tax years. Agreed RARs require the taxpayer's signature and include a statement that the report is subject to the acceptance of the Area Director, Area Manager, Specialty Tax Program Chief, or Director of Field Operations.

Generally, the report forms for unagreed cases are identical to the report forms for agreed cases. Some exceptions include examinations involving non-taxable returns. All unagreed cases require written comment regarding:

1. The Team Manager's involvement in the examination.
2. The validity of the issues involved.
3. A statement that a closing conference was or was not held with the taxpayer.

[Form 886-A - Explanations of Items](#) is the written explanation of adjustments in all unagreed cases. If an adjustment involves a detailed computation, a worksheet will be attached. The following format is used when preparing Form 886-A:

1. Facts, e.g., the activity or non-activity the organization or plan has engaged in or started.
2. Law – states the applicable code and regulation sections, and Rev. Rulings, Revenue Procedures, etc., that support the position.
3. Government's Position – states why the application of the law to the facts supports the conclusion reached by the specialist.
4. Taxpayer's Position – what authority the taxpayer is relying upon (as opposed to the agent's conclusions). If possible, the taxpayer's position should be secured in writing.



5. Conclusion – comments on the position taken by the taxpayer. After consideration of all items, the proper tax liability or other Service action is to be sustained.

Basic report forms in unagreed cases are designed to cover three years. Regardless of the number of years examined.

CP-2000 - Notice of Underreported Income

The IRS compares the information reported by employers, banks, businesses, and other payers on income documents like the Forms W-2, 1098, 1099, etc., with the income, credits, and deductions the taxpayer reports on his or her income tax return. The Automated Underreporter (AUR) function sends out a Notice CP-2000 if the taxpayer did not report income reported to the IRS by a payer or if it appears that payments, credits and/or deductions are overstated. The CP-2000 is not a bill. It is a proposal to adjust the taxpayer's income, payments, credits, and/or deductions. This may result in additional tax owed or a refund of taxes paid.

The taxpayer should review the CP-2000 carefully to verify its accuracy and so he or she knows exactly how he or she should respond. On the response form, the taxpayer should indicate whether he or she agrees with all the changes, agree with some of the changes, or do not agree with any of the changes the IRS is proposing. The response form also allows the taxpayer to authorize someone other than him or herself to contact the IRS concerning the notice, and the notice provides payment options.

If the information displayed in the CP2000 notice is correct, the taxpayer does not need to amend his or her return unless he or she has additional income, credits or expenses to report. If the taxpayer agrees with the notice, follow the instructions to sign the response page and return it to the IRS in the envelope provided.

If the taxpayer has additional income, credits or expenses to report, he or she may want to complete and submit a [Form 1040-X - Amended U.S. Individual Income Tax Return](#).

The taxpayer can get a transcript by mail to view his or her tax account transactions or line-by-line tax return information for a specific tax year. The method the taxpayer used to file his or her return and whether he or she has a refund or balance due, affects his or her current year transcript availability. The taxpayer can request a return transcript on the IRS "[Get Transcript](#)" webpage. The taxpayer can also get one by calling the IRS' automated phone application at 1-800-908-9946 or by completing and sending the IRS a [Form 4506-T - Request for Transcript of Tax Return](#).



If the taxpayer needs a copy of his or her return, he or she must use [Form 4506 - Request for Copy of Return](#). The IRS charges a fee for tax return copies.

Innocent Spouse Relief

Generally, both the taxpayer and his or her spouse are responsible, jointly and individually, for paying any tax, interest, or penalties on their joint return. If the taxpayer believes his or her current or former spouse should be solely responsible for an incorrect item or an underpayment of tax on their joint tax return, he or she may be eligible for Innocent Spouse Relief. This could change the amount the taxpayer owes, or he or she may be entitled to a refund. Keep in mind the taxpayer generally must submit [Form 8857 - Request for Innocent Spouse Relief](#), no later than two years from the date of the IRS's first attempt to collect the outstanding debt, except for requests for equitable relief under Internal Revenue Code Section 6015(f).

Collections Statute of Limitations

The IRS can attempt to collect taxes up to 10 years from the date they were assessed. However, there are exceptions to this time frame. For example, by law, the IRS will suspend and extend collection while: ⁽³³⁾

- They are considering the taxpayer's request for an Installment Agreement or Offer in Compromise. If the request is rejected, the IRS will suspend collection for another 30 days, and during any period the Appeals Office is considering an appeal request.
- The taxpayer lives outside the U.S. continuously for at least 6 months. Collection is suspended while the taxpayer is outside the U.S. and, if at the time of his or her return the normal collection period would expire before 6 months from the date of the return, the extended period will not expire before the expiration of the 6 months after the taxpayer's return.



- The tax periods the IRS is collecting on are included in a bankruptcy with an automatic stay. The IRS will suspend collection for the time period they cannot collect because of the automatic stay, plus 6 months.
- The taxpayer requests a Collection Due Process hearing. Collection will be suspended from the date of the request until a Notice of Determination is issued or the Tax Court's decision is final.
- The IRS is considering the taxpayer's request for Innocent Spouse Relief. Collection will be suspended from the date of the request until 90 days after a Notice of Determination is issued, or if the taxpayer files a timely petition to the Tax Court, until 60 days after the Tax Court's final decision. If the taxpayer appeals the Tax Court's decision to a U.S. Court of Appeals, the collection period will begin 60 days after the appeal is filed, unless a bond is posted.

Appeal an IRS Decision

The taxpayer can appeal most collection actions. The main options for appeals are a Collection Due Process (CDP) and the Collection Appeals Program (CAP). The taxpayer may represent him or herself at CDP, CAP and other Appeals proceedings. Or, he or she may be represented by an attorney, certified public accountant, or a person enrolled to practice before the IRS. Also, the taxpayer may be represented by a member of his or her immediate family, or in the case of a business, by regular full-time employees, general partners or bona fide officers. ⁽³⁴⁾

Collection Due Process (CDP)

The purpose of a Collection Due Process hearing is to review collection actions that were taken or have been proposed. The taxpayer can request a Collection Due Process hearing if he or she receives any of the following notices: ⁽³³⁾

- Notice of Federal Tax Lien Filing and Your Right to a Hearing.
- Final Notice - Notice of Intent to Levy and Notice of Your Right to a Hearing.
- Notice of Jeopardy Levy and Right of Appeal.
- Notice of Levy on Your State Tax Refund - Notice of Your Right to a Hearing.
- Notice of Levy and of Your Right to a Hearing.

To request a Collection Due Process hearing, complete [Form 12153 - Request for a Collection Due Process or Equivalent Hearing](#), and send it to the address on the taxpayer's notice. The taxpayer has 30 days from the date of the notice to request a Collection Due Process hearing. He or she can also request an Equivalent Hearing within one year from the date of the notice. Additionally, the taxpayer will be given 30 days to withdraw or amend the CDP request in order to avoid a frivolous submission penalty.

By law, the taxpayer has the right to a CDP hearing when he or she receives a Notice advising him or her of this right and he or she timely postmarks a request for a hearing to the address indicated on the Notice. The taxpayer is entitled to one hearing under Section 6320 (Notice and opportunity for hearing upon filing of notice of lien) and 6330 (Notice and opportunity for hearing before levy) for each tax assessment within a tax period. The taxpayer may contest the CDP determination in the United States Tax Court.

The IRS is required to notify a taxpayer the first time a Notice of Federal Tax Lien is filed for each tax and period. The IRS must notify him or her within 5 business days after the lien filing. This notice may be mailed, given to the taxpayer, or left at his or her home or office. The taxpayer then has 30 days, after that 5-day period, to request a hearing with Appeals. The lien notice he or she receives will indicate the date this 30-day period expires. ⁽³⁴⁾

For each tax and period, the IRS is required to notify a taxpayer the first time it collects or intends to collect a tax liability by taking the taxpayer's property or rights to property. The IRS does this by issuing him or her a pre-levy or post-levy notice. The notice is mailed, given to the taxpayer, or left at his or her home or office. During the 30-day period from the date of the notice, the taxpayer may request a hearing with Appeals. There are four exceptions to issuing this notice before levy: ⁽³⁴⁾

1. When collection of the tax is in jeopardy.
2. When the IRS levies the state tax refund.
3. When the criteria for a Disqualified Employment Tax Levy is met.
4. When the IRS serves a Federal contractor levy.

The taxpayer may request a hearing after the levy action in these instances.



If the taxpayer's request for a CDP hearing is not timely, he or she may request an equivalent hearing. To receive an equivalent hearing, his or her request must be postmarked on or before the end of the one-year period after the date of the levy notice or on or before the end of the one-year period plus 5 business days after the filing date of the Notice of Federal Tax Lien. If the request for a CDP hearing is timely, the 10-year period the IRS has to collect the taxes will be suspended until the date Appeals' determination becomes final or the taxpayer withdraws his or her request for a hearing in writing.

At the conclusion of the CDP hearing, Appeals will issue a determination letter unless the taxpayer has withdrawn his or her hearing request. If the taxpayer does not agree with Appeals' determination, he or she may request judicial review of the determination by petitioning the United States Tax Court within the time period provided for in the Appeals' determination letter. ⁽³⁴⁾

Collection Appeals Program (CAP)

Under the Collections Appeals Program, if the taxpayer disagrees with an IRS employee's decision and wants to appeal it, he or she can ask their manager to review the case. Instances in which the taxpayer can pursue the Collection Appeals Program include, but are not limited to: ⁽³³⁾

- Before or after the IRS files a Notice of Federal Tax Lien.
- Before or after the IRS seizes ("levies") the property.
- Termination, or proposed termination, of an installment agreement.
- Rejection of an installment agreement.
- Modification, or proposed modification, of an installment agreement.

The CAP procedure is available under more circumstances than Collection Due Process (CDP). Unlike CDP, the taxpayer may not challenge in CAP the existence or amount of the tax liability. The taxpayer also cannot proceed to court if he or she does not agree with Appeals' decision in the CAP case.

Notice of Federal Tax Lien

A taxpayer may appeal the proposed filing of a Notice of Federal Tax Lien (NFTL) or the actual filing of an NFTL at the first and each subsequent filing of the NFTL. He or she may also appeal denied requests to withdraw a NFTL, and denied discharges, subordinations, and non-attachments of a lien. Paying the tax debt in full is the best way to get rid of a Federal tax lien. The IRS releases the lien within 30 days after the taxpayer has paid the tax debt. When conditions are in the best interest of both the government and the taxpayer, other options for reducing the impact of a lien exist.

Third parties may file a CAP appeal regarding the filing of a notice of lien against alter ego or nominee property. There are no CDP rights available for persons determined to be nominees or alter egos. Persons assessed as transferees under Internal Revenue Code (IRC) Section 6901, however, are entitled to CDP rights.

Lien vs. Levy

A lien is not a levy. A lien secures the government's interest in the taxpayer's property when he or she does not pay his or her tax debt. A levy actually takes the property to pay the tax debt. If the taxpayer does not pay or make arrangements to settle his or her tax debt, the IRS can levy, seize and sell any type of real or personal property that he or she owns or has an interest in.

Notice of Levy

A levy is a legal seizure of the taxpayer's property to satisfy a tax debt. If the taxpayer does not pay his or her taxes (or make arrangements to settle his or her debt), the IRS may seize and sell any type of real or personal property that he or she owns or has an interest in. For instance: ⁽³⁵⁾

- The IRS could seize and sell property that the taxpayer holds (such as a car, boat, or house).
- The IRS could levy property that is the taxpayer's but is held by someone else (such as wages, retirement accounts, dividends, bank accounts, licenses, rental income, accounts receivables, the cash loan value of the taxpayer's life insurance, or commissions).



The IRS usually levy only after these three requirements are met: ⁽³⁵⁾

1. The IRS assessed the tax and sent the taxpayer a Notice and Demand for Payment.
2. The taxpayer neglected or refused to pay the tax.
3. The IRS sent the taxpayer a Final Notice of Intent to Levy and Notice of Your Right to A Hearing (levy notice) at least 30 days before the levy.



If the IRS determines the levy is creating an immediate economic hardship, the levy may be released. A levy release does not mean the taxpayer is exempt from paying the balance. The IRS will work with him or her to establish payment plans or take other steps to help him or her pay off the balance.

The taxpayer may appeal before or after the IRS places a levy on his or her wages, bank account or other property. Once the levy proceeds have been sent to the IRS, the taxpayer may also appeal the denial by the IRS of his or her request to have levied property returned. Additionally, a request to return levy proceeds must be made within 9 months from the date of such levy. See IRC Section 6343(d). The taxpayer may also have additional CDP appeal rights.

If the IRS levies the taxpayer's wages, salary, Federal payments or state refunds, the levy will end when: ⁽³⁵⁾

- The levy is released.
- The taxpayer pays his or her tax debt.
- The time expires for legally collecting the tax.

Seizure of Property

The taxpayer may appeal before or after the IRS makes a seizure but before the property is sold. If the taxpayer requests an appeal after the IRS makes a seizure, he or she must appeal to the Collection manager within 10 business days after the Notice of Seizure is given to him or her or left at his or her home or business.

Examples of property the IRS can seize (levy) include:

- The taxpayer's wages, salary or commission held by someone else.
- The taxpayer's bank account.
- The taxpayer's Federal payments.
- The taxpayer's house, car or other property.

Certain property is exempt from seizure. For example, the IRS cannot seize or levy unemployment benefits, certain annuity and pension benefits, certain service-connected disability payments, worker compensation, certain public assistance payments, minimum weekly exempt income, assistance under the Job Training Partnership Act and income for court-ordered child support payments.

The IRS also cannot seize necessary schoolbooks and clothing, undelivered mail, certain amounts worth of fuel, provisions, furniture, personal effects for a household and certain amounts worth of books and tools for trade, business or professions. There are also limitations on the IRS' ability to seize a primary residence and certain business assets. Lastly, the IRS cannot seize property unless they expect net proceeds to help pay off a taxpayer's tax debt.

Rejection, Modification or Termination of Installment Agreement

The taxpayer may appeal when the IRS rejects his or her request for an installment agreement. He or she may also appeal when the IRS proposes to terminate or terminates his or her installment agreement. In addition, the taxpayer may also appeal when the IRS proposes to modify or modifies an installment agreement.

Wrongful Levy

If the taxpayer is not liable for tax and the IRS has levied or seized property that he or she believes belongs to him or her or in which he or she has an interest superior to the IRS, the taxpayer may appeal the denial by the IRS of his or her request to release the levy or seizure, or return the property or its value. A request to the IRS to return wrongfully levied property must be in writing, filed within 9 months of the levy or seizure and must satisfy certain specific requirements.



Normally, the IRS will not take any action to collect the tax for the tax periods Appeals is considering, unless the IRS believes the collection of the tax is at risk or the taxpayer is in a business meeting the criteria for a Disqualified Employment Tax Levy.

As an alternative to making an administrative wrongful levy claim, IRC Section 7426(a)(1) provides that a third party may bring a civil action against the United States in a district court of the United States seeking the same relief. If the taxpayer files an administrative wrongful levy claim and the IRS rejects it, he or she can still bring a civil action in district court. While the taxpayer can file a suit under Section 7426(a)(1) without first filing an administrative levy claim, he or she may not seek damages under Section 7426(h) unless he or she has exhausted all administrative remedies by filing an administrative claim prior to filing suit. If the taxpayer chooses to bring a civil action, he or she should consult with an attorney to determine the proper procedure.

Equivalent Hearing

If the taxpayer still wants a hearing with the IRS Office of Appeals after the deadline for requesting a timely Collection Due Process (CDP) hearing has passed, he or she can request an equivalent hearing. An equivalent hearing request does not prohibit levy or suspend the 10-year period for collecting the taxes; also, the taxpayer cannot go to court to appeal the IRS Office of Appeals' decision about his or her disagreement. The taxpayer must request an equivalent hearing within the following timeframe: ⁽³⁶⁾

- **Lien Notice** - one year plus five business days from the filing date of the Notice of Federal Tax Lien.
- **Levy Notice** - one year from the date of the levy notice.



The request for a CDP levy hearing, whether timely or Equivalent, does not prohibit the IRS from filing a Notice of Federal Tax Lien.

Currently Not Collectible (CNC)

The collection process begins with a series of delinquency notices or bills mailed to a taxpayer when the taxpayer does not file a required tax return(s) or pay taxes due. When the taxpayer fails to respond within a specified time period, a delinquent return or balance due account is generated. Generally, the IRS attempts to contact the taxpayer by telephone at this point.

When the IRS determines that a taxpayer's account is currently not collectible, IRS personnel stop actively working the case and suspend collection action until the taxpayer's ability to pay improves. Closing taxpayers' balance due accounts as currently not collectible is a high-risk action because the balances due from the taxpayers may never be collected.

A Taxpayer Assistance Center assistor will work with the taxpayer and determine whether the taxpayer can make payments or is unable to pay. If the taxpayer is unable to pay and the taxpayer's liability exceeds a certain dollar amount, the assistor is required to obtain and analyze information on the taxpayer's assets and financial information. If the assistor determines the taxpayer has the ability to pay or the taxpayer agrees to make payments, various collection options are considered, including installment agreements. If the taxpayer has no ability to pay, the taxpayer account is closed as currently not collectible (Most cases closed as currently not collectible in the Taxpayer Assistance Centers are hardship cases). The decision to place an account in currently not collectible status requires the approval of a manager.

Once an individual taxpayer account is closed as currently not collectible, the account is systemically monitored, and if the taxpayer's income increases, the account is reactivated. If the account is reactivated, the taxpayer is sent a notice about taxes still owed on his or her account. These reviews can result in subsequent enforcement actions to collect the outstanding balances due or to return the account to a currently not collectible status. ⁽³⁷⁾

Accounts may be reported Currently Not Collectible (CNC) for a variety of reasons. Some, but not all, of the most commonly used closing codes are: ⁽³⁸⁾

- Inability to locate the taxpayer or assets.
- Partial expiration of the assessment prior to issuance.



- Complete expiration of the statutory period for collection or suit initiated to reduce tax claim to judgment.
- For use by revenue officers on international casework, where a taxpayer can pay but the service is unable to collect a liability because the taxpayer resides in a foreign country.
- A corporation, exempt organization, or Limited Liability Company (LLC), where the LLC is identified as the liable taxpayer, liquidated in bankruptcy.
- Death of an individual with no collection potential from the decedent/decedent estate.

In general, a Notice of Federal Tax Lien (NFTL) will be filed on accounts being reported CNC when the aggregate unpaid balance of assessments equals or exceeds \$10,000.00. If a taxpayer subsequently requests a Collection Due Process (CDP) or Collection Appeal Program (CAP) hearing concerning the NFTL filing, the Revenue Officer (RO) must follow the procedures in IRM 5.1.9, Collection Appeal Rights, to forward the case to Appeals. ⁽³⁸⁾

Employment Taxes

Employment taxes are the amount an employer must withhold from his or her employees for their income tax and Social Security/Medicare tax, plus the amount of Social Security/Medicare tax the employer pays for each employee. Federal unemployment taxes are also considered employment taxes.

If an employer does not pay employment taxes the IRS will:

- Assess a failure to deposit penalty, up to 15% of the amount not deposited in a timely manner.
- May propose a Trust Fund Recovery Penalty assessment against the individuals responsible for failing to pay the trust fund taxes.

Trust Fund Recovery Penalty (TFRP)

To encourage prompt payment of withheld income and employment taxes, including Social Security taxes, railroad retirement taxes, or collected excise taxes, Congress passed a law that provides for the TFRP. These taxes are called trust fund taxes because the employer actually holds the employee's money in trust until he or she makes a Federal tax deposit in that amount. The TFRP may apply to the employer if these unpaid trust fund taxes cannot be immediately collected from the business. The business does not have to have stopped operating in order for the TFRP to be assessed.

The TFRP may be assessed against any person who: ⁽³⁹⁾

- Is responsible for collecting or paying withheld income and employment taxes, or for paying collected excise taxes, and
- Willfully fails to collect or pay them.

A responsible person is a person or group of people who has the duty to perform and the power to direct the collecting, accounting, and paying of trust fund taxes. This person may be: ⁽³⁹⁾

- An officer or an employee of a corporation.
- A member or employee of a partnership.
- A corporate director or shareholder.
- A member of a board of trustees of a nonprofit organization.
- Another person with authority and control over funds to direct their disbursement.
- Another corporation or third-party payer.
- Payroll Service Providers (PSP) or responsible parties within a PSP.
- Professional Employer Organizations (PEO) or responsible parties within a PEO.
- Responsible parties within the common law employer (client of PSP/PEO).

For willfulness to exist, the responsible person: ⁽³⁹⁾

- Must have been, or should have been, aware of the outstanding taxes.
- Either intentionally disregarded the law or was plainly indifferent to its requirements (no evil intent or bad motive is required).



Using available funds to pay other creditors when the business is unable to pay the employment taxes is an indication of willfulness.

The amount of the penalty is equal to the unpaid balance of the trust fund tax. The penalty is computed based on: ⁽³⁹⁾

- The unpaid income taxes withheld, plus
- The employee's portion of the withheld FICA taxes.

For collected taxes, the penalty is based on the unpaid amount of collected excise taxes.

If the IRS determines that the taxpayer is a responsible person, they will provide him or her a letter stating that they plan to assess the TFRP against him or her. The taxpayer has 60 days (75 days if this letter is addressed outside the United States) from the date of this letter to appeal the IRS proposal. The letter will explain the taxpayer's appeal rights. If the taxpayer does not respond to the letter, the IRS will assess the penalty against the taxpayer and send him or her a *Notice and Demand for Payment*. ⁽³⁹⁾

Penalty Relief

Generally, relief from penalties falls into four separate categories:

- Reasonable cause.
- Statutory exceptions.
- Administrative waivers.
- Correction of Service error.



If a taxpayer files his or her return timely (including extensions), interest and certain penalties will be suspended if the IRS does not mail a notice to him or her within 36 months.

Reasonable cause is based on all the facts and circumstances in each situation and allows the IRS to provide relief from a penalty that would otherwise be assessed. Reasonable cause relief is generally granted when the taxpayer exercised ordinary business care and prudence in determining their tax obligations but nevertheless failed to comply with those obligations.

Death, serious illness, or unavoidable absence of the taxpayer, or a death or serious illness in the taxpayer's immediate family, may establish reasonable cause for filing, paying, or depositing late for the following:

- **Individual:** If there was a death, serious illness, or unavoidable absence of the taxpayer or a death or serious illness in the taxpayer's immediate family (i.e., spouse, sibling, parents, grandparents, children).
- **Corporation, estate, trust, etc.:** If there was a death, serious illness, or other unavoidable absence of the taxpayer (person responsible), or a member of such taxpayer's immediate family, and that taxpayer had sole authority to execute the return, make the deposit, or pay the tax.

The initial request for relief may occur either during or after an examination (but before a penalty is actually assessed), with a return that is either filed or paid late, or after assessment of the penalty(s) and notification issued to the taxpayer. When the request is received, carefully analyze the taxpayer's reasons to determine if penalty relief is warranted. The burden of proving entitlement to relief is generally upon the taxpayer.

The following are examples where penalty relief may not be appropriate: ⁽⁴⁰⁾

- The taxpayers claim that they were unable to comply with the filing requirement due to a death in the family. The death occurred several months prior to the due date of the return. The return was not filed until a year after the due date of the return.
- The taxpayers claim that they were unable to comply with the filing requirement because the records necessary for filing were in the control of a third party (i.e., a bankruptcy trustee or an accountant). The records were returned to the taxpayer well in advance of the time the return was required to be filed. The return was not filed until several months after the records were returned.
- In both of the examples, the timing of the event may prevent the taxpayer from receiving penalty relief unless other factors justify the delay in filing.



A second or subsequent request for penalty relief may be received after the initial request for relief has been denied. The request is generally considered an appeal of the previous penalty relief denial.

If the taxpayer provides an explanation that supports their request for penalty relief, the IRS will waive or abate the applicable penalty(s). If the explanation applies to one (or more) penalty(s) but not all penalties, only the penalty(s) to which the explanation applies will be waived or abated.

The Internal Revenue Code imposes a penalty for failing to file a tax return or to pay the tax shown on any tax return by the date prescribed for filing (including extensions). Both the Failure to File (FTF) and Failure to Pay (FTP) penalties are calculated based on figures taken from the tax return. Therefore, neither penalty is assessed until after the tax return is filed. The purpose of these penalties is to promote compliance with tax laws.

The FTF penalty is usually 5% of the unpaid taxes for each month or part of a month that a tax return is late. This penalty will not exceed 25% of the unpaid taxes. If a taxpayer files his or her tax return more than 60 days after the due date or extended due date, the minimum penalty is the smaller of \$135 or 100% of the unpaid tax.

If a taxpayer does not pay all taxes owed by the due date, he or she will generally have to pay an FTP penalty of one-half of one percent of the unpaid taxes for each month or part of a month after the due date that the taxes are not paid. This penalty can be as much as 25% of the unpaid taxes. The FTP penalty will continue to accrue after the initial assessment if the taxpayer fails to pay the total tax due when the tax return was due.

The IRS can abate both penalties under certain circumstances. Relief from these penalties is generally granted to taxpayers who show they exercised ordinary care and prudence, and failure to file or pay was due to reasonable cause and not due to willful neglect. Penalty relief can also be granted for other reasons such as statutory exceptions or to correct IRS errors.

However, as of 2001, the IRS began granting penalty relief under an Administrative Waiver known as the First-Time Abate (FTA). Using the FTA waiver, the IRS grants relief to taxpayers who receive an FTF or FTP penalty but have a compliant tax history for the prior three years. The FTA waiver applies only to a single tax year.

Generally, interest on a tax liability accrues from the return due date until it is paid in full, but there are exceptions in the law that authorize the abatement (or the suspension) of interest, as well as exclude certain periods of time when computing interest. In case these exceptions are overlooked, the taxpayer may file a request for interest abatement using [Form 843 - Claim for Refund and Request for Abatement](#). While Form 843 is the preferred form for the filing of an interest abatement claim, the IRS will consider written signed correspondence requests containing the required elements (e.g., name, taxpayer identification number, interest period in question, signature, and the reason(s) for the abatement, etc.) of an interest abatement claim.

The IRS will abate the interest only if there was an unreasonable error or delay in performing a managerial or ministerial act. The taxpayer cannot have caused any significant aspect of the error or delay. In addition, the interest can be abated only if it relates to taxes for which a notice of deficiency is required. This includes income taxes, generation-skipping transfer taxes, estate and gift taxes, and certain excise taxes. Interest related to employment taxes or other excise taxes cannot be abated.

A ministerial act is a procedural or mechanical act, not involving the exercise of judgment or discretion, during the processing of a case after all prerequisites (for example, conferences and review by supervisors) have taken place. A decision concerning the proper application of Federal tax law (or other Federal or state law) is not a ministerial act. Also, the IRS cannot reduce the amount of interest due to a general administrative decision, such as a decision on how to organize the processing of tax returns. A managerial act is an administrative act during the processing of a case that involves the loss of records or the exercise of judgment or discretion concerning the management of personnel. A decision concerning the proper application of Federal tax law (or other Federal or state law) is not a managerial act.

If the taxpayer has already paid the interest and he or she would like a credit or refund of interest paid, he or she must file Form 843 within 3 years from the date he or she filed the original return or 2 years from the date he or she paid the interest, whichever is later. If the taxpayer has not paid any of the interest, these time limitations for filing Form 843 do not apply.



The Tax Court can review the IRS' refusal to abate (reduce) interest if all of the following requirements are met: ⁽³²⁾

- The taxpayer filed a request for abatement of interest (Form 843) with the IRS after July 30, 1996.
- The IRS has mailed the taxpayer a notice of final determination or a notice of disallowance.
- The taxpayer files a petition with the Tax Court within 180 days of the mailing of the notice of final determination or the notice of disallowance.

The following requirements must also be met: ⁽³²⁾

- For individual and estate taxpayers - net worth must not exceed \$2 million as of the filing date of the petition for review. For this purpose, individuals filing a joint return shall be treated as separate individuals.
- For charities and certain cooperatives - must not have more than 500 employees as of the filing date of the petition for review.
- For all other taxpayers - net worth must not exceed \$7 million, and he or she must not have more than 500 employees as of the filing date of the petition for review.

If the taxpayer owes interest to the IRS on an underpayment for the same period the IRS owes him or her interest on an overpayment, the IRS will figure interest on the underpayment and overpayment at the same interest rate (up to the amount of the overpayment). As a result, the net rate is zero for that period.

If the taxpayer is (or was) affected by a Presidentially declared disaster occurring after 1996 or a terrorist or military action occurring after September 10, 2001, the IRS may abate (reduce) the amount of interest he or she owes on certain taxes. The IRS may abate interest for the period of any additional time to file or pay that the IRS provides on account of the disaster or the terrorist or military action. The IRS will issue a notice or news release indicating who are affected taxpayers and stating the period of relief. ⁽³²⁾



Reasonable cause is never the basis for abating interest.

Representing a Taxpayer in Audits/Examinations

An IRS audit is a review/examination of an organization's or individual's accounts and financial information to ensure information is being reported correctly, according to the tax laws, and to verify the amount of tax reported is accurate. The return may be examined for a variety of reasons, and the examination may take place in any one of several ways. After the examination, if any changes to the tax are proposed, the taxpayer can either agree with those changes and pay any additional tax he or she may owe, or he or she can disagree with the changes and appeal the decision.

An audit may be conducted by mail or through an in-person interview and review of the taxpayer's records. The interview may be at an IRS office (office audit) or at the taxpayer's home, place of business, or accountant's office (field audit). The IRS will tell the taxpayer what records are needed. Audits can result in no changes or changes. Any proposed changes to the taxpayer's return will be explained.

Should the taxpayer's account be selected for audit, he or she will be notified in two ways: ⁽⁴¹⁾

- By mail.
- By telephone.

In the case of a telephone contact, the IRS will still send a letter confirming the audit. E-mail notification is not used by the IRS.

An examination usually begins when the taxpayer is notified that his or her return has been selected. The IRS will tell the taxpayer which records he or she will need. The examination can proceed more easily if the taxpayer gathers the records before any interview. The law requires the taxpayer to retain records used to prepare his or her return. Those records generally should be kept for three years from the date the tax return was filed.

The IRS does accept some electronic records. If records are kept electronically, the IRS may request those in lieu of or in addition to other types of records. Contact the auditor to determine what can be accepted to ensure a software program is compatible with the IRS.



The length of each audit varies depending on the type of audit, the complexity of items being reviewed, the availability of information being requested, the availability of both parties for scheduling of meetings and the taxpayer's agreement or disagreement with the findings. Any proposed changes to the taxpayer's return will be explained to him or her or his or her authorized representative. It is important that the taxpayer understand the reasons for any proposed changes.

The IRS must follow the tax laws set forth by Congress in the Internal Revenue Code. The IRS also follows Treasury Regulations, other rules, and procedures that were written to administer the tax laws. The IRS also follows court decisions. However, the IRS can lose cases that involve taxpayers with the same issue and still apply its interpretation of the law to taxpayer's situation.

Generally, joint and several liability applies to all joint returns. This means that both the taxpayer and his or her spouse (or former spouse) are liable for any tax shown on a joint return plus any understatement of tax that may become due later. This is true even if a divorce decree states that a former spouse will be responsible for any amounts due on previously filed joint returns.

In some cases, a spouse will be relieved of the tax, interest, and penalties on a joint tax return. Three types of relief are available: ⁽³²⁾

- Innocent spouse relief.
- Separation of liability.
- Equitable relief.

Each kind of relief is different and has different requirements. The taxpayer must file [Form 8857- Request for Innocent Spouse Relief](#), to request relief. Form 8857 must be filed no later than 2 years after the date on which the IRS first attempted to collect the tax from the taxpayer.

Audit Conclusion

An audit can be concluded in three ways: ⁽²⁵⁾

- **No change:** an audit in which the taxpayer has substantiated all of the items being reviewed and results in no changes.
- **Agreed:** an audit where the IRS proposed changes and the taxpayer understands and agrees with the changes.
- **Disagreed:** an audit where the IRS has proposed changes and the taxpayer understands but disagrees with the changes.

If the IRS accepts the tax return as filed, the taxpayer will receive a letter in a few weeks stating that the examiner proposed no changes to the return. The taxpayer should keep this letter with his or her tax records.

If the taxpayer agrees with the proposed changes, he or she can sign an agreement form and pay any additional tax owed. The taxpayer must pay interest on any additional tax. If he or she pays when signing the agreement, the interest is generally figured from the due date of the return to the date of the payment. Payments can be made by several electronic payment options, check, money order, cashier's check, or cash.

If the taxpayer does not pay the additional tax when signing the agreement, he or she will receive a bill that includes interest. If the taxpayer pays the amount due within 10 business days of the billing date, he or she will not have to pay more interest or penalties. This period is extended to 21 calendar days if the amount due is less than \$100,000. If the taxpayer is due a refund, he or she will receive it sooner if he or she signs the agreement form. The taxpayer will be paid interest on the refund.

If the taxpayer does not agree with the proposed changes, the examiner will explain his or her appeal rights. If the examination takes place in an IRS office, the taxpayer can request an immediate meeting with the examiner's supervisor to explain his or her position. If an agreement is reached, the case will be closed. If the taxpayer cannot reach an agreement with the supervisor at this meeting, or if the examination took place outside of an IRS office, the examiner will write up the case explaining the taxpayer's position and the IRS' position. The examiner will forward the case for processing.



Within a few weeks after the closing conference with the examiner and/or supervisor, the taxpayer will receive a package with: ⁽³²⁾

- A letter (known as a 30-day letter) notifying the taxpayer of his or her right to appeal the proposed changes within 30 days.
- A copy of the examination report explaining the examiner's proposed changes.
- An agreement or waiver form.
- A copy of Publication 5.

The taxpayer generally has 30 days from the date of the 30-day letter to tell the IRS whether the taxpayer will accept or appeal the proposed changes. The letter will explain what steps the taxpayer should take, depending on which action he or she chooses.

If the taxpayer does not respond to the 30-day letter, or if he or she later does not reach an agreement with an Appeals Officer, the IRS will send him or her a 90-day letter, which is also known as a Statutory Notice of Deficiency. The Statutory Notice of Deficiency notifies the taxpayer of the Internal Revenue Service's intent to assess a tax deficiency and informs him or her of his or her right to petition the United States Tax Court to dispute the proposed adjustments. The taxpayer will have 90 days (150 days if it is addressed outside the United States) from the date of this notice to file a petition with the Tax Court. The notice will show the 90th (and 150th) day by which the taxpayer must file the petition with the Tax Court.



The time the taxpayer has to petition the United States Tax Court cannot be extended. It is important that he or she responds to the Statutory Notice of Deficiency or petition the United States Tax Court by the due date shown on the notice. If the taxpayer does not respond the IRS will assume the proposed changes are correct and assess the additional deficiency.

Audit Reconsideration

An Audit Reconsideration is a process used by the Internal Revenue Service to help the taxpayer when he or she disagrees with the results of an IRS audit of his or her tax return, or a return created for the taxpayer by the IRS because he or she did not file a tax return as authorized by the Internal Revenue Code Section 6020.

The taxpayer may request audit reconsideration if he or she:

- Did not appear for his or her audit.
- Moved and did not receive correspondence from the IRS.
- Have additional information to present that he or she did not provide during his or her original audit.
- Disagree with the assessment from the audit.

An audit reconsideration request can be made any time after an examination assessment has been made on the taxpayer's account and the tax remains unpaid.

Partnership Level Audit and Optout

The Bipartisan Budget Act of 2015 (BBA) replaced the existing rules for auditing large partnerships with a new set of streamlined rules that took effect January 1, 2018. The new audit rules also apply to any entity that elects to be treated as a partnership for income tax purposes (i.e., LLC). Small partnerships (100 or fewer partners) that do not have a partnership as a partner can elect out of the new BBA rules. Presumably, if a small partnership elects out of the BBA rules, then the partnership returns would be audited as part of each partner's individual audit, as has been true for small partnerships in the past.

These following changes are designed to streamline the audit of partnership returns. In general, the audit will take place at, and any adjustment will be taken into account only at, the partnership level; any taxes will be paid by the partnership, not the partners.

Each partnership must designate a partner (or other person) as the partnership representative, who has the sole authority to act on behalf of the partnership for the audit. The partner must have a substantial presence in the United States. All partners, as well as the partnership, are bound by the actions taken by the designated partner at any time



during the audit, as well as any final decision during any audit-related proceedings. If the partnership does not designate a representative, the IRS is allowed to select “any person” with a substantial presence in the United States as representative.

As under current law, if selected for audit, any adjustment for a partnership tax year is determined at the partnership level. The IRS examines all income, gains, losses, deductions, and credits, as well as the partners’ distributive shares for any taxable year; the net effect of any proposed changes to the items is the adjustment for the partnership. Rather than follow the effect of this adjustment through to the individual partners, any tax effect is also at the partnership level. The adjustment is used to compute an imputed underpayment to be paid by the partnership, and the payment is determined using the highest individual or corporate rate of tax. Any penalties are determined at the partnership level; any tax assessed and subsequent collection is at the partnership level. If the adjustment does not result in an underpayment of tax, the partnership will take it into account in the adjustment year as a reduction in non–separately stated income or an increase in non–separately stated loss (as applicable), or tax credits as a separately stated item.

Representing a Taxpayer Before Appeals

The taxpayer can represent him or herself at an appeals conference, or he or she can be represented by any Federally authorized practitioner, including an attorney, a certified public accountant, an enrolled actuary, or an enrolled agent. The representative must be qualified to practice before the IRS. See [Publication 947 - Practice Before the IRS](#). If the representative attends a conference without the taxpayer, he or she can receive or inspect confidential information only if the taxpayer has filed a power of attorney or a tax information authorization. Use a [Form 2848 - Power of Attorney and Declaration of Representative](#) or any other properly written power of attorney or authorization. The taxpayer can also bring witnesses to support his or her position.

Generally, the same confidentiality protection that a taxpayer has with an attorney also applies to certain communications that he or she has with Federally authorized practitioners. Confidential communications are those that:

- Advise the taxpayer on tax matters within the scope of the practitioner's authority to practice before the IRS.
- Would be confidential between an attorney and the taxpayer.
- Relate to noncriminal tax matters before the IRS.
- Relate to noncriminal tax proceedings brought in Federal court by or against the United States.

In the case of communications in connection with the promotion of a person's participation in a tax shelter, the confidentiality privilege does not apply to written communications between a Federally authorized practitioner and that person, any director, officer, employee, agent, or representative of that person, or any other person holding a capital or profits interest in that person.

The taxpayer can appeal an IRS tax decision to a local Appeals Office, which is separate from and independent of the IRS office taking the action he or she disagrees with. The Appeals Office is the only level of appeal within the IRS. Conferences with Appeals Office personnel are held in an informal manner by correspondence, by telephone, or at a personal conference.

Written Protest

The taxpayer must tell the IRS if he or she agrees with the proposed changes or if he or she wants to appeal, generally within 30 days from the date of the letter offering appeal rights. Be sure to send the request to the address on the letter within the timeframe given.

When the taxpayer requests an Appeals conference, he or she may also need to file either a formal written protest or a small case request with the office named in the letter he or she received. When a protest is required, send it within the time limit specified in the letter received. Included in the written protest are the following: ⁽⁴²⁾

1. Name and address, and a daytime telephone number.
2. A statement that the taxpayer wants to appeal the IRS findings to the Appeals Office.
3. A copy of the letter showing the proposed changes and findings the taxpayer does not agree with (or the date and symbols from the letter).



4. The tax periods or years involved.
5. A list of the changes that the taxpayer does not agree with, and why he or she does not agree.
6. The facts supporting the taxpayer's position on any issue that he or she does not agree with.
7. The law or authority, if any, on which the taxpayer is relying.
8. The taxpayer must sign the written protest, stating that it is true, under the penalties of perjury.

The taxpayer will need to file a written protest: ⁽⁴²⁾

- In all employee plan and exempt organization cases without regard to the dollar amount at issue.
- In all partnership and S corporation cases without regard to the dollar amount at issue.
- In all other cases, unless he or she qualifies for the small case request procedure, or other special appeal procedures such as requesting Appeals consideration of liens, levies, seizures, or installment agreements.

If the total amount for any tax period is not more than \$25,000, the taxpayer may make a small case request instead of filing a formal written protest. In figuring the total amount, include a proposed increase or decrease in tax (including penalties), or claimed refund. If the taxpayer is making an offer in compromise, include total unpaid tax, penalty, and interest due. For a small case request, follow the instructions in the IRS letter to the taxpayer by sending a letter: ⁽³²⁾

- Requesting Appeals consideration,
- Indicating the changes the taxpayer does not agree with, and
- Indicating the reasons why the taxpayer does not agree.

If agreement is not reached at the appeals conference, the taxpayer may be eligible to take his or her case to court. The reasons for disagreeing must come within the scope of the tax laws. For example, a taxpayer cannot appeal a case based only on moral, religious, political, constitutional, conscientious, or similar grounds.

Appeals to the Courts

If the taxpayer and the IRS still disagree after the appeals conference, he or she may be entitled to take the case to the United States Tax Court, the United States Court of Federal Claims, or the United States District Court. These courts are independent of the IRS. Advise the taxpayer that if he or she unreasonably fails to pursue the IRS' appeals system, or if his or her case is intended primarily to cause a delay, or the position is frivolous or groundless, the Tax Court may impose a penalty of up to \$25,000. For court proceedings resulting from examinations started after July 22, 1998, the IRS generally has the burden of proof for any factual issue if the taxpayer has met the following requirements: ⁽³²⁾

- The taxpayer introduced credible evidence relating to the issue.
- The taxpayer complied with all substantiation requirements of the Internal Revenue Code.
- The taxpayer maintained all records required by the Internal Revenue Code.
- The taxpayer cooperated with all reasonable requests by the IRS for information regarding the preparation and related tax treatment of any item reported on the tax return.
- The taxpayer had a net worth of \$7 million or less and not more than 500 employees at the time the tax liability is contested in any court proceeding if the tax return is for a corporation, partnership, or trust.

Tax Court

The Tax Court can review IRS employment status determinations (for example, whether individuals hired by the taxpayer are in fact his or her employees or independent contractors) and the amount of employment tax under such determinations. Tax Court review can take place only if, in connection with an audit of any person, there is an actual controversy involving a determination by the IRS as part of an examination that either: ⁽³²⁾

- One or more individuals performing services for that person are employees of that person.
- That person is not entitled to relief under Section 530(a) of the Revenue Act of 1978.

The following rules also apply to a Tax Court review of employment status: ⁽³²⁾

- A Tax Court petition to review these determinations can be filed only by the person for whom the services are performed.



- If the taxpayer receives a Notice of Determination by certified or registered mail, he or she must file a petition for Tax Court review within 90 days of the date of mailing that notice (150 days if the notice is addressed to the taxpayer outside the United States).
- If during the Tax Court proceeding, the taxpayer begins to treat as an employee an individual whose employment status is at issue, the Tax Court will not consider that change in its decision.
- Assessment and collection of tax is suspended while the Tax Court review is taking place.
- There can be a de novo review by the Tax Court (a review which does not consider IRS administrative findings).
- At the taxpayer's request and with the Tax Court's agreement, small tax case procedures are available to simplify the case resolution process when the amount at issue (including additions to tax and penalties) is \$50,000 or less for each tax period involved.

The taxpayer can take his or her case to the United States Tax Court if he or she disagrees with the IRS over:

- Income tax.
- Estate tax.
- Gift tax.
- Certain excise taxes of private foundations, public charities, qualified pension and other retirement plans, or real estate investment trusts.

A taxpayer cannot take his or her case to the Tax Court before the IRS sends him or her a notice of deficiency. The taxpayer can only appeal the case if he or she files a petition within 90 days from the date the notice is mailed (150 days if it is addressed outside the United States).

Generally, the Tax Court hears cases before any tax has been assessed and paid; however, the taxpayer can pay the tax after the notice of deficiency has been issued and still petition the Tax Court for review. If he or she does not file the petition on time, the proposed tax will be assessed, a bill will be sent, and the taxpayer will not be able to take his or her case to the Tax Court. Under the law, the taxpayer must pay the tax within 21 days (10 business days if the amount is \$100,000 or more). Collection can proceed even if he or she thinks that the amount is excessive.

Small Tax Case

If the amount in the case is \$50,000 or less for any 1 tax year or period, the taxpayer can request that his or her case be handled under the small tax case procedure. If the Tax Court approves, the taxpayer can present his or her case to the Tax Court for a decision that is final and that he or she cannot appeal.

District Court and Court of Federal Claims

Generally, the District Court and the Court of Federal Claims hear tax cases only after the taxpayer has paid the tax and filed a claim for a credit or refund. He or she can file a claim with the IRS for a credit or refund if the taxpayer thinks that the tax paid is incorrect or excessive. If the claim is totally or partially disallowed by the IRS, he or she should receive a notice of claim disallowance. If the IRS does not act on the claim within 6 months from the date filed, the taxpayer can then file suit for a refund.

The taxpayer generally must file suit for a credit or refund no later than 2 years after the IRS informs him or her that the claim has been rejected. However, the taxpayer can file suit if it has been 6 months since he or she filed the claim and the IRS has not yet delivered a decision.

The taxpayer can file suit for a credit or refund in United States District Court or in the United States Court of Federal Claims. However, the taxpayer cannot appeal to the United States Court of Federal Claims if the claim is for credit or refund of a penalty that relates to promoting an abusive tax shelter or to aiding and abetting the understatement of tax liability on someone else's return.

Freedom of Information Act (FOIA)

The Freedom of Information Act, 5 U.S.C. 552, provides any person the right to request access of Federal agency records or information. The FOIA applies to records either created or obtained by an agency and under agency control



at the time of the FOIA request. Agencies within the executive branch of the Federal government, including the Executive Office of the President and independent regulatory agencies are subject to the FOIA. State governments, municipal corporations, the courts, Congress and private citizens are not subject to the FOIA.

All IRS records are subject to FOIA requests. However, FOIA does not require the IRS to release all documents that are subject to FOIA requests. The IRS may withhold information pursuant to nine exemptions and three exclusions contained in the FOIA statute.

While the Freedom of Information Act is an option in some cases, records that can be processed routinely in accordance with procedures identified in 26 CFR 601.702(d) are specifically excluded from the processing requirements of the FOIA. Many FOIA requests for IRS information can be obtained more efficiently using routine established agency procedures.

An FOIA request must be in writing and sent to the Disclosure Central Processing Unit. Letters requesting records under the FOIA can be short and simple. A requester who follows the IRS's specific procedures may receive a faster response.

There are four basic elements to an FOIA request letter: ⁽⁴³⁾

- The letter should state that the request is being made under the Freedom of Information Act.
- The letter should identify the records that are being sought as specifically as possible.
- The name and address of the requester must be included. If the request involves the tax records of an individual or business, the requester must also include a copy of the requester's driver's license or a sworn or notarized statement swearing to or affirming their identity. In this case, the authority of the requester to receive such records must be established. If the request is for the Centralized Authorization File (CAF), the taxpayer must attach a valid photo identification which includes the taxpayer's signature as proof of identity. If the request is for agency records only the name and address of the requester is required.
- The requester should make a firm commitment to pay any fees which may apply (the complete regulatory requirements for FOIA requests filed with the IRS are available at 67 Federal Register 69673, Treasury Regulation 601.702).

Section (a)(4) of the FOIA requires the IRS to establish fees associated with searching for, reviewing and copying records, which may vary depending on the status of the requester or the purpose of the request. As a result, a requester may have to provide information on their status and their purpose for making the request to allow the IRS to determine the appropriate fees. Different fees apply to: commercial requesters; representatives of the news media; educational or noncommercial scientific institutions; and individuals. More information on fees can be found below in Fees and waivers and IRS FOIA fee schedule.



Review

The following pages contain several review questions that are designed to help you learn the material you have just studied and prepare you for the exam. Review questions are for instructional use only and you will not be graded on these questions. We also provide you both the answers to each question and an explanation or feedback as to how we arrived at each answer.

Best practice suggests that you should try to answer these questions on your own first, and only then refer to the answer key and feedback to see how well you did in terms of learning the material.

Review Questions

Answers appear in [Review Feedback](#)

1. Examples of property the IRS can seize (levy) include all of the following except:
 - A. The taxpayer's wages, salary or commission held by someone else
 - B. The taxpayer's bank account
 - C. The taxpayer's Federal payments
 - D. The taxpayer's unemployment benefits
2. Anders moves from one state to another before the IRS selects his tax return for examination. A letter stating that his return has been selected is sent to his old address and then forwarded to his new address. When Anders gets the letter, he responds with a request that the examination be transferred to the area office closest to his new address. The examination group manager approves his request. After his request has been approved, which of the following is true regarding the transfer?
 - A. The transfer is a ministerial act
 - B. The transfer is not a ministerial act
 - C. The IRS cannot reduce the interest because of any unreasonable delay in transferring the case
 - D. The IRS can reduce the amount of interest because the transfer is due to a general administrative decision
3. The IRS can attempt to collect taxes up to 10 years from the date they were assessed. However, there are exceptions to this time frame. For example, by law, the IRS will suspend and extend collection while the taxpayer lives outside the U.S. continuously for at least how many months?
 - A. 3 months
 - B. 6 months
 - C. 8 months
 - D. 9 months
4. As an alternative to making an administrative wrongful levy claim, IRC Section 7426(a)(1) provides that a third party may bring a civil action against the United States in which court seeking the same relief?
 - A. State Civil Court
 - B. U.S. Tax Court
 - C. U.S. District Court
 - D. U.S. Circuit Court
5. The Employment Taxes and the Trust Fund Recovery Penalty (TFRP) may be assessed against any person who is responsible for collecting or paying withheld income and employment taxes, or for paying collected excise taxes and any person who willfully fails to collect or pay them. For willfulness to exist, the responsible person must demonstrate any of the following except:
 - A. Must have been, or should have been, aware of the outstanding taxes
 - B. Intentionally disregarded the law
 - C. Was plainly indifferent to its requirements but only if evil intent or bad motive is established
 - D. Using available funds to pay other creditors when the business is unable to pay the employment taxes



Review Feedback

[Return to Review Questions](#)

Question 1 - D. The taxpayer's unemployment benefits

Certain property is exempt from seizure. For example, the IRS cannot seize or levy unemployment benefits, certain annuity and pension benefits, certain service-connected disability payments, workers' compensation, certain public assistance payments, minimum weekly exempt income, assistance under the Job Training Partnership Act and income for court-ordered child support payments.

Topic - [Seizure of Property](#)

Source - [Publication 594 - Levy: A seizure of property](#)

Question 2 - A. The transfer is a ministerial act

A ministerial act is a procedural or mechanical act, not involving the exercise of judgment or discretion, during the processing of a case after all prerequisites (for example, conferences and review by supervisors) have taken place. A decision concerning the proper application of Federal tax law (or other Federal or state law) is not a ministerial act. Also, the IRS cannot reduce the amount of interest due to a general administrative decision such as a decision on how to organize the processing of tax returns. In this case, the examination group manager approves Anders' request so after his request has been approved, the transfer is a ministerial act. The IRS can reduce the interest because of any unreasonable delay in transferring the case.

Topic - [Penalty Relief](#)

Source - [Publication 556 - Abatement of Interest Due to Error or Delay by the IRS](#)

Question 3 - B. 6 months

The IRS will suspend and extend collection while the taxpayer lives outside the U.S. continuously for at least 6 months. Collection is suspended while the taxpayer is outside the U.S. and, if at the time of his or her return the normal collection period would expire before 6 months from the date of the return, the extended period will not expire before the expiration of the 6 months after the taxpayer's return.

Topic - [Collections Statute of Limitations](#)

Source - [Publication 594 - How long we have to collect taxes](#)

Question 4 - C. U.S. District Court

As an alternative to making an administrative wrongful levy claim, IRC Section 7426(a)(1) provides that a third party may bring a civil action against the United States in a district court of the United States seeking the same relief. If the taxpayer files an administrative wrongful levy claim and the IRS rejects it, he or she can still bring a civil action in district court.

Topic - [Wrongful Levy](#)

Source - [Publication 4528 - Making an Administrative Wrongful Levy Claim Under Internal Revenue Code \(IRC\) Section 6343\(b\)](#)

Question 5 - C. Was plainly indifferent to its requirements but only if evil intent or bad motive is established

For willfulness to exist, the responsible person must have been, or should have been, aware of the outstanding taxes and either intentionally disregarded the law or was plainly indifferent to its requirements (no evil intent or bad motive is required). Using available funds to pay other creditors when the business is unable to pay the employment taxes is an indication of willfulness.

Topic - [Trust Fund Recovery Penalty \(TFRP\)](#)

Source - [IRS.GOV - Employment Taxes and the Trust Fund Recovery Penalty \(TFRP\)](#)

Completion of the Filing Process

Tax Return Preparers Must Use IRS e-File

Starting January 1, 2012, any tax return preparer who anticipates preparing and filing 11 or more Forms 1040 and 1041 during a calendar year must use IRS e-file (unless the preparer or a particular return is administratively exempt from the e-file requirement or the return is filed by a preparer with an approved hardship waiver). Members of firms must count returns in the aggregate. If the number of applicable income tax returns is 11 or more, then all members of the firm generally must e-file the returns they prepare and file. This is true even if a member expects to prepare and file fewer than 11 returns on an individual basis.

Specified tax return preparers may request an undue hardship waiver from the e-file requirement using [Form 8944 - Preparer e-file Hardship Waiver Request](#). Form 8944 generally must be submitted to the IRS no later than February 15 of the year for which a waiver is being requested.

Tax Preparers Must Have a Preparer Tax Identification Number

IRS regulations require all paid tax return preparers and enrolled agents (including attorneys, and CPAs if they prepare for compensation all or substantially all of a Federal tax return or claim for refund) to obtain a Preparer Tax Identification Number (PTIN) before preparing any Federal tax returns. A PTIN meets the requirements under Section 6109(a)(4) of furnishing a paid tax return preparer's identifying number on returns that you prepare.

You must renew your PTIN every year during the renewal season which generally starts in October and must be completed by December 31. Your PTIN is your Federal license to prepare taxes and it must be included on all returns you prepare.

Authorized e-File Provider

Before a tax preparer begins the online e-file application, he or she must have an IRS e-Services account. e-Services is a suite of web-based products that will allow tax professionals and payers to conduct business with the IRS electronically. These services are only available to approved IRS business partners and not available to the general public. All tax professionals who wish to use e-services products must register online to create an individual electronic account. The registration process is a one-time automated process where the user selects a username, password and PIN. When the registration information has been validated, the registrant will receive an on-screen acknowledgement. When a tax preparer applies for an e-Services account, he or she will need to complete all of the following: ⁽⁴⁴⁾

1. Provide his or her legal name, Social Security Number (SSN), birth date, phone number, e-mail address and home mailing address (confirmation of the account will be mailed).
2. Provide his or her Adjusted Gross Income (AGI) from the current or prior tax year.
3. Create a username, a password and a PIN, and provide an answer to a reminder question for his or her username.
4. Make sure that every principal and responsible official in his or her firm signs up for e-Services.
5. Return to e-Services to confirm his or her registration within 28 days of receiving the confirmation code in the mail.

The verification and approval process for creating an account with IRS e-Services can take several days.

The tax preparer's firm can start the application to become an Authorized IRS e-file Provider once all principals are approved for e-Services. The application process is not simple; however, the complexity is necessary to protect the integrity and security of the electronic filing system. The e-file application process is comprehensive, designed to allow you to save your data during the session and to return to the application when convenient. Plan accordingly since the IRS may take up to 45 days to approve an Authorized IRS e-file Provider application.



After the tax preparer submits the application and related documents, the IRS will conduct a suitability check on the firm and each person listed on the application as either a principal or responsible official. This may include: a credit check; a tax compliance check; a criminal background check; and a check for prior non-compliance with IRS e-file requirements. Once approved, the tax preparer will get an acceptance letter from the IRS with his or her Electronic Filing Identification Number (EFIN).

Electronic Filing Identification Number (EFIN)

The IRS assigns an Electronic Filing Identification Number (EFIN) to identify firms that have completed the IRS e-file Application to become an Authorized IRS e-file Provider. Providers need the EFIN to electronically file tax returns. The firm owns the EFIN. The principals of the firm use either their Social Security Number or Employer Identification Number to apply for an EFIN. The EFIN is not transferable and neither is the password. Even if tax preparer transfers the business by sale, gift or other disposition, he or she may not transfer the EFIN. A tax preparer must protect his or her EFINs, Electronic Transmitter Identification Numbers (ETINs) and passwords from unauthorized use.

Statute of Limitations

The IRS has three years to give the taxpayer a refund, three years to audit a tax return, and ten years from the day a tax liability has been finalized to collect any tax due. If a taxpayer filed his or her taxes before the deadline, the time is measured from the April 15th deadline. Together, these laws are called the statute of limitations.

Reporting Agent Authorization

Use [Form 8655 - Reporting Agent Authorization](#) to authorize a reporting agent to:

- Sign and file certain returns. Reporting agents must file returns electronically except as provided under [Revenue Procedure 2012-32](#).
- Make deposits and payments for certain returns.
- Receive duplicate copies of tax information, notices, and other written and/or electronic communication regarding any authority granted.
- Provide IRS with information to aid in penalty relief determinations related to the authority granted on Form 8655.

Once Form 8655 is signed, any authority granted is effective beginning with the period indicated on lines 15 or 16 and continues indefinitely unless revoked by the taxpayer or reporting agent. A new authorization must be submitted to the IRS for any increase or decrease in the authority of a reporting agent to act for its client. The preceding authorization remains in effect except as modified by the new one. No authorization or authority is granted for periods prior to the period(s) indicated on Form 8655.

IRS e-File Rules and Requirements

An Authorized IRS e-file Provider is a business or organization authorized by the IRS to participate in IRS e-file. It may be a sole proprietorship, partnership, corporation, or other entity. The firm submits an e-file application, meets the eligibility criteria, and must pass a suitability check before the IRS assigns an Electronic Filing Identification Number (EFIN). Applicants accepted for participation in IRS e-file are Authorized IRS e-file Providers.

A Provider may be an Electronic Return Originator (ERO), Intermediate Service Provider, Transmitter, Software Developer, or Reporting Agent. These roles are not mutually exclusive. For example, a Provider that is an ERO may also be a Transmitter. Providers may also be tax return preparers, but the activities and responsibilities for IRS e-file and return preparation are distinct and different from each other. ⁽⁴⁵⁾

The IRS conducts a suitability check on the applicant and on all Principals and Responsible Officials listed on the application. The IRS does not complete suitability checks on applicants only applying to be Software Developers.

Suitability checks may include the following: ⁽⁴⁵⁾

- A criminal background check.
- A credit history check.



- A tax compliance check to ensure that all required returns are filed and paid, and to identify assessed penalties.
- A check for prior non-compliance with IRS e-file requirements.

All Authorized IRS e-file Providers must adhere to IRS e-file rules and requirements to continue participation in IRS e-file. Requirements are included in [Revenue Procedure 2007-40 - e-file Providers of Individual Income Tax Returns](#), [Publication 1345 - Handbook for Authorized IRS e-file Providers of Individual Income Tax Returns](#) and in other publications and notices that govern IRS e-file. All Providers must adhere to all rules and requirements, regardless of where published. Some rules and requirements are specific to the activities performed by the Provider and are included in [Electronic Return Origination, Transmission and e-file Provider](#). The following list, while not all-inclusive, applies to all Providers of Individual Income Tax Returns, except Software Developers that do not engage in any other IRS e-file activity other than software development.

Generally, e-file can be used to file any return of income tax imposed by subtitle A of the Internal Revenue Code on individuals, trusts, or estates, such as Forms 1040 and 1041. Forms 1040NR, 1041QFT, and 990T (when the exempt organization is a trust subject to tax on unrelated business taxable income under Section 511(b)) also meet the definition of a return of income tax, but these forms cannot be electronically filed at this time. Additionally, production filing generally ends on October 15 and the last day to retransmit rejected returns is October 20 so tax returns for prior years are not eligible for the e-file program. Also, an amended tax return cannot be filed electronically under the e-file system. A Provider must: ⁽⁴⁶⁾

1. Maintain an acceptable cumulative error or reject rate.
2. Adhere to the requirements for ensuring that tax returns are properly signed.
3. Properly use the standard/non-standard Form W-2 indicator.
4. Properly use the Refund Anticipation Loan (RAL) indicator.
5. Include the Electronic Return Originator's (ERO's) Electronic Filing Identification Number (EFIN) as the return EFIN for returns the ERO submits to an Intermediate Service Provider or Transmitter.
6. Include the Intermediate Service Provider's EFIN in the designated Intermediate Service Provider field in the electronic return record.
7. Submit an electronic return to the IRS with information that is identical to the information provided to the taxpayer on the copy of the return.

A Refund Anticipation Loan (RAL) is money borrowed by a taxpayer from a lender based on the taxpayer's anticipated income tax refund. Financial Institutions also offer a variety of other financial products to taxpayers based on their refunds. The IRS is in no way involved in or responsible for RALs or the other financial products. Providers that assist taxpayers in applying for a RAL or other financial product have additional responsibilities and may be sanctioned by the IRS if they fail to adhere to certain requirements.

Electronic Return Originator

An Electronic Return Originator (ERO) is the Authorized IRS e-file Provider that originates the electronic submission of a return to the IRS. The ERO is usually the first point of contact for most taxpayers filing a return.

Although an ERO may also engage in return preparation, that activity is separate and different from the origination of the electronic submission of the return to the IRS. An ERO originates the electronic submission of a return after the taxpayer authorizes the filing of the return via IRS e-file. An ERO must originate the electronic submission of only returns that the ERO either prepared or collected from a taxpayer. An ERO originates the electronic submission by either of the following: ⁽⁴⁷⁾

- Electronically sending the return to a Transmitter that will transmit the return to the IRS.
- Directly transmitting the return to the IRS.
- Providing a return to an Intermediate Service Provider for processing prior to transmission to the IRS.

In originating the electronic submission of a return, the ERO has a variety of responsibilities, including, but not limited to: ⁽⁴⁷⁾

- Timely originating the electronic submission of returns.
- Submitting any required supporting paper documents to the IRS.



- Providing copies to taxpayers.
- Retaining records and making records available to the IRS.
- Accepting returns only from taxpayers and Authorized IRS e-file Providers.
- Having only one Electronic Filing Identification Number (EFIN) for the same firm for use at one location, unless the IRS issued more than one EFIN to the firm for the same location. For this purpose, the business entity is generally the entity that reports on its return the income derived from electronic filing. The IRS may issue more than one EFIN to accommodate a high volume of returns, or as it determines appropriate.

An ERO must clearly display the firm's "doing business as" name at all locations and sites including Web sites at which the ERO or a third party obtains information from taxpayers for electronic origination of returns by the ERO.

ERO Fees

An ERO can charge a fee for providing the e-file service to their clients while others may offer it free of charge. However, this fee cannot be based on any figure from the tax return. An ERO must never charge a separate fee for Direct Deposit and must accept any Direct Deposit election by a taxpayer to any eligible financial institution. ⁽⁴⁸⁾

When assisting a taxpayer in applying for a RAL or other financial product, the ERO may charge a flat fee for that assistance. The fee must be identical for all customers and must not relate to the amount of the refund or the financial product. The Provider must not accept a fee that is contingent upon the amount of the refund or a RAL or other financial product from a financial institution for any service connected with a financial product. The IRS has no responsibility for the payment of any fees associated with the preparation of a return, the transmission of the electronic portion of a return or a RAL or other financial product.

ERO Advertising

An ERO must comply with the advertising and solicitation provisions of Circular 230. This circular prohibits the use or participation in the use of any form of public communication containing a false, fraudulent, misleading, deceptive, unduly influencing, coercive, or unfair statement or claim.

Providers must not use improper or misleading advertising in relation to IRS e-file, including the time frames for refunds and RALs or other financial products. Any claims by Providers concerning faster refunds by virtue of electronic filing must be consistent with the language in official IRS publications. If Providers advertise the availability of a RAL or financial product, the Provider and financial institution must clearly refer to or describe the funds they advance as a loan or other financial product, not as a refund. The advertisement on a RAL or other financial product must be easy to identify and in readable print. That is, it must make clear in the advertising that the taxpayer is borrowing against the anticipated refund or receiving another financial product and is not obtaining the refund itself from the financial institution. Participants in Online Filing must also adhere to the following: ⁽⁴⁶⁾

1. Ensure that no more than five electronic returns are filed from one software package or one e-mail address.
2. Supply a taxpayer with an accurate Declaration Control Number (DCN) (Exception: Submission Identification Number (SID) for MeF).
3. Provide effective instructions to a taxpayer concerning the entry of the DCN on Form 8453, if required.
4. Submit any changes to the following information to the IRS Headquarters Online Filing Analyst, SE:W:CAS:SP:ES:I, 5000 Ellin Road, Lanham, MD 20706, by the 31st day of December preceding the filing season:
 - a. The brand name of the software the Provider will be using, has developed or will use for transmission. Required information about the software includes its Software Developer, Transmitter, retail cost and any additional costs for transmitting the electronic portion of the taxpayer's return. Additionally, software changes involving its use to file Federal/State returns, Internet availability (including the Internet address), successful completion of Participants Acceptance Testing (PATs) (Exception: Assurance Testing System (ATS) for MeF) and the Professional Package name under which the software was tested must be reported.
 - b. The Provider's point of contact for matters relating to Online Filing and the telephone number for the point of contact.
 - c. The applicant's customer service number.
 - d. The procedures the applicant will use to ensure that one software package or one e-mail address transmits no more than five returns.



Submitting a Timely Filed Electronic Tax Return

All prescribed due dates for filing of returns apply to e-file returns. All Providers must ensure that returns are promptly processed. However, a Provider that receives a return for electronic filing on or before the due date of the return must ensure that it transmits the electronic portion of the return on or before the due date (including extensions). An electronically filed return is not considered filed until the IRS acknowledges acceptance of the electronic portion of the tax return for processing.

The IRS accepts individual income tax returns electronically only if the taxpayer signs the return using a Personal Identification Number (PIN). If Providers transmit the electronic portion of a return on or shortly before the due date and the IRS ultimately rejects it, but the Provider and the taxpayer comply with the requirements for timely resubmission of a correct return, the IRS considers the return timely filed.

Once signed, an ERO must originate the electronic submission of a return as soon as possible. However, authorized IRS e-file Providers are prohibited from submitting electronic returns to the IRS prior to the receipt of all Forms W-2, W-2G, and 1099-R from the taxpayer. If the taxpayer is unable to secure and provide a correct Form W-2, W-2G, or 1099-R, the return may be electronically filed after [Form 4852 - Substitute for Form W-2, Wage and Tax Statement](#), or [Form 1099-R - Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.](#) is completed in accordance with the use of that form. This is the only time information from Pay stubs or Leave and Earning Statements (LES) is allowed. The IRS monitors Authorized IRS e-file Providers for compliance with the Revenue Procedure 2007-40 and IRS e-file rules and requirements. Monitoring visits will be conducted to investigate complaints and to ensure compliance.

Violations of IRS e-file requirements may result in warning or sanctioning an Authorized IRS e-file Provider. Sanctioning may be a written reprimand, suspension or expulsion from participation from IRS e-file, or other sanctions, depending on the seriousness of the infraction. The IRS categorizes the seriousness of infractions as Level One, Level Two, and Level Three. Providers may appeal sanctions through the Administrative Review Process. Unreversed suspensions make Authorized IRS e-file Providers ineligible to participate in IRS e-file for a period of either one or two years from the effective date of the sanction. ⁽⁴⁹⁾

Submission of Paper Documents to the IRS

IRS e-file returns must contain all the same information as returns filed completely on paper. EROs are responsible for ensuring that they submit to the IRS all paper documents required to complete the filing of returns. Attach all appropriate supporting documents that the IRS requires to the [Form 8453 - U.S. Individual Income Tax Transmittal for an IRS e-file Return](#) and send them to the IRS. Use Form 8453 to send any required paper forms or supporting documentation listed next to the checkboxes on Form 8453 (do not send Forms W-2, W-2G, or 1099-R). If you are an ERO, you must mail Form 8453 to the IRS within 3 business days after receiving acknowledgement that the IRS has accepted the electronically filed tax return. ⁽⁴⁹⁾

Recordkeeping and Documentation Requirements

EROs must retain the following material until the end of the calendar year at the business address from which it originated the return or at a location that allows the ERO to readily access the material as it must be available at the time of an IRS request. An ERO may retain the required records at the business address of the Responsible Official or at a location that allows the Responsible Official to readily access the material during any period of time the office is closed, as it must be available at the time of an IRS request through the end of the calendar year. ⁽⁴⁹⁾

Check Return for Completeness and Accuracy

Before signing a tax return and sending it to your client, be sure to double check your work. This includes verifying all data from W-2, 1099, and any form that the taxpayer provided to you for the purposes of completing their tax return. Check filing status, exemption, deduction, and credit amounts and go over any information that was determined using a tax table or schedule. Also, perform your calculations again even though they may appear as simple arithmetic, it is important to ensure everything is accurate. Lastly, and importantly, review the prior year's return even if you did not prepare it. This return will provide you with a wealth of information that can be valuable to this year's return, including Tax loss carry forward information, withholding information and information about how certain income may have been treated, such as capital gains or traditional income.



Many tax preparers neglect to go over last year's return. But it is worth the time because very often you will find a carry forward or some other important piece of information that might be beneficial to this year's return.

Explain and Review Tax Return

Once you have completed preparing the tax return it is important that you take the time to go over it in detail with the taxpayer. This review represents an additional opportunity to check your work and verify information you used to complete the return with the taxpayer. In addition to checking all available tax credits and deductions, it gives you the chance to explain what the outcome of the return was and what the necessary next steps are.

Recordkeeping for Individuals

As a tax preparer you have an obligation to explain the record keeping requirements to the taxpayer. The length of time a taxpayer should keep a document depends on the action, expense, or the event the document records. Generally, he or she must keep his or her records that support an item of income or deductions on a tax return until the period of limitations for that return runs out.

There are many reasons to keep records. In addition to tax purposes, a taxpayer may need to keep records for insurance purposes or for getting a loan. Good records will help the taxpayer: ⁽⁵⁰⁾

- Identify sources of income.
- Keep track of expenses.
- Keep track of the basis of property.
- Prepare tax returns.
- Support items reported on tax returns.

The IRS does not require a taxpayer to keep his or her records in a particular way. The records should be kept in a manner that allows the taxpayer and the IRS to determine the correct tax. The taxpayer can use his or her checkbook to keep a record of income and expenses. In his or her checkbook the taxpayer should record amounts, sources of deposits, and types of expenses. The taxpayer also needs to keep documents, such as receipts and sales slips that can help prove a deduction.

All requirements that apply to hard copy books and records also apply to electronic storage systems that maintain tax books and records. When the taxpayer replaces hard copy books and records, he or she must maintain the electronic storage systems for as long as they are material to the administration of tax law.

FOR items concerning...	KEEP as basic records...
Income	Form(s) W-2. Form(s) 1099. Bank statements. Brokerage statements. Form(s) K-1.
Expenses	Sales slips. Invoices. Receipts. Canceled checks or other proof of payment. Written communications from qualified charities.
Home	Closing statements. Purchase and sales invoices. Proof of payment. Insurance records. Receipts for improvement costs.



Investments	Brokerage statements. Mutual fund statements. Form(s) 1099. Form(s) 2439.
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Table 4-1 Publication 552 - Table 1. Proof of Income and Expense (2019)

A taxpayer should keep copies of his or her tax returns as part of his or her tax records. They can help the taxpayer prepare future tax returns, and he or she will need them if he or she files an amended return. Copies of the returns and other records can be helpful to the survivor or the executor or administrator of a taxpayer's estate.

Basic records are documents that everybody should keep. These are the records that prove the taxpayer's income and expenses. If he or she owns a home or investments, the basic records should contain documents related to those items.

Proof of Payment

One of the basic records is proof of payment. The taxpayer should keep these records to support certain amounts shown on his or her tax return. Proof of payment alone is not proof that the item claimed on the return is allowable. The taxpayer also should keep other documents that will help prove that the item is allowable. Generally, the taxpayer proves payment with a cash receipt, financial account statement, credit card statement, canceled check, or substitute check. If he or she makes payments in cash, he or she should get a dated and signed receipt showing the amount and the reason for the payment.



If the taxpayer makes payments by electronic funds transfer, he or she may be able to prove payment with an account statement.

Some items require specific records in addition to basic records including, but not limited to, the following: ⁽⁵⁰⁾

- Alimony.
- Business Use of the Home.
- Casualty and Theft Losses.
- Child and Dependent Care Credit.
- Contributions.
- Credit for the Elderly or the Disabled.
- Education expenses.
- Exemptions.
- Gambling Winnings and Losses.
- Health Savings Account (HSA) and Medical Savings Account (MSA).
- Individual Retirement Arrangements (IRAs).
- Medical and Dental Expenses.
- Moving Expenses.
- Pensions and Annuities.
- Taxes.
- Sales tax on vehicles.
- Tips.

The taxpayer must keep records as long as they may be needed for the administration of any provision of the Internal Revenue Code. Generally, this means he or she must keep records that support items shown on the return until the period of limitations for that return runs out.

Period of Limitations

The period of limitations is the period of time in which an individual can amend his or her tax return to claim a credit or refund, or that the IRS can assess additional tax. The information below contains the periods of limitations that apply to income tax returns. Unless otherwise stated, the years refer to the period after the return was filed.



Returns filed before the due date are treated as filed on the due date: ⁽⁵¹⁾

1. The taxpayer owes additional tax and situations (2), (3), and (4), below, do not apply to him or her; keep records for 3 years.
2. The taxpayer does not report income that he or she should report, and it is more than 25% of the gross income shown on the return; keep records for 6 years.
3. The taxpayer files a fraudulent return; keep records indefinitely.
4. The taxpayer does not file a return; keep records indefinitely.
5. The taxpayer files a claim for credit or refund after he or she files the return; keep records for 3 years from the date the taxpayer filed the original return or 2 years from the date he or she paid the tax, whichever is later.
6. The taxpayer files a claim for a loss from worthless securities or bad debt deduction; keep records for 7 years.
7. Keep all employment tax records for at least 4 years after the date that the tax becomes due or is paid, whichever is later.



Keep copies of filed tax returns. They help in preparing future tax returns and making computations if the taxpayer files an amended return.

Keep records relating to property until the period of limitations expires for the year in which the taxpayer disposes of the property in a taxable disposition. The taxpayer must keep these records to figure any depreciation, amortization, or depletion deduction and to figure the gain or loss when he or she sells or otherwise dispose of the property. ⁽⁵¹⁾

Generally, if an individual received property in a nontaxable exchange, the basis in that property is the same as the basis of the property he or she gave up, increased by any money paid. The taxpayer must keep the records on the old property, as well as on the new property, until the period of limitations expires for the year in which he or she disposes of the new property in a taxable disposition. ⁽⁵¹⁾

Schedule H - Household Employment Taxes

If your client pays wages subject to FICA tax, FUTA tax, or if he or she withholds Federal income tax from an employee's wages, he or she will need to file a Form 1040, [Schedule H - Household Employment Taxes](#). Attach Schedule H to the individual income tax return. If the taxpayer is not required to file a return, he or she must still file Schedule H to report household employment taxes.

If an individual pays a household employee \$2,100 or more in cash wages during 2019, he or she must report and pay Social Security and Medicare taxes on all the wages. The test applies to cash wages paid in 2019 regardless of when the wages were earned.

To figure the total cash wages the taxpayer paid in 2019 to each household employee, do not include amounts paid to any of the following individuals:

- His or her spouse.
- His or her child who was under age 21.
- His or her parent.
- His or her employee who was under age 18 at any time during 2019 (the taxpayer should include the cash wages he or she paid to a person who was under age 18 and not a student if providing household services was his or her principal occupation).

However, a sole proprietor who must file [Form 940 - Employer's Annual Federal Unemployment \(FUTA\) Tax Return](#), and [Form 941 - Employer's QUARTERLY Federal Tax Return](#), or [Form 944 - Employer's ANNUAL Federal Tax Return](#), for business employees, or [Form 943 - Employer's Annual Federal Tax Return for Agricultural Employees](#), for farm employees, may report household employee tax information on these forms instead of on Schedule H. If the taxpayer chooses to report the wages for a household employee on the forms shown above, be sure to pay any taxes due by the date required based on the form, making Federal tax deposits if required. Additional information is available in the instructions for the form.

Name Change

If the taxpayer changed his or her name or his or her dependent had a name change during the year he or she should be



sure to notify the Social Security Administration (SSA) before filing a tax return with the IRS. This is important because the name on the taxpayer's tax return must match SSA records. If the names do not match the taxpayer is likely to get a letter from the IRS about the mismatch. And if he or she is expecting a refund, this mismatch may delay receiving it.

The taxpayer should be sure to contact SSA if:

- He or she got married or divorced and he or she changed his or her name.
- A dependent he or she claims had a name change. For example, this would apply if the taxpayer adopted a child and that child's last name changed.

The taxpayer should file [Form SS-5 - Application for a Social Security Card](#), with the SSA to let them know about a name change.

Joint and Several Liability

Many married taxpayers choose to file a joint tax return because of certain benefits this filing status allows. In filing jointly, both taxpayers are jointly and severally liable for the tax and any additions to tax, interest, or penalties that arise as a result of the joint return even if they later divorce. Joint and several liability means that each taxpayer is legally responsible for the entire liability. Thus, both spouses are generally held responsible for all the tax due even if one spouse earned all the income or claimed improper deductions or credits. This is also true even if a divorce decree states that a former spouse will be responsible for any amounts due on previously filed joint returns. In some cases, however, a spouse can get relief from joint and several liability. There are three types of relief from joint and several liability for spouses who filed joint returns: ⁽⁵²⁾

1. **Innocent Spouse Relief** provides the taxpayer relief from additional tax he or she owes if his or her spouse or former spouse failed to report income, reported income improperly or claimed improper deductions or credits.
2. **Separation of Liability Relief** provides for the allocation of additional tax owed between the taxpayer and his or her former spouse or his or her current spouse from whom the taxpayer is separated because an item was not reported properly on a joint return. The tax allocated to the taxpayer is the amount for which he or she is responsible.
3. **Equitable Relief** may apply when the taxpayer does not qualify for innocent spouse relief or separation of liability relief for something not reported properly on a joint return and generally attributable to his or her spouse. The taxpayer may also qualify for equitable relief if the correct amount of tax was reported on the joint return but the tax remains unpaid.



A taxpayer must request innocent spouse relief or separation of liability relief no later than 2 years after the date the IRS first attempted to collect the tax from him or her. For equitable relief, the taxpayer must request relief during the time the IRS has to collect the tax from him or her. If the taxpayer is looking for a refund of tax he or she paid, then his or her request must be made within the time period for seeking a refund, which is generally three years after the date the return is filed or two years following the payment of the tax, whichever is later.

To seek innocent spouse relief, separation of liability relief, or equitable relief, the taxpayer should submit to the IRS a completed [Form 8857 - Request for Innocent Spouse Relief](#), or a written statement containing the same information required on Form 8857, which is signed under penalties of perjury.

The taxpayer may be allowed innocent spouse relief only if all of the following apply: ⁽⁵³⁾

- He or she filed a joint return for the year(s) entered on line 3 of Form 8857.
- There is an understated tax on the return(s) that is due to erroneous items of the person with whom the taxpayer filed the joint return.
- The taxpayer can show that when he or she signed the return(s) he or she did not know and had no reason to know that the understated tax existed (or the extent to which the understated tax existed). Taking into account all the facts and circumstances, it would be unfair to hold the taxpayer liable for the understated tax.

The taxpayer has an understated tax if the IRS determined that his or her total tax should be more than the amount actually shown on the return. Any income, deduction, credit, or basis is an erroneous item if it is omitted from or



incorrectly reported on the joint return. If the taxpayer knew about any of the erroneous items, but not the full extent of the item(s), he or she may be allowed relief for the part of the understatement he or she did not know about.

Relief from joint and several liability should not be confused with an injured spouse claim. The taxpayer is an "injured spouse" if he or she files a joint return and all or part of his or her share of the refund was, or will be, applied against the separate past-due Federal tax, state tax, child support, or Federal non-tax debt (such as a student loan) of his or her spouse with whom the taxpayer filed the joint return. If your client is an injured spouse, he or she may be entitled to recoup his or her share of the refund.

Quick Reference Guide

IRS Publication 4591- [Small Business Federal Tax Responsibilities](#), can help a taxpayer find the information that he or she needs, quickly and easily. Pub 4591 includes information regarding IRS publications, www.irs.gov and phone resources, information about small business Federal tax responsibilities, tax help for small businesses and the self-employed and small business resources.

Safeguarding Taxpayer Information

Safeguarding taxpayer information is a top priority for the Internal Revenue Service. It is the responsibility of governments, businesses, organizations, and individuals that receive, maintain, share, transmit, or store taxpayers' personal information. Tax return information is all the information tax return preparers obtain from taxpayers or other sources in any form or manner that is used to prepare tax returns or is obtained in connection with the preparation of returns. It also includes all computations, worksheets, and printouts preparers create; correspondence from IRS during the preparation, filing and correction of returns; statistical compilations of tax return information; and tax return preparation software registration information. Authorized IRS e-file Providers must safeguard taxpayer information from unauthorized disclosure, use, and destruction.

To safeguard taxpayer information, you must determine the appropriate security controls for your environment based on the size, complexity, nature and scope of your activities. Security controls are the management, operational, and technical safeguards you may use to protect the confidentiality, integrity and availability of your customers' information.

Examples of security controls are:

1. Locking doors to restrict access to paper or electronic files.
2. Requiring passwords to restrict access to computer files.
3. Encrypting electronically stored taxpayer data.
4. Keeping a backup of electronic data for recovery purposes.
5. Shredding paper containing taxpayer information before throwing it in the trash.
6. Do not email unencrypted sensitive personal information.

Further, Authorized IRS e-file Providers that participate in the role as an Online Provider must follow the IRS six security, privacy, and business standards to better serve taxpayers and protect their individual income tax information collected, processed, and stored.

Authorized IRS e-file Providers must have security systems in place to prevent unauthorized access by third parties to taxpayer accounts and personal information. The Gramm-Leach-Bliley Act, codified at 15 U.S.C. Section 6801-6827, and the implementing rules and regulations promulgated by the Federal Trade Commission include rules that are designed to ensure the security and privacy of taxpayer information and are applicable to Providers.

An information security incident is an adverse event or threat of an event that can result in an unauthorized disclosure, misuse, modification or destruction of taxpayer information. If you believe an information security incident has occurred that affects the confidentiality, integrity, or availability of taxpayer data or the ability for the taxpayer to prepare or file a return, you may need to report the incident.

The following are examples of types of incidents: ⁽⁵⁴⁾

- *Theft*: Unauthorized removal of computers, data/records on computer media or paper files.



- *Loss/Accident*: Accidental misplacement or loss of computers, data/records on computer media or paper files.
- *Unauthorized Access*: A person or computer gains logical or physical access without permission to a network, system, application, data, or other resource.
- *Unauthorized Disclosure/Usage*: A person violates disclosure or use policies such as IRC Sections 6713 and 7216.
- *Computer System/Network Attack*: A virus, worm, Trojan horse, or other code-based malicious entity infects a host and causes a problem such as disclosure of sensitive data or denial of services.

The Safeguards Rule requires financial institutions, which include return preparers, data processors, transmitters, affiliates, service providers, and others who are significantly engaged in providing financial products or services that include preparation and filing of tax returns, to ensure the security and confidentiality of customer records and information. Financial institutions must develop, implement, and maintain a written Information Security Program that contains administrative, physical, and technical safeguards that are appropriate.

The Financial Privacy Rule requires financial institutions, which include return preparers, data processors, transmitters, affiliates, service providers, and others who are significantly engaged in providing financial products or services that include preparation and filing of tax returns, to give their customers privacy notices that explain the financial institution's information collection and sharing practices. In turn, customers have the right to limit some sharing of their information. Also, financial institutions and other companies that receive personal financial information from a financial institution may be limited in their ability to use that information.

Title 26 - Internal Revenue Code (IRC) Section 301 7216.1 imposes criminal penalties on any person engaged in the business of preparing or providing services in connection with the preparation of tax returns who knowingly or recklessly makes unauthorized disclosures or uses of information furnished to them in connection with the preparation of an income tax return.

Title 26 - Internal Revenue Code (IRC) Section 6713 imposes monetary penalties on the unauthorized disclosures or uses of taxpayer information by any person engaged in the business of preparing or providing services in connection with the preparation of tax returns. 26 USC Section 6713 also states "if any person who is engaged in the business of preparing, or providing services in connection with the preparation of, returns of tax imposed by chapter 1, or any person who for compensation prepares any such return for any other person, and who discloses any information furnished to him for, or in connection with, the preparation of any such return, or uses any such information for any purpose other than to prepare, or assist in preparing, any such return, shall pay a penalty of \$250 for each such disclosure or use, but the total amount imposed under this subsection on such a person for any calendar year shall not exceed \$10,000".⁽⁵⁴⁾

Providers must implement security and privacy practices that are appropriate for the size, complexity, nature, and scope of their business activities. The IRS [Publication 4600 - Safeguarding Taxpayer Information](#) and [Publication 4557 - Safeguarding Taxpayer Data](#) contain information to help non-governmental businesses, organizations, and individuals to understand and meet their responsibility to safeguard taxpayer information.⁽⁵⁵⁾

Identity Theft

Cybercriminals target tax professionals because you are custodians of highly sensitive client data. They attempt to steal your client's personal financial information so they can create fraudulent tax returns and claim fake refunds.

If you or your firm are the victim of data theft, immediately:

- **Report it to your local stakeholder liaison.**
Liaisons will notify IRS Criminal Investigation and others within the agency on your behalf. Speed is critical. If reported quickly, the IRS can take steps to block fraudulent returns in your clients' names and will assist you through the process.
- **Email the Federation of Tax Administrators at StateAlert@taxadmin.org.**
Get information on how to report victim information to the states. Most states require that the state attorney general be notified of data breaches. This notification process may involve multiple offices.

You are the first line of defense against identity theft. You must be alert and on guard at all times. In addition to trying to steal client data, thieves may try to steal your identity as well, using your PTINs, EFINs and CAF numbers to file



fraudulent returns or steal even more information. Federal law requires you to create, implement and maintain an information security plan to protect client data, no matter the size of your firm.

- Have your cybersecurity staff develop a data security plan.
- Contact a cybersecurity consultant.

You may not know about a data theft until your clients receive a notice or cannot e-file because the IRS already received a return with their Social Security Number. Remember, the IRS never:

- Initiates contact with taxpayers by email, text or social media to request personal or financial information.
- Calls taxpayers with threats of lawsuits or arrests.
- Calls, emails or texts to request taxpayers' Identity Protection Pins.

Identity theft generally occurs when someone uses the taxpayer's personal information such as his or her name, Social Security number (SSN) or other identifying information, without his or her permission, to commit fraud or other crimes.

The taxpayer should be alert to possible identity theft if he or she receives an IRS notice or letter that states that: ⁽⁵⁶⁾

- More than one tax return for the taxpayer was filed.
- The taxpayer has a balance due, refund offset, or has had collection actions taken against him or her for a year he or she did not file a tax return.
- IRS records indicate the taxpayer received wages from an employer unknown to him or her.

If the taxpayer receives a notice from IRS, respond immediately. If he or she believes someone may have used his or her SSN fraudulently, please notify IRS immediately by responding to the name and number printed on the notice or letter. The taxpayer will need to fill out the [Form 14039 - Identity Theft Affidavit](#).

Significance of Signatures

Penalty of Perjury

You must explain to the taxpayer that by signing their return that they are declaring that they have examined a copy of their individual income tax return and accompanying schedules and statements for the tax year, and to the best of their knowledge and belief, it is true, correct, and complete. By signing their return, the taxpayer is doing so 'under penalty of perjury'. Perjury is the willful act of swearing a false oath or affirmation to tell the truth, whether spoken or in writing and is punishable by Federal law. The rules for perjury also apply when a person has made a statement "under penalty of perjury".

An example of this is the United States' income tax return, which, by law, must be signed as true and correct under penalty of perjury. Federal tax law provides criminal penalties of up to three years in prison for violation of the tax return perjury statute.

Filing Instructions

A person filling out an 8879 form either declares on the form that he or she will enter the personal identification number on an electronically filed tax return or authorizes another party such as an electronic return originator, to do so. All 8879 forms are to be retained by the taxpayer/signee for a minimum of 3 years. Form 8879 is not sent to the IRS unless the department requests it.

Form 8879 IRS e-file Signature Authorization

[Form 8879 - IRS e-file Signature Authorization](#) is the declaration document and signature authorization for an e-filed return filed by an electronic return originator (ERO). Complete Form 8879 when the Practitioner PIN method is used or when the taxpayer authorizes the ERO to enter or generate the taxpayer's personal identification number (PIN) on his or her e-filed individual income tax return. Many types of these forms are available, and the form used depends on the business type. When completing Form 8879 the Electronic Return Originator (ERO) has specific responsibilities.



The ERO will do the following: ⁽⁵⁷⁾

1. Enter the name(s) and Social Security number(s) of the taxpayer(s) at the top of the form.
2. Complete Part I using the amounts (zeros may be entered when appropriate) from the taxpayer's 2019 tax return. Form 1040-SS filers leave lines 1 through 3 and line 5 blank.
3. Enter or generate, if authorized by the taxpayer, the taxpayer's PIN and enter it in the boxes provided in Part II.
4. Enter on the authorization line in Part II the ERO firm name (not the name of the individual preparing the return) if the ERO is authorized to enter the taxpayer's PIN.
5. After completing items (1) through (4) above, give the taxpayer Form 8879 for completion and review. This can be done in person or by using the U.S. mail, a private delivery service, fax, email, or an Internet website.
6. Enter the 14-digit Declaration Control Number (DCN) assigned to the tax return, after the taxpayer completes Part II. See Part I of [Publication 1346 - Electronic Return File Specifications for Individual Income Tax Returns](#).

Taxpayers have the following responsibilities for completing Form 8879 correctly: ⁽⁵⁷⁾

1. Verify the accuracy of the prepared income tax return, including direct deposit information.
2. Check the appropriate box in Part II to authorize the ERO to enter or generate their PIN or to do it themselves.
3. Indicate or verify their PIN when authorizing the ERO to enter or generate it (the PIN must be five numbers other than all zeros).
4. Sign and date Form 8879. Taxpayers must sign Form 8879 by handwritten signature.
5. Return the completed Form 8879 to the ERO in person, or by U.S. mail, private delivery service, fax, email, or an Internet website.

Form 8879-C - IRS e-file Signature Authorization for Form 1120

A corporate officer and an electronic return originator (ERO) use [Form 8879-C](#) when the corporate officer wants to use a personal identification number (PIN) to electronically sign a corporation's electronic income tax return and, if applicable, consent to electronic funds withdrawal. A corporate officer who does not use Form 8879-C must use [Form 8453-C - U.S. Corporation Income Tax Declaration](#) for an IRS e-file Return. Do not send this form to the IRS. The ERO must retain Form 8879-C. ⁽⁵⁸⁾

Form 8879-PE - IRS e-file Signature Authorization for Form 1065

A general partner or limited liability company member manager and an electronic return originator (ERO) use [Form 8879-PE](#) when the general partner or limited liability company member manager wants to use a personal identification number (PIN) to electronically sign a partnership's electronic return of partnership income. A general partner or limited liability company member manager who does not use Form 8879-PE must use [Form 8453-PE - U.S. Partnership Declaration](#) for an IRS e-file Return. Do not send this form to the IRS. The ERO must retain Form 8879-PE. ⁽⁵⁹⁾

Form 8879-EO - IRS e-file Signature Authorization for an Exempt Organization

An organization officer and an electronic return originator (ERO) use [Form 8879-EO](#) when the organization officer wants to use a personal identification number (PIN) to electronically sign an organization's electronic return and, if applicable, authorize an electronic funds withdrawal. An organization officer who does not use Form 8879-EO must use [Form 8453-EO - Exempt Organization Declaration and Signature for Electronic Filing](#). The ERO must retain Form 8879-EO. An organization may qualify for exemption from Federal income tax if it is organized and operated exclusively for one or more of the following purposes: ⁽⁶⁰⁾

- Religious.
- Charitable.
- Scientific.
- Testing for public safety.
- Literary.
- Educational.
- Fostering national or international amateur sports competition (but only if none of its activities involve providing athletic facilities or equipment).
- The prevention of cruelty to children or animals.



To qualify, the organization must be a corporation, community chest, fund, articles of association, or foundation. A trust is a fund or foundation and will qualify. Sole proprietorships, partnerships, individuals, or loosely associated groups of individuals will not qualify. Qualifying organizations include:

- Nonprofit old-age homes.
- Parent-teacher associations.
- Charitable hospitals or other charitable organizations.
- Alumni associations.
- Schools.
- Chapters of the Red Cross.
- Boys' or Girls' Clubs.
- Churches.

Return of Organization Exempt From Income Tax

Form 990 - Return of Organization Exempt From Income Tax is used by tax-exempt organizations, nonexempt charitable trusts, and Section 527 political organizations to provide the IRS with the information required by Section 6033. Most organizations exempt from income tax under Section 501(a) must file an annual information return (Form 990 or 990-EZ) or submit an annual electronic notice (Form 990-N), depending upon the organization's gross receipts and total assets. An organization does not have to file Form 990 or 990-EZ even if it has at least \$200,000 of gross receipts for the tax year or \$500,000 of total assets at the end of the tax year if they are: ⁽⁶¹⁾

- A church, an interchurch organization of local units of a church, a convention or association of churches, or an integrated auxiliary of a church as described in Regulations Section 1.6033-2(h) (such as a men's or women's organization, religious school, mission society, or youth group).
- A church-affiliated organization that is exclusively engaged in managing funds or maintaining retirement programs and is described in Revenue Procedure 96-10, 1996-1 C.B. 577. But see the filing requirements for Section 509(a)(3) supporting organizations in A, Who Must File.
- A school below college level affiliated with a church or operated by a religious order described in Regulations Section 1.6033-2(g)(1)(vii).
- A mission society sponsored by, or affiliated with, one or more churches or church denominations, if more than half of the society's activities are conducted in, or directed at, persons in foreign countries.
- An exclusively religious activity of any religious order described in Revenue Procedure 91-20, 1991-1 C.B. 524.
- A state institution whose income is excluded from gross income under Section 115.
- A governmental unit or affiliate of a governmental unit described in Revenue Procedure 95-48, 1995-2 C.B. 418. But see the filing requirements for Section 509(a)(3) supporting organizations.
- An organization described in Section 501(c)(1). A Section 501(c)(1) organization is a corporation organized under an Act of Congress that is an instrumentality of the United States and exempt from Federal income taxes.
- Certain political organizations that are:
 - A state or local committee of a political party;
 - A political committee of a state or local candidate;
 - A caucus or association of state or local officials; or
 - Required to report under the Federal Election Campaign Act of 1971 as a political committee (as defined in Section 301(4) of such Act).
- An organization whose gross receipts are normally \$50,000 or less.
- Foreign organizations and organizations located in U.S. possessions, whose gross receipts from sources within the United States are normally \$50,000 or less and which did not engage in significant activity in the United States (other than investment activity). But if a foreign organization or U.S. Possessions organization is required to file Form 990 or Form 990-EZ, then its worldwide gross receipts, as well as assets, are taken into account in determining whether it qualifies to file Form 990-EZ.
- A private foundation (including a private operating foundation) exempt under Section 501(c)(3) and described in Section 509(a). The taxpayer should use [Form 990-PF - Return of Private Foundation](#). The taxpayer should also use Form 990-PF for a taxable private foundation, a Section 4947(a)(1) nonexempt charitable trust treated as a private foundation, and a private foundation terminating its status by becoming a public charity under Section 507(b)(1)(B) (for tax years within its 60-month termination period). If the organization successfully terminates, then it files Form 990 or 990-EZ in its final year of termination.



- A black lung benefit trust described in Section 501(c)(21). Use Form 990-BL, Information and Initial Excise Tax Return for Black Lung Benefit Trusts and Certain Related Persons.
- A religious or apostolic organization described in Section 501(d). Use Form 1065, U.S. Return of Partnership Income.
- A stock bonus, pension, or profit-sharing trust that qualifies under Section 401. Use Form 5500 - Annual Return/Report of Employee Benefit Plan.

Rejected Electronically Filed Returns

A rejected electronic return (from E-file) is usually the result of an identity problem which triggers IRS correspondence and slows down processing of tax returns. This unique feature of e-file enables preparers and taxpayers to fix mistakes before returns are processed, decreasing overall processing time and shortening the time it takes to receive a refund. If the reject is for a simple mistake, correct the error and resubmit the return electronically. If a mistake was made when entering a Social Security number, a payer's identification number, omitting a form, or misspelling a name; the errors can be corrected, and the return can be resubmitted electronically with the IRS.

However, you may not be able to correct some rejects. For example, if the return is rejected because an exemption has been claimed on another taxpayer's return, check that the Social Security number of the exemption was entered correctly on the return. If the SSN is correct, you will not be able to file this return electronically unless the exemption is removed from the return. If you believe the taxpayer is entitled to claim the exemption, it is not necessary to remove the exemption, but the return must be filed on paper. Attach [Form 8948 - Preparer Explanation for Not Filing Electronically](#), to the paper return; check box 4 and enter the reject code number.

There are other situations where the rejected return may or may not be corrected but it takes one or more tries to resolve. For example, some rejects are based on information on file with the Social Security Administration (SSA). Tax returns often require that both the name and date of birth associated with an SSN match SSA records. Taxpayers sometimes forget to update their records with SSA when they marry or divorce and this can cause their tax returns to reject. This can be resolved by matching SSA records, but if there is some other problem at SSA like a problem with the date of birth, the reject sometimes cannot be resolved. When this happens, the return must be filed on paper. Attach Form 8948 to the paper return and check box 4; enter the reject code number and the number of attempts you made to resolve the reject before deciding that the error could not be fixed.

Resubmission of Rejected Tax Returns

If the IRS rejects the electronic portion of a taxpayer's individual income tax return for processing, and the ERO cannot rectify the reason for the rejection, the ERO must take reasonable steps to inform the taxpayer of the rejection within 24 hours. When the ERO advises the taxpayer that it has not filed the return, the ERO must provide the taxpayer with the reject code(s) accompanied by an explanation. If the taxpayer chooses not to have the electronic portion of the return corrected and transmitted to the IRS, or if the IRS cannot accept the return for processing, the taxpayer must file a paper return. In order to timely file the return, the taxpayer must file the paper return by the later of the due date of the return or ten calendar days after the date the IRS gives notification that it rejected the electronic portion of the return or that the return cannot be accepted for processing. Taxpayers should include an explanation in the paper return as to why they are filing the return after the due date.

Notice 2010-13 provides that a taxpayer required to e-file can request a waiver from the electronic filing requirement when it cannot meet the electronic filing requirements. Before filing a paper return, corporations, partnerships and tax-exempt organizations required to e-file must contact the e-Help Desk (1-866-255-0654) to attempt to resolve the rejection conditions. If the rejection conditions cannot be resolved, these taxpayers must receive authorization from the e-Help Desk before filing a paper return. ⁽⁶²⁾

To be considered timely filed, the paper return must be postmarked by the later of the due date of the return, including extensions, or 10 calendar days after the date the IRS last gives notification the return was rejected as long as: ⁽⁶³⁾

1. The first transmission was made on or before the due date of the return (including extensions).
2. The last transmission was made within 10 calendar days of the first transmission.



Timeframe for Submitting Electronic Returns

There are several key dates related to electronic filing, listed below for tax year 2019:

Important Dates and Filing Deadlines for 2019 Federal Tax Returns	
January 15, 2020	4th Quarter 2019 Estimated Tax Payment Due.
January 27, 2020	First day to electronically file.
January 27, 2020	IRS starts processing previously stockpiled returns.
January 31, 2020	All businesses must give annual information statements to recipients of certain payments they made during 2019.
March 15, 2020	Deadline for filing a 2019 S-corporation and Partnership return or extension.
April 15, 2020	Deadline for filing a 2019 Corporation return or extension.
April 15, 2020	Deadline for filing a 2019 personal tax returns or extension.
April 15, 2020	1st Quarter 2020 Estimated Tax Payment Due.
June 15, 2020	Deadline for filing a 2019 personal return for U.S. citizens or residents living and working abroad, including military duty.
June 15, 2019	2nd Quarter 2020 Estimated Tax Payment Due.
September 16, 2020	3rd Quarter 2020 Estimated Tax Payment Due.
October 15, 2020	Final deadline to file the taxpayer's 2019 personal tax return if he or she filed an extension on or before April 15.

Table 4-2 - Important Dates and Filing Deadlines for Federal Tax Returns (2019)

Payment Options

Because a taxpayer's balance is subject to interest and a monthly late payment penalty, it is in his or her best interest to pay in full as soon as possible to minimize the additional charges. Penalties are also assessed for failure to file a tax return so an individual should file immediately even if he or she cannot pay the balance in full. There are many ways to pay an outstanding Federal income tax liability. A taxpayer may pay by check or money order, made payable to "United States Treasury". The IRS offers various electronic payment options for paying Federal taxes and user fees. These options are convenient, safe, and secure, and some of them are free.

Electronic Federal Tax Payment System (EFTPS)

Electronic Federal Tax Payment System (EFTPS) is a system for paying Federal taxes electronically using the Internet, or by phone using the EFTPS Voice Response System. EFTPS is offered free by the U.S. Department of Treasury. Once enrolled, individual and business taxpayers can use the internet to make all their Federal tax payments or via the phone using the EFTPS Voice Response System. Both payment methods are interchangeable. ⁽⁶⁴⁾

Debit or Credit Card

A taxpayer can pay by debit or credit card whether he or she e-files, paper files or is responding to a bill or notice. The IRS uses standard service providers and commercial card networks. ⁽⁶⁵⁾

- The payment will be processed by a payment processor who will charge a processing fee, which may be tax deductible. The fees vary by service provider.
- The taxpayer's information will only be used to process the payment.
- No part of the service fee goes to the IRS.
- The types of payments (Individual or Business) and limits on how many debit or credit card payments a taxpayer can make in a year, quarter, or month, vary according to the type of tax he or she is paying.

When a taxpayer is using a debit or credit card for payment, keep in mind these additional considerations: ⁽⁶⁵⁾

- High balance payments of \$100,000 or greater may require special coordination with the service provider chosen.
- The taxpayer cannot make Federal Tax Deposits with a debit or credit card.
- The taxpayer cannot get an immediate release of a Federal Tax Lien by making a debit or credit card payment.
- Making an electronic payment eliminates the need to use a voucher.



- On the monthly debit or credit card statement, the payment to the IRS will be listed as "United States Treasury Tax Payment." The convenience fee paid to the service provider will be listed as "Tax Payment Convenience Fee" or something similar.
- If the taxpayer made an overpayment, IRS will refund it after the return is processed, except in circumstances such as offsets or debt on the account.

Check or Money Order

If the taxpayer chooses to mail the tax payment: ⁽⁶⁶⁾

- Make the check, money order or cashier's check payable to U.S. Treasury. Enter the amount on the check using all numbers (\$###.##), and do not use staples or paper clips to affix a payment to a voucher or return.
- Include the taxpayer's name, address, daytime phone number, Social Security number (the SSN shown first if it's a joint return) or employer identification number, tax period and related tax form or notice number on the form of payment.
- Mail the payment to the address listed on the notice or instructions.

The taxpayer does not send cash through the mail. He or she should check the services provided at the local IRS office to see if cash payments are accepted.

IRS Direct Pay

IRS Direct Pay is a new payment application that allows individual taxpayers with a valid Social Security Number to make IRS payments directly from their checking or savings accounts. It is free, secure and provides an electronic payment confirmation while reducing processing costs. Only Form 1040 payments and associated penalties can be made through IRS Direct Pay. IRS Direct Pay just began a pilot phase for a limited number of taxpayers (up to 1.2 million). These taxpayers will receive a flyer explaining the service with their balance due notices.



The taxpayer must have a valid Social Security Number (SSN) to use this application. This application cannot accommodate Individual Taxpayer Identification Numbers (ITINs).

Taxpayers receive instant confirmation that the payment has been submitted, and the system is available 24 hours a day, 7 days a week. Bank account information is not retained in any IRS systems after payments are completed. IRS Direct Pay also offers 30-day advance payment scheduling, payment rescheduling or cancellations, and a payment status search. Future plans include an option for e-mailed payment confirmation, a Spanish version and one-time registration with a login and password to allow quick access on return visits.

Installment Agreements

An individual can make monthly payments through an installment agreement if he or she is not financially able to pay the tax debt immediately. However, the taxpayer will reduce or eliminate the amount of penalties and interest he or she pays and can avoid the fee associated with setting up an installment agreement if he or she can pay the tax bill in full. Before applying the taxpayer should: ⁽⁶⁷⁾

1. File all required tax returns.
2. Consider other sources (loan or credit card) to pay his or her tax debt in full to save money.
3. Determine the largest monthly payment he or she can make (\$25 minimum).
4. Know that his or her future refunds will be applied to his or her tax debt until it is paid in full.

Interest and some penalty charges continue to be added to the amount the taxpayer owes until the balance is paid in full.

The Office of Management and Budget has directed federal agencies to charge user fees for services such as the Installment Agreement program. The IRS utilizes the user fees to cover the cost of processing installment agreements. In 2019, fees for setting up an installment agreement: ⁽⁶⁷⁾

- \$107 for a direct debit agreement.
- \$225 for a standard agreement or payroll deduction agreement.
- \$43 if income is below a certain level.



The taxpayer can apply for an installment agreement in the following manner: ⁽⁶⁷⁾

- Apply online if the taxpayer owes \$50,000 or less in combined individual income tax, penalties and interest.
- Call the phone number on the bill or notice.
- Complete and mail [Form 9465 - Installment Agreement Request](#). If the taxpayer owes more than \$50,000, he or she will also need to complete [Form 433-F - Collection Information Statement](#).



The IRS has revised the user fee schedule for installment agreements. The new fee schedule applies to installment agreements entered into, restructured or reinstated on or after January 2, 2017. The final regulations increase the existing user fees (except for low-income taxpayers) and create two new types of online installment agreements, each subject to a separate fee. Five of these rates are based on the full cost of establishing and monitoring installment agreements, while the sixth rate is for low-income taxpayers.

Estimated Taxes

As a reminder, estimated tax is the method used to pay tax on income that is not subject to withholding. This includes income from self-employment, interest, dividends, alimony, rent, gains from the sale of assets, prizes and awards. The taxpayer may also have to pay estimated tax if the amount of income tax being withheld from his or her salary, pension, or other income is not enough.

Estimated tax is used to pay income tax and self-employment tax, as well as other taxes and amounts reported on the tax return. If the taxpayer does not pay enough through withholding or estimated tax payments, he or she may be charged a penalty. If the taxpayer does not pay enough by the due date of each payment period, he or she may be charged a penalty even if he or she is due a refund when the tax return is filed.

If the taxpayer is filing as a sole proprietor, partner, S corporation shareholder, and/or a self-employed individual, he or she generally will have to make estimated tax payments if he or she expects to owe tax of \$1,000 or more when filing the return. If the taxpayer is filing as a corporation, he or she generally has to make estimated tax payments for the corporation if he or she expects it to owe tax of \$500 or more when filing its return. The taxpayer does not have to pay estimated tax for the current year if he or she meets all three of the following conditions: ⁽⁶⁸⁾

1. The taxpayer had no tax liability for the prior year.
2. The taxpayer was a U.S. citizen or resident for the whole year.
3. The taxpayer's prior tax year covered a 12-month period.

When figuring the estimated tax for the current year, it may be helpful to use the taxpayer's income, deductions, and credits for the prior year as a starting point. Use the worksheet in [Form 1040-ES - Estimated Tax for Individuals](#) to figure the estimated tax. It is important to remember to make adjustments both for changes in the taxpayer's work situation and for recent changes in the tax law.

For estimated tax purposes, the year is divided into four payment periods. Each period has a specific payment due date. If the taxpayer does not pay enough tax by the due date of each of the payment periods, he or she may be charged a penalty even if he or she is due a refund when the taxpayer files the income tax return. Generally, most taxpayers will avoid this penalty if they owe less than \$1,000 in tax after subtracting their withholdings and credits, or if they paid at least 90% of the tax for the current year, or 100% of the tax shown on the return for the prior year, whichever is smaller. The penalty may also be waived if: ⁽⁶⁸⁾

- The failure to make estimated payments was caused by a casualty, disaster, or other unusual circumstance and it would be inequitable to impose the penalty.
- The taxpayer retired (after reaching age 62) or became disabled during the tax year for which estimated payments were required to be made or in the preceding tax year, and the underpayment was due to reasonable cause and not willful neglect.

As of January 1, 2013, a Net Investment Income Tax (NIIT) applies at a rate of 3.8% to individuals, estates, and trusts that have certain investment income above threshold amounts. When calculating the 2019 estimated tax payments, the taxpayer may need to take account of any additional tax liability associated with the NIIT.



Refund Options

Taxpayers have three options for receiving their individual Federal income tax refund: ⁽⁶⁹⁾

- Direct deposit (electronic funds transfer) into a checking or savings account, including an individual retirement arrangement (IRA).
- Purchase of U.S. Series I Savings Bonds.
- Paper check.

If the taxpayer chooses to receive his or her refund by direct deposit, he or she can request that the refund be deposited in up to three separate accounts, such as checking, savings, or retirement accounts – just complete [Form 8888 - Allocation of Refund \(Including Savings Bond Purchases\)](#). However, if the taxpayer files [Form 8379 - Injured Spouse Allocation](#), he or she cannot have his or her refund direct-deposited into more than one account. The refund should only be deposited directly into accounts that are in the taxpayer's own name, his or her spouse's name or both if it's a joint account. Please note that to receive the refund by direct deposit (whether into one account or more), the total refund amount must be \$1.00 or more.

Providers should caution taxpayers that some financial institutions do not permit the deposit of joint individual income tax refunds into individual accounts. The IRS is not responsible if the financial institution refuses Direct Deposit for this reason. Check or share draft accounts that are "payable through" another institution may not accept Direct Deposit. Taxpayers should verify their financial institution's Direct Deposit policy before they elect the Direct Deposit option.

If the taxpayer files a complete and accurate tax return, the refund should be issued within 21 days of the received date. This timeframe does not include mail and IRS handling time for paper returns. Even though the IRS issues most refunds in less than 21 days, it's possible the tax return may require review and take longer.

Use [Where's My Refund?](http://www.irs.gov/Refunds/Where's-My-Refund-It's-Quick,-Easy,-and-Secure.) (<http://www.irs.gov/Refunds/Where's-My-Refund-It's-Quick,-Easy,-and-Secure.>) to get personalized refund status. Just use [IRS2Go](#), the free mobile app, for an iPhone or Android device, or go to [www.IRS.gov](http://www.irs.gov). Both are available 24 hours a day, 7 days a week. The taxpayer can start checking on the status of the return within 24 hours after the IRS receives the e-filed return or 4 weeks after he or she mails a paper return.

Processing may take longer under certain circumstances. Refunds from amended returns will generally be issued within 12 weeks. Injured spouse claims can take longer depending on the circumstances. If the taxpayer receives a refund to which he or she is not entitled, or one for an amount that is more than he or she expected, the person should not cash the check until he or she receives a notice explaining the difference; then follow the instructions on the notice. On the other hand, if the taxpayer receives a refund for a smaller amount than he or she expected, the person may cash the check, and, if it is determined that he or she should have received more, the person will later receive a check for the difference. The taxpayer will also get a notice explaining the difference.

Form 8888 - Allocation of Refund (Including Savings Bond Purchases)

A taxpayer should use Form 8888 if he or she wants to directly deposit his or her refund (or part of it) to one or more accounts at a bank or other financial institution (such as a mutual fund, brokerage firm, or credit union) in the United States or he or she wants to use the refund to buy up to \$5,000 in paper series I savings bonds.

Overpayment

If a taxpayer thinks he or she paid too much tax, he or she may file a claim for refund. The taxpayer must generally file the claim within 3 years from the date he or she filed the original return or 2 years from the date he or she paid the tax, whichever is later. The law generally provides for interest on the refund if it is not paid within 45 days of the date the taxpayer filed the return or claim for refund. [Publication 556 - Examination of Returns, Appeal Rights, and Claims for Refund](#), has more information on refunds.

If the taxpayer was due a refund but he or she did not file a return, the taxpayer generally must file the return within 3 years from the date the return was due (including extensions) to get that refund. Also, if the taxpayer files his or her claim within 3 years after filing the return, the credit or refund cannot be more than the part of the tax paid within the 3 years (plus the length of any extension of time granted for filing the return) before he or she filed the claim.



If the taxpayer files a claim after the 3-year period, but within 2 years from the time he or she paid the tax, the credit or refund cannot be more than the tax he or she paid within the 2 years immediately before the taxpayer filed the claim. ⁽⁷⁰⁾

Refund Offsets

Certain financial debts from the taxpayer's past may affect his or her current Federal tax refund. The law allows the use of part or all of a Federal tax refund to pay other Federal or state debts that an individual owes. Here are six facts from the IRS that every taxpayer should know about tax refund offsets: ⁽⁷¹⁾

1. A tax refund offset generally means the U.S. Treasury has reduced a Federal tax refund to pay for certain unpaid debts.
2. The Treasury Department's Bureau of the Fiscal Service (BFS) is the agency that issues tax refunds and conducts the Treasury Offset Program.
3. If a taxpayer has unpaid debts, such as overdue child support, state income tax or student loans, BFS may apply part or all of the tax refund to pay that debt.
4. The taxpayer will receive a notice from BFS if an offset occurs. The notice will include the original tax refund amount and the offset amount. It will also include the agency receiving the offset payment and that agency's contact information.
5. If the taxpayer believes he or she does not owe the debt or wants to dispute the amount taken from the refund, he or she should contact the agency that received the offset amount, not the IRS or BFS.
6. If the taxpayer filed a joint tax return, he or she may be entitled to part or all of the refund offset. This rule applies if the taxpayer's spouse is solely responsible for the debt. To request his or her part of the refund, file [Form 8379 - Injured Spouse Allocation](#).

The Department of Treasury's Bureau of the Fiscal Service (BFS), which issues IRS tax refunds, has been authorized by Congress to conduct the Treasury Offset Program (TOP).

Through this program, a refund or overpayment may be reduced by BFS and offset to pay: ⁽⁷²⁾

- Past-due child support.
- Federal agency non-tax debts.
- State income tax obligations.
- Certain unemployment compensation debts owed to a state. (Generally, these are debts for compensation that was paid due to fraud or for contributions due to a state fund that were not paid due to fraud).

A taxpayer can contact the agency with which he or she has a debt, to determine if the debt was submitted for a tax refund offset. If the debt was submitted for offset, BFS will take as much of the taxpayer's refund as is needed to pay off the debt and send it to the agency he or she owes. Any portion of the refund remaining after offset will be issued in a check to the taxpayer or direct deposited.

BFS will send a notice if an offset occurs. The notice will reflect the original refund amount, the offset amount, the agency receiving the payment, and the address and telephone number of the agency. BFS will notify the IRS of the amount taken from the refund. Contact the agency shown on the notice if the taxpayer believes he or she does not owe the debt, or if the taxpayer is disputing the amount taken from the refund. If a notice is not received, contact BFS.

Amended Returns

If the taxpayer discovers an error after his or her return has been filed, he or she may need to amend the return. The IRS may correct errors in math on a return and may accept returns with certain forms or schedules left out. In these instances, do not amend the return. However, do file an amended return if there is a change in the taxpayer's filing status, income, deductions, or credits. Generally, to claim a refund, [Form 1040-X - Amended U.S. Individual Income Tax Return](#) must be filed within 3 years from the due date of the original return or within 2 years from the date the taxpayer paid the tax, whichever is later. Returns filed before the due date (without regard to extensions) are considered filed on the due date. ⁽⁷³⁾



Review

The following pages contain several review questions that are designed to help you learn the material you have just studied and prepare you for the exam. Review questions are for instructional use only and you will not be graded on these questions. We also provide you both the answers to each question and an explanation or feedback as to how we arrived at each answer.

Best practice suggests that you should try to answer these questions on your own first, and only then refer to the answer key and feedback to see how well you did in terms of learning the material.

Review Questions

Answers appear in [Review Feedback](#)

1. Vincent filed his 2015 tax return on April 15, 2016. He paid \$500 in tax. On November 2, 2017, after an examination of his 2015 return, he had to pay \$200 in additional tax. On May 2, 2019, he files a claim for a refund of \$300. Vincent's refund will be limited to what amount?
 - A. \$0
 - B. \$100
 - C. \$200
 - D. \$300
2. Violations of IRS e-file requirements may result in warning or sanctioning an Authorized IRS e-file Provider. Sanctioning may include which of the following?
 - A. Written reprimand
 - B. Suspension from participation from IRS e-file program
 - C. Expulsion from participation from IRS e-file program
 - D. All of the above
3. In most circumstances, a sanction is effective how many days after the date of the letter informing of the sanction or the date the reviewing offices or the Office of Appeals affirms the sanction?
 - A. 10 days
 - B. 14 days
 - C. 20 days
 - D. 30 days
4. One of the basic records is proof of payment. The taxpayer should keep these records to support certain amounts shown on his or her tax return. All of the following are true regarding proof of payment except:
 - A. Proof of payment alone is not proof that the item claimed on the return is allowable
 - B. The taxpayer also should keep other documents that will help prove that the item is allowable
 - C. Generally, the taxpayer proves payment with a cash receipt, financial account statement, credit card statement, canceled check, or substitute check
 - D. If the taxpayer makes payments by electronic funds transfer, he or she cannot prove payment with an account statement
5. Wayne and his former spouse filed a joint return showing \$5,000 of tax, which was fully paid. The IRS later examines the return and finds \$10,000 of income that Wayne's former spouse earned but did not report. With the additional income, the total tax becomes \$6,500. The understated tax is what amount, for which Wayne and his former spouse are both liable?
 - A. \$0
 - B. \$1,500
 - C. \$3,500
 - D. \$6,500



Review Feedback

[Return to Review Questions](#)

Question 1 - C. \$200

If the taxpayer files a claim after the 3-year period, but within 2 years from the time he or she paid the tax, the credit or refund cannot be more than the tax he or she paid within the 2 years immediately before the taxpayer filed the claim. In this case, Vincent's refund will be limited to the \$200 he paid during the 2 years immediately before he filed his claim.

Topic - [Overpayment](#)

Source - [Publication 556 - Limit on Amount of Refund](#)

Question 2 - D. All of the above

Sanctioning may be a written reprimand, suspension or expulsion from participation from IRS e-file, or other sanctions, depending on the seriousness of the infraction. The IRS categorizes the seriousness of infractions as Level One, Level Two and Level Three.

Topic - [Submitting a Timely Filed Electronic Tax Return](#)

Source - [IRS.GOV - Sanctioning](#)

Question 3 - D. 30 days

In most circumstances, a sanction is effective 30 days after the date of the letter informing of the sanction or the date the reviewing offices or the Office of Appeals affirms the sanction, whichever is later. In certain circumstances, the IRS can immediately suspend or expel a Provider, Principal or Responsible Official without warning or notice.

Topic - [Submitting a Timely Filed Electronic Tax Return](#)

Source - [IRS.GOV - Sanctioning](#)

Question 4 - D. If the taxpayer makes payments by electronic funds transfer, he or she cannot prove payment with an account statement

One of the basic records is proof of payment. The taxpayer should keep these records to support certain amounts shown on his or her tax return. Proof of payment alone is not proof that the item claimed on the return is allowable. The taxpayer also should keep other documents that will help prove that the item is allowable. Generally, the taxpayer proves payment with a cash receipt, financial account statement, credit card statement, canceled check, or substitute check. If he or she makes payments in cash, he or she should get a dated and signed receipt showing the amount and the reason for the payment. If the taxpayer makes payments by electronic funds transfer, he or she may be able to prove payment with an account statement.

Topic - [Proof of Payment](#)

Source - [Publication 552 - Basic Records - Proof of Payment](#)

Question 5 - B. \$1,500

The taxpayer has an understated tax if the IRS determined that his or her total tax should be more than the amount actually shown on the return. For this example, the understated tax is \$1,500, for which Wayne and his former spouse are both liable.

Topic - [Joint and Several Liability](#)

Source - [Instructions for Form 8857](#)

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Practice Exam Instructions

The Special Enrollment Exam (SEE) is based on the results of a survey sent to over 10,000 enrolled agents and it represents the knowledge needed for the tasks performed by enrolled agents. For *Part 3 - Representation, Practice and Procedures* you will be tested on four subject areas:

- Section 1: Practices and Procedures (25 Questions)
- Section 2: Representation before the IRS (24 Questions)
- Section 3: Specific Types of Representation (19 Questions)
- Section 4: Completion of the Filing Process (17 Questions)

The *Part 3 - Representation, Practice and Procedures* exam contains 100 multiple-choice questions. There are 85 questions that are scored and 15 questions that are experimental and not scored.

IRSTaxTraining.com, Inc. has prepared two practice examinations that have the EXACT look, feel and functionality of the Special Enrollment Exam (SEE). You will see this exact screen on the day of your test. You have the ability to mark questions you would like to come back and answer later, as well as a review button that will give you an overview of what you have and have not answered. Our practice tests also include the ability to 'clear' or 'reset' the tests so that you can take them more than once. We recommend you do this so that you become comfortable with the testing environment and time limitation.

When taking the exam remember to have patience. Always check and re-read the answers. Do not immediately select the answer that "looks right". Slow down and choose the best possible answer. Most people have plenty of time. Also, remember the exams usually use 1-year-old rules. Make sure you check to see which year is being tested.

For exams taken between **May 1, 2020 – February 28, 2021**, all references on the examination are to the Internal Revenue Code, forms and publications, as amended through December 31, 2019. Also, unless otherwise stated, all questions relate to the calendar year 2019. Questions that contain the term 'current tax year' refer to the calendar year 2019. In answering questions, candidates should not take into account any legislation or court decisions after December 31, 2019.

When answering questions in this study guide, candidates should account for any changes to tax law as a result of the Tax Cuts and Jobs Act (TCJA).

For this study guide, all questions relate to **tax year 2019**.

We advise that you take these practice tests in one continuous sitting, with a time limit of 3½ hours. You should set aside a period of time that you know you will not be interrupted. If you finish in less time that is fine but try to ensure you complete it within this time frame. When you are finished, submit your answers and you will see the questions you missed. While you are given an answer key, we strongly recommend you repeat the practice tests until you score 90% or better within the time limitation.

These practice exams can be taken online at www.IRSTaxTraining.com. You simply login using your e-mail address and password and click on the examination you wish to take. Your results will be made immediately available to you after you press the complete and submit button and you also have access to the answer keys for both practice tests. You can clear the exams of your answers and re-take them as often as you like and in fact, we recommend you do so. We are here to help you pass the exam, so if you have questions or comments please e-mail us at Support@irstaxtraining.com.

All questions pertain to Tax Year 2019 unless noted.

1. A frivolous income tax return is one that does not include enough information to figure the correct tax or that certain information clearly showing that the tax that was reported is substantially incorrect. If a taxpayer files a frivolous return, which penalty applies specifically to the taxpayer for the frivolous return?
 - A. \$50 for failure to supply his or her Social Security number
 - B. \$100 for the failure to furnish the tax shelter registration number
 - C. 20% of the underpayment, reduced for those items for which there was adequate disclosure made
 - D. \$5,000 frivolous return penalty, applied in addition to any other applicable penalty or penalties

2. With regard to continuing professional education (CPE) for enrolled agents, which of the following statements is false?
 - A. An individual who receives initial enrollment during an enrollment cycle must complete 2 hours of CPE credit for each month enrolled during the cycle, beginning with the month the individual is enrolled
 - B. An enrolled agent must complete a minimum of 16 hours of CPE credit in each year of an enrollment cycle if enrolled for the entire cycle
 - C. An enrolled agent must complete a minimum of 72 hours of CPE credit if enrolled for an entire enrollment cycle
 - D. An enrolled agent may obtain CPE credits only from an organization that has filed a sponsor agreement with the IRS to obtain approval of its program as a qualified CPE program

3. For taxpayers who want someone to represent them in their absence at an examination or an appeal with the IRS, all of the following statements are true except:
 - A. The taxpayer must furnish that representative with written authorization on *Form 2848 - Power of Attorney and Declaration of Representative*, or any other properly written authorization
 - B. The representative can be an attorney, a certified public accountant, or an enrolled agent
 - C. The representative can be anyone who helped the taxpayer prepare the return
 - D. Even if the taxpayer appointed a representative, the taxpayer may attend the examination or appeals conference and may act on his or her own behalf

4. A practitioner may withhold records from the IRS if he or she believes in good faith and on reasonable grounds that the records or information is which of the following?
 - A. Irrelevant
 - B. Incriminating
 - C. Confidential
 - D. Privileged

5. An enrolled agent may be disbarred or suspended from IRS practice for which of the following conduct?
 - A. Criminal conviction of an offense under the Internal Revenue Code
 - B. Misappropriation of funds received from a client for the purpose of tax payments
 - C. Disbarment or suspension from the practice as an attorney, C.P.A., accountant or actuary
 - D. All of the above

6. A taxpayer should keep all employment tax records for at least how many years after the date that the tax becomes due or is paid, whichever is later?
 - A. 3 years
 - B. 4 years
 - C. 5 years
 - D. 6 years



7. Jenny James is a CPA who is representing Steve and Ashley O'Brien before the Wage and Investment Division of the Internal Revenue Service. The IRS is questioning Steve and Ashley on contributions that were listed on page 2 of their Form 1040. While reviewing the documentation provided by Steve and Ashley, Jenny discovers contributions that were made to a non-qualified organization. What is the appropriate action for Jenny to take?
- A. Jenny must advise Steve and Ashley on how to keep the inaccuracy from being discovered by the IRS
 - B. Jenny must notify the Internal Revenue Service that she is no longer representing Steve and Ashley by withdrawing her Form 2848
 - C. Jenny must advise Steve and Ashley promptly of the inaccuracy and the consequences provided by the Internal Revenue Code and Regulations for such an inaccuracy
 - D. Jenny must immediately advise the Internal Revenue Service examiner of the non-qualified contributions
8. After the issuance of a Statutory Notice of Deficiency, failure to timely file a petition with the U.S. Tax Court will result in which of the following?
- A. The Internal Revenue Service will issue a 30-day letter
 - B. The Internal Revenue Service will issue a 90-day letter
 - C. The Internal Revenue Service will assess the tax it says the taxpayer owes
 - D. The taxpayer will be required to post a deposit before being allowed to request an extension for time to file a petition
9. Failure to file an answer to a complaint instituting a proceeding for disbarment by the original or extended deadline constitutes which of the following?
- A. An error that can be corrected by filing the answer with the Administrative Law Judge within one year of the original (or extended) deadline
 - B. Grounds for criminal sanctions
 - C. An admission of the allegations in the complaint and a waiver of a hearing
 - D. Legal estoppel against the practitioner
10. Will Smith passed all parts of the Special Enrollment Examination (SEE) in October of 2018. Will submitted the required forms to become an enrolled agent. Will failed the suitability test performed by the Internal Revenue Service, and the IRS informed Will that he was denied participation and provided him with the reasons for the denial. Will received the notice on January 20, 2019. What action should Will take to appeal the denial received from the IRS?
- A. Will must file a petition no later than the 30th of January with the District Court
 - B. Will must file a written appeal no later than the 19th of February with the Commissioner of Internal Revenue Service or his delegate
 - C. Will must file a written appeal no later than the 19th of February with the Secretary of the Treasury or his delegate
 - D. Will must file a written appeal no later than the 30th of January with the Secretary of the Treasury or his delegate
11. A notice of disbarment or suspension of a certified public accountant from practice before the Internal Revenue Service is issued to all of the following except:
- A. State authorities
 - B. IRS employees
 - C. Interested departments and agencies of the Federal government
 - D. Local county commissioner's board
12. What is the penalty for a tax preparer for failure to sign a return or claim for refund?
- A. \$50 for each failure
 - B. \$100 for each failure
 - C. \$250 for each failure
 - D. \$500 for each failure



13. To maintain active enrollment to practice before the Internal Revenue Service, each individual enrolled is required to have his or her enrollment renewed. The Office of Professional Responsibility will notify the individual of his or her renewal of enrollment and will issue the individual a card to evidence enrollment. Which of the following statements about renewal of enrollment is correct?
- A. A reasonable refundable fee may be charged for each application for renewal of enrollment filed with the Office of Professional Responsibility
 - B. Failure by an individual to receive notification from the Office of Professional Responsibility of the renewal requirement will not be justification for the failure to timely renew enrollment
 - C. Forms required for renewal may only be obtained from the National Association of Enrolled Agents
 - D. The enrollment cycle is a 3-year period and all Enrolled Agents must renew at the same time, no matter when they first became Enrolled Agents
14. Under Treasury Department Circular No. 230, all of the following are considered to be incompetence and disreputable conduct except:
- A. Willfully disclosing tax return information with the consent of the taxpayer
 - B. Conviction of any criminal offense under the Federal tax laws
 - C. Conviction of any criminal offense involving dishonesty or breach of trust
 - D. Willfully failing to sign a tax return prepared by the tax practitioner as required by Federal tax laws, unless the failure is due to reasonable cause and not due to willful neglect
15. Which of the following is not practicing before the Internal Revenue Service?
- A. Representing a taxpayer at conferences, hearings, or meetings with the IRS
 - B. Preparing necessary documents and filing them with the IRS for the taxpayer whose tax returns were prepared by a different practitioner
 - C. Furnishing information at the request of the IRS or appearing as a witness for a taxpayer
 - D. Communicating with the IRS for a taxpayer regarding the taxpayer's rights, privileges, or liabilities under laws and regulations administered by the IRS
16. A professional tax preparer who uses tax return information for any purpose other than to prepare returns, or who makes an unauthorized disclosure of return information, is subject to a penalty of what amount for each disclosure?
- A. \$100
 - B. \$150
 - C. \$200
 - D. \$250
17. An Enrolled Agent (EA) can be sanctioned under Circular 230 in each of the following ways except:
- A. Monetary penalty
 - B. Censure
 - C. Disbarment
 - D. Imprisonment
18. When a taxpayer is using a debit or credit card for payment of high balance payments, a transaction of what amount or greater may require special coordination with the service provider chosen?
- A. \$50,000
 - B. \$75,000
 - C. \$100,000
 - D. \$125,000



19. How many years in the future can an authorization on a *Form 2848 - Power of Attorney and Declaration of Representative* be recorded to the Centralized Authentication File (CAF)?
- A. Current year + 1
 - B. Current year + 2
 - C. Current year + 3
 - D. Current year + 4
20. In 2019, the one-time installment agreement user fee for entering into a written agreement with the IRS allowing for periodic partial payments of taxes owed is what amount?
- A. \$50
 - B. \$75
 - C. \$100
 - D. \$225
21. The contractual agreement for a Refund Anticipation Loan (RAL) is between which of the following?
- A. Taxpayer and the lender
 - B. Taxpayer and electronic filing provider
 - C. Electronic filing provider and the lender
 - D. IRS and the taxpayer
22. When calculating 2019 estimated tax payments, the taxpayer may need to take account of any additional tax liability associated with the Net Investment Income Tax (NIIT) because a Net Investment Income Tax (NIIT) applies at what rate to individuals, estates, and trusts that have certain investment income above threshold amounts?
- A. 3.5%
 - B. 3.6%
 - C. 3.7%
 - D. 3.8%
23. If a taxpayer e-files a complete and accurate tax return, the refund should be issued within how many days of the received date (the timeframe does not include mail and IRS handling time for paper returns)?
- A. 10 days
 - B. 14 days
 - C. 21 days
 - D. 30 days
24. To receive a refund by direct deposit (whether into one account or more), the total refund amount must be what amount or more?
- A. \$1.00
 - B. \$5.00
 - C. \$10.00
 - D. \$100.00
25. Which of the following is an acceptable method of computation for an Electronic Return Originator (ERO) fee when assisting a taxpayer in applying for a RAL or other financial product?
- A. Fees based on time required for preparation
 - B. Fees based on AGI from the tax return
 - C. Fees based on percent of refund
 - D. Flat fee identical for all customers



26. Under what circumstances may the examination of a tax return be transferred to another district?
- A. The taxpayer has moved and now resides in another district
 - B. The books and records are located in another district
 - C. Both A and B
 - D. Neither A nor B
27. A taxpayer should use *Form 8888 - Allocation of Refund (Including Savings Bond Purchases)* if he or she wants to use a refund to buy up to what amount in paper series I savings bonds?
- A. \$5,000
 - B. \$10,000
 - C. \$15,000
 - D. \$25,000
28. If the taxpayer was due a refund but he or she did not file a return, the taxpayer generally must file the return within how many years from the date the return was due (including extensions) to get that refund?
- A. 2 years
 - B. 3 years
 - C. 4 years
 - D. 5 years
29. Which of the following is true regarding Treasury Circular 230?
- A. The circular contains the rules regarding eligibility to become an enrolled agent and renewal of enrollment
 - B. The circular contains rules of conduct applicable to enrolled agents, enrolled retirement plan agents, registered tax return preparers, and enrolled actuaries, but not attorneys or certified public accountants.
 - C. The circular contains rules regarding disciplinary actions for tax return preparers who are not enrolled agents, registered tax return preparers, CPAs, or attorneys.
 - D. All of the above
30. The Internal Revenue Service issued final regulations requiring paid tax return preparers to file which form with any Federal return claiming the Earned Income Tax Credit (EITC)?
- A. Form 8829
 - B. Form 8867
 - C. Form 8879
 - D. Form 8888
31. At the conclusion of an audit, the taxpayer can appeal the tax decision to a local Appeals Office. Which statement regarding appeal procedures is not correct?
- A. If the total amount for any tax period is not more than \$25,000; a formal written protest is not required
 - B. A taxpayer may represent himself at an appeals conference
 - C. Written protests do not require a signature
 - D. All partnership and S Corporation cases require formal written protests
32. Generally, each enrolled agent who applies for renewal to practice before the Internal Revenue Service must retain the information required with regard to qualifying continuing professional education hours. How long must records of completed continuing professional education (CPE) be retained?
- A. The individual is not required to retain the information if the continuing professional education sponsor has agreed to retain it
 - B. For a period of 1 year following the date of renewal of enrollment
 - C. For a period of 4 years following the date of renewal of enrollment
 - D. For a period of 5 years if it is an initial enrollment
33. Which of the following is true with respect to an offer in compromise?
- A. The taxpayer may be allowed to pay less than the full amount owed
 - B. Collection actions, such as levy, may be delayed
 - C. A rejected offer may be appealed
 - D. All of the above



34. If a practitioner believes a competent representation that is not prohibited by law is reasonable, each of the affected clients can waive the conflict of interest and give informed consent, confirmed in writing, at the time the existence of the conflict of interest is known by the practitioner. The confirmation may be made within a reasonable period of time after the informed consent, but in no event later than how many days?
- A. 15 days
 - B. 30 days
 - C. 45 days
 - D. 90 days
35. A disagreement with the Internal Revenue Service can be taken to the United States Tax Court for all of the following reasons except:
- A. It pertains to income tax
 - B. It pertains to estate tax
 - C. It pertains to certain excise taxes of private foundations, public charities, qualified pension and other retirement plans, or real estate investment trusts
 - D. It pertains to a case for which the IRS has not sent the taxpayer a notice of deficiency
36. If the IRS examines your client's return and denies all or a part of the Earned Income Tax Credit (EITC), your client may be banned from claiming EITC for the next how many years if the IRS finds the error is because of fraud?
- A. Five years
 - B. Six years
 - C. Eight years
 - D. Ten years
37. Which of the following is true regarding advertising standards for electronic return originators (EROs)?
- A. Advertising for a cooperative electronic return filing project needs to state only one party's name
 - B. Claims can be made regarding faster refunds by virtue of electronic filing that are inconsistent with the language in official IRS publications
 - C. An ERO may use "IRS" within the firm's name
 - D. An ERO must comply with the advertising and solicitation provisions of Circular 230
38. In 2019, if the IRS examines the Earned Income Tax Credit (EITC) claims you prepared and finds you did not meet all four due diligence requirements, you can receive a penalty in what amount for each failure to comply with EITC due diligence requirements?
- A. \$100
 - B. \$200
 - C. \$250
 - D. \$530
39. Identify the individual below who is not eligible to practice before the IRS. None of the individuals are under suspension or disbarment.
- A. Certified financial planner
 - B. Attorney
 - C. Certified public accountant
 - D. Enrolled actuary, with respect to specified statutory issues
40. Generally, how long does the IRS have to collect outstanding Federal taxes?
- A. 10 years from the due date of the return
 - B. 10 years from the date the return is filed
 - C. 10 years from the date of the notice of deficiency
 - D. 10 years from the date of assessment
41. A paid tax preparer must keep the records described in Part IV in the due diligence checklist at the bottom of Form 8867 for how many years from the due date of the tax return?
- A. Two years
 - B. Three years
 - C. Four years
 - D. Five years



42. Which monetary penalty may be imposed against a return preparer for each tax return of refund claim that understates the taxpayer's liability due to an unreasonable position?
- A. \$250 or 25% of income derived from refund
 - B. \$500 or 25% of income derived from refund
 - C. \$1,000 or 50% of income derived from refund
 - D. \$2,000 or 50% of income derived from refund
43. Which of the following statements concerning identity theft and the IRS is true?
- A. Victims of identity theft need to complete the IRS Identity Theft Affidavit
 - B. Taxpayers subject to identity theft need to fill out Form 1040
 - C. Initial contact by the IRS may occur via a text message or social media channels
 - D. Taxpayers must always respond promptly to an IRS email initiating contact
44. Which statement is not correct concerning the small tax case procedure of the Tax Court?
- A. The disputed tax must be \$50,000 or less for any one year or period (\$10,000 or less for court proceedings beginning on or before July 22, 1998)
 - B. The decision is final
 - C. No appeal is available for cases decided under this procedure
 - D. The tax must have been assessed and paid before the Tax Court proceedings
45. In 2019, which monetary penalty is assessable against a tax preparer who endorses or negotiates another's refund check?
- A. \$50
 - B. \$100
 - C. \$250
 - D. \$530
46. Section 10.35 of Circular 230 states a tax practitioner must possess the necessary competence to engage in practice before the Internal Revenue Service. Which of the following is not included as a competence requirement under Section 10.35 of Circular 230?
- A. Appropriate level of knowledge
 - B. Thoroughness and preparation necessary for the matter for which the practitioner is engaged
 - C. Consulting with experts in the relevant area
 - D. Completing mandatory tax law courses at an accredited university or college
47. Jim Brown, Enrolled Agent, received a complaint from the IRS for disreputable conduct. Which one of the following items was not required to be listed in the complaint?
- A. The unit and employee of the Internal Revenue Service that recommended the action against Jim
 - B. The specific sanctions that are recommended against Jim
 - C. The charges against Jim
 - D. A demand for an answer to the charges
48. If a taxpayer's return is rejected by the IRS and the ERO cannot fix the problem and re-transmit the return in the time prescribed, the ERO must make reasonable attempts to notify the taxpayer of the reject. How long from the time the return is rejected does the ERO have to try to contact the taxpayer?
- A. 12 hours
 - B. 24 hours
 - C. 48 hours
 - D. 96 hours



49. All of the following are considered examples of disreputable conduct for which an enrolled agent can be censured or suspended except:
- A. Directly or indirectly attempting to influence the official action of any employee of the Internal Revenue Service by use of threats, false accusations, or by bestowing any gift, favor or thing of value
 - B. Misappropriation or failure to remit funds received from a client for the purpose of payment of taxes or other obligations due the United States
 - C. Knowingly aiding and abetting another person to practice before the Internal Revenue Service during a period of suspension or disbarment
 - D. Failure to timely pay personal income taxes
50. The IRS has the burden of proof for any factual issue in a court proceeding if the taxpayer has completed all of the following steps except:
- A. Cooperated with all reasonable requests by the IRS for information regarding the preparation and related tax treatment of any item reported on the return
 - B. Complied with all substantiation requirements and maintained all required records
 - C. Provided credible evidence relating to the issue in a court proceeding
 - D. Has lost in courts of appeal for other circuits on substantially similar issues
51. Which of the following records is not listed by the IRS as a recommended item for taxpayers to keep for items concerning income?
- A. Form(s) W-2
 - B. Form(s) 1099
 - C. Bank statements
 - D. Estimates
52. Meagan Forest received a Notice of Tax Due and Demand for Payment in the amount of \$30,000 as a result of an examination of her Form 1040. She is not able to pay the entire amount at this time and would like to set up an installment agreement. Which of the following statements is not true regarding setting up an installment agreement?
- A. Meagan must wait for a Notice of Federal Tax Lien to be filed before she can request an installment agreement
 - B. Meagan may have to fill out a Collection Information Statement
 - C. Meagan will be charged a user fee to set up an installment agreement
 - D. Meagan must file all of her returns that are due to be eligible for an installment agreement
53. Some returns are not eligible for the Internal Revenue Service electronic filing program. Which item listed below is generally eligible to be filed through the Internal Revenue Service electronic filing program?
- A. Form 1040 returns
 - B. Form 990T
 - C. Tax returns for prior years
 - D. Amended tax returns
54. Which of the following is a proof of expense?
- A. Canceled check
 - B. Form W-4
 - C. ATM Receipt
 - D. Deposit record
55. To research whether the Internal Revenue Service has announced an opinion on a Tax Court decision, refer to which of the following references for the original announcement?
- A. Circular 230
 - B. Federal Register
 - C. Internal Revenue Bulletin
 - D. Tax Court Reports



56. With regard to the Centralized Authorization File (CAF) number on powers of attorney, which of the following is true?
- A. Powers of attorney that relate to specific tax periods, or to any other Federal tax matter such as application for an employee identification number, will be entered onto the CAF system
 - B. A CAF number is an indication of authority to practice before the Internal Revenue Service
 - C. The fact that a power of attorney cannot be entered onto the CAF system affects its validity
 - D. A power of attorney that does not include a CAF number will not be rejected
57. Which Treasury Department document describes ethical standards for tax preparers?
- A. Circular 230
 - B. Publication 17
 - C. Form 23
 - D. Publication 509
58. The Bureau of the Fiscal Service (BFS) may apply a tax refund to pay for all of the following unpaid debts except:
- A. Past-due child support
 - B. Federal agency non-tax debts
 - C. State income tax obligations
 - D. Health insurance premiums
59. All of the following individuals are eligible to practice (on a limited basis) before the IRS except:
- A. A bona fide officer of a corporation may represent the corporation
 - B. A trustee of a trust may represent the trust
 - C. A regular full-time employee of an individual may represent the employer
 - D. A limited partner in a partnership may represent the partnership
60. If an IRS examiner believes that a practitioner filed a return that contains a frivolous position, to whom does he report his concern?
- A. To the practitioner
 - B. To the Director of the Office of Professional Responsibility
 - C. To the Secretary of the Treasury
 - D. To the Administrative Law Judge
61. A taxpayer must use a power of attorney to do which of the following?
- A. Authorize an individual to prepare the taxpayer's return
 - B. Authorize the IRS to disclose tax information to an individual
 - C. Authorize an individual to represent the taxpayer at a conference with the IRS
 - D. Authorize an individual to provide information to the IRS
62. A taxpayer can apply online for an installment agreement if he or she owes what amount or less in combined individual income tax, penalties and interest?
- A. \$25,000
 - B. \$50,000
 - C. \$75,000
 - D. \$100,000
63. Federal law requires paid tax return preparers to electronically file Federal income tax returns if they file how many combined Form 1040 and 1041 returns during the year?
- A. 5 or more
 - B. 7 or more
 - C. 9 or more
 - D. 11 or more



64. All of the following statements regarding changes to powers of attorney are true except:
- A. A recognized representative may withdraw from representation in a matter in which a power of attorney has been filed
 - B. A taxpayer may revoke a power of attorney without authorizing a new representative
 - C. If specifically authorized on the power of attorney, a recognized representative may delegate authority to another recognized representative
 - D. After a substitution of a representative is made, both the newly recognized representatives will be considered the taxpayer's representative
65. If the IRS examines the Earned Income Tax Credit (EITC) claims you prepared and finds you did not meet all four due diligence requirements, you can get a minimum penalty of what amount if you prepare a client return and the IRS finds any part of the amount of taxes owed is due to your reckless or intentional disregard of rules or regulations?
- A. \$2,000
 - B. \$3,000
 - C. \$4,000
 - D. \$5,000
66. The IRS has begun an examination of Mark's income tax return. The IRS would like to ask Mark's neighbors questions with respect to that examination. There is no pending criminal investigation into the matter and there is no evidence that such contact will result in reprisals against the neighbors or jeopardize collection of the tax liability. Before the IRS contacts the neighbors, the IRS must:
- A. Provide Mark with reasonable notice of the contact
 - B. Make an assessment of Mark's tax liability
 - C. Ask the court for a third-party recordkeeper subpoena
 - D. Mail Mark a statutory notice of deficiency
67. The IRS will provide notice to any person who fails to complete the continuing professional education and fee requirements. Individuals must reply within how many days of notice to be considered for renewal?
- A. 30 days
 - B. 45 days
 - C. 60 days
 - D. 90 days
68. Taxpayers often elect the direct deposit option because it is the fastest way of receiving refunds. The Electronic Return Originator should advise the taxpayer of the option to receive his or her refund by direct deposit or paper check. Select the statement below that is correct with respect to direct deposit.
- A. The Electronic Return Originator does not have to accept a direct deposit election to a financial institution designated by the taxpayer
 - B. Refunds may be direct deposited to credit card accounts
 - C. The Electronic Return Originator may make a separate charge of only \$15, or less, as a processing fee if the taxpayer elects direct deposit
 - D. The Electronic Return Originator should caution taxpayers that some financial institutions do not permit the deposit of joint refunds into individual accounts
69. The IRS rejected a taxpayer's return when the taxpayer attempted to e-file the return. When resubmitting the rejected return as a paper return, the taxpayer must file the return within what amount of time?
- A. By the due date for filing the return or 20 calendar days after the return was rejected
 - B. By the due date for filing the return or 5 calendar days after the return was rejected
 - C. By the due date for filing the return or 10 calendar days after the return was rejected
 - D. By the due date for filing the return or 30 calendar days after the return was rejected



70. When preparing an Earned Income Credit Worksheet and Form 8867, to meet the due diligence requirements, a return preparer must retain for a certain period all of the following except:
- A. A record of from whom the information used to prepare the Form 8867 and the worksheets was obtained
 - B. A copy of the Form 8867
 - C. Copies of documents provided by the taxpayer that the return preparer relied on to determine the eligibility for the credit
 - D. A record of any questions the taxpayer may have asked the tax preparer about their eligibility for the credits
71. All of the following are examples of disreputable conduct for which an enrolled agent may be censured or suspended from practice before the Internal Revenue Service except:
- A. Suggesting that he or she is improperly able to obtain special consideration from an Internal Revenue Service employee
 - B. Failing to properly and promptly remit funds received from a client for the purpose of payment of taxes
 - C. Soliciting by mailings, the contents of which are designed for the general public
 - D. Maintaining a partnership for the practice of tax law and accounting with a person who is under disbarment from practice before the Internal Revenue Service
72. Which of the following is a situation in which records must be maintained indefinitely?
- A. Failure of the taxpayer to file a return
 - B. Overstatement of a credit on a return that equals 23% of gross income
 - C. De minimis mathematical error on a return
 - D. Waiver of restrictions
73. Enrolled agents generally must complete continuing professional education credits for renewed enrollment. Which of the following describes the credit requirements?
- A. A minimum of 16 hours (2 hours of which must be ethics) must be completed in each year of the enrollment cycle
 - B. A minimum of 24 hours (2 hours of which must be ethics) must be completed in each year of an enrollment cycle
 - C. A minimum of 72 hours (2 hours of which must be ethics) must be completed in each year of an enrollment cycle
 - D. A minimum of 80 hours (2 hours of which must be ethics) must be completed, overall, for the entire enrollment cycle
74. An Enrolled Agent (EA) is in the process of representing Taxpayer A before the Internal Revenue Service for a tax matter. Taxpayer A's ex-husband also asked the EA to represent him for the same matter. Which of the following is not required for the EA to represent both?
- A. Both taxpayers must waive the conflict of interest and give informed consent in writing to the EA
 - B. The EA must reasonably believe that the EA will be able to provide competent and diligent representation to both taxpayers
 - C. The representation is not prohibited by law
 - D. The EA must notify the Office of Professional Responsibility that the EA will be representing both taxpayers
75. All of the following organizations may request exempt status under the Internal Revenue Code as charitable organizations except:
- A. Parent-teacher associations
 - B. Charitable hospitals
 - C. Chapters of the Red Cross
 - D. Sole proprietorships
76. An Electronic Return Originator (ERO) must mail Form 8453 to the IRS within how many business days after receiving acknowledgement that the IRS has accepted the electronically filed tax return?
- A. 3 business days
 - B. 5 business days
 - C. 7 business days
 - D. 10 business days
-



77. The declaration of representative accompanying a power of attorney must be signed under penalties of perjury with the representative declaring which of the following?
- A. The taxpayer is aware of the Circular 230 regulations
 - B. The representative has never been under suspension or disbarment from practice before the Internal Revenue Service
 - C. The representative is authorized to represent the taxpayer identified in the power of attorney for the matters specified therein
 - D. The taxpayer is unable to represent himself or herself
78. A taxpayer instructs her tax preparer to exclude from her income tax return the wages she earned at her job because she claims that there is no taxable gain when a person exchanges labor for money. The tax preparer should take which of the following courses of action?
- A. Can prepare the tax return as instructed
 - B. Must prepare the tax return as instructed
 - C. Should prepare the tax return as instructed but must advise his client of the penalties that are likely to apply as a consequence of her omitting her wage income
 - D. May not prepare the return as instructed because the client's position constitutes a frivolous argument
79. Contingent fees are only allowed when the IRS is examining or challenging an original tax return; an amended return, claim for a refund or credit where the amended return or claim was filed within how many days of taxpayer receipt of an IRS examination notice?
- A. 30 days
 - B. 60 days
 - C. 90 days
 - D. 120 days
80. For how many months from the last date of use must a practitioner retain copies of direct mail and e-commerce communications regarding fee information?
- A. 12 months from date of last use
 - B. 24 months from date of last use
 - C. 36 months from date of last use
 - D. 48 months from date of last use
81. Which of the following e-file providers may not be subject to a suitability check?
- A. Electronic return originator (ERO)
 - B. Intermediate service provider
 - C. Software developer
 - D. Transmitter
82. A practitioner who is disbarred by the IRS may seek reinstatement after how many years?
- A. 2 years
 - B. 3 years
 - C. 4 years
 - D. 5 years
83. Which of the following is not considered practice before the IRS?
- A. Corresponding with the Internal Revenue Service on behalf of a client
 - B. Answering a tax return question for an individual
 - C. Representing a client at an audit
 - D. Calling the IRS to discuss a letter received by a client
84. Regarding *Form 8821 - Tax Information Authorization*, which of the following statements is correct?
- A. The appointee can advocate the taxpayer's position
 - B. The appointee can execute waivers
 - C. The appointee can represent the taxpayer by correspondence
 - D. The appointee can inspect and/or receive confidential information for the type of tax and the years or periods listed



85. Identify the individual below from whom an enrolled agent, in practice before the Internal Revenue Service, may knowingly accept assistance:
- A. An individual who is under disbarment from practice before the Internal Revenue Service
 - B. An individual who is under suspension from practice before the Internal Revenue Service
 - C. An individual who has temporary recognition to practice before the Internal Revenue Service
 - D. A former government employee where any Federal law would be violated
86. Within how many days after the conclusion of an evidentiary hearing should the Administrative Law Judge enter a decision in the case?
- A. 90 days
 - B. 120 days
 - C. 150 days
 - D. 180 days
87. A practitioner is subject to which of the following standards when preparing, approving, and filing tax returns?
- A. Due diligence
 - B. Strict Liability
 - C. Fiduciary responsibility
 - D. Reasonable certainty
88. The “Small Tax Case” procedures in the Tax Court allow resolution of cases under a set of rules that are simpler than the normal Tax Court procedures. A case may be designated a “Small Tax Case” in the Tax Court, if the amount of tax at issue for each tax year or period is not more than:
- A. \$50,000
 - B. \$100,000
 - C. \$125,000
 - D. \$150,000
89. In general, a taxpayer does not have to pay estimated tax for the current year if he or she meets all of the following conditions except:
- A. The taxpayer had no tax liability for the prior year
 - B. The taxpayer was a U.S. citizen or resident for the whole year
 - C. The taxpayer’s prior tax year covered a 12-month period
 - D. The taxpayer expects to owe tax of \$1,000 or more when filing the income tax return
90. Brendan is an enrolled agent. He is preparing a brochure to hand to prospective clients and would like to explain the designation “enrolled agent.” Which of the following language is Brendan not permitted to use?
- A. “I am enrolled to represent taxpayers before the IRS.”
 - B. “I am certified by the IRS.”
 - C. “I am permitted to practice before the IRS.”
 - D. “I am admitted to practice before the IRS.”
91. The IRS can censure, suspend, or disbar a practitioner from practice before the Internal Revenue Service for incompetence and/or disreputable conduct. Which one of the following is considered disreputable conduct?
- A. Being indicted of any felony under Federal or state law for which the conduct involved renders the practitioner unfit to practice before the Internal Revenue Service
 - B. Giving false or misleading information, or participating in any way in the giving of false or misleading information to the Department of the Treasury or any officer or employee thereof
 - C. Being indicted for any criminal offense under the revenue laws of the United States
 - D. Having his or her motor vehicle license suspended as a result of numerous traffic violations
92. Which of the following is the appropriate action that a practitioner should take when he or she becomes aware of an error or omission on a client’s return?
- A. Inform the IRS of the noncompliance, error, or omission
 - B. Amend the return and provide it to the client
 - C. Promptly advise the client of such noncompliance, error, or omission and the consequences thereof
 - D. Do nothing



93. A representative who signs a *Form 2848 - Power of Attorney*, declares under penalty of perjury that he or she is aware of which of the following?
- A. The Federal income tax regulations
 - B. The regulations in Treasury Department Circular No. 230
 - C. Recent tax law developments that relate to the tax matter(s) listed on line 3 of the Form 2848
 - D. Late filing fees and penalties
94. Paid tax preparers should sign the returns they prepare and provide which of the following?
- A. Their Social Security Number
 - B. Their date of birth
 - C. Their Preparer Tax Identification Number (PTIN)
 - D. Their Identity Protection PIN (IP PIN)
95. Matt, an enrolled agent, provided tax advice to XYZ Corporation on a Federal tax matter. The Securities and Exchange Commission (SEC) is reviewing a required filing of the XYZ Corporation and asks to see a copy of Matt's tax advice. The tax advice is not protected by the Federally authorized tax practitioner privilege under IRC Section 7525 from disclosure to the SEC because:
- A. Matt is not a lawyer
 - B. Matt is not a CPA
 - C. The Federally authorized tax practitioner privilege protects advice only against disclosure to the IRS, not other government agencies
 - D. The Federally authorized tax practitioner privilege protects only advice to individuals
96. Which of the following is a proof of payment?
- A. An invoice from a doctor reflecting the cost of a medical procedure
 - B. Bank statement showing withdrawals
 - C. Cash receipt
 - D. An estimate from a mechanic for repairs to a vehicle used for business
97. If the taxpayer requests an appeal after the IRS makes a seizure, he or she must appeal to the Collection Manager within how many business days after the Notice of Seizure is given to him or her or left at his or her home or business?
- A. 10 business days
 - B. 14 business days
 - C. 21 business days
 - D. 30 business days
98. The Statutory Notice of Deficiency is also known as:
- A. A 30-day letter because the taxpayer generally has 30 days from the date of the letter to file a petition with the Tax Court
 - B. A 90-day letter because the taxpayer generally has 90 days from the date of the letter to file a petition with the Tax Court
 - C. An Information Document Request (IDR) because the taxpayer is asked for information to support its position regarding its liability for tax
 - D. A notice and demand because the taxpayer is put on notice that the tax liability is due and owing
99. A properly executed power of attorney must contain all of the following except:
- A. Identification number of the taxpayer (i.e., Social Security number or employer identification number)
 - B. The specific year(s) and period(s) involved
 - C. Name of the preparer of the return for the year(s) and period(s) involved
 - D. The taxpayer's signature and date
100. Both the Office of Professional Responsibility and the practitioner have the right to appeal the Initial Decision and Order of the ALJ to the Department of the Treasury within how many days of being served?
- A. 20 days
 - B. 30 days
 - C. 60 days
 - D. 90 days

All questions pertain to Tax Year 2019 unless noted.

1. If the taxpayer files a claim for a loss from worthless securities or bad debt deduction, he or she should keep records for how many years?
 - A. 5 years
 - B. 6 years
 - C. 7 years
 - D. 8 years

2. Who is authorized to practice before the IRS if they hold power of attorney?
 - A. Any person considered an enrolled agent under Circular 230, who is not currently under suspension or censure from practice before the IRS who files a written declaration that he or she is currently qualified as an enrolled agent and is authorized to represent the particular party on whose behalf he or she acts
 - B. Any attorney who is not currently under suspension or disbarment from practice before the IRS who files a written declaration that he or she is currently qualified as an attorney and is authorized to represent the particular party on whose behalf he or she acts
 - C. Both A and B
 - D. Neither A nor B

3. A written protest for IRS Appeals is required for all of the following except:
 - A. In an employee plan case without regard to the dollar amount at issue
 - B. In a partnership case without regard to the dollar amount at issue
 - C. In a case where the taxpayer qualifies for a special appeal procedure such as requesting Appeals consideration of liens
 - D. If the total amount for any tax period is not more than \$50,000, the taxpayer may make a small case request

4. Complete which form when the Practitioner PIN method is used or when the taxpayer authorizes the electronic return originator (ERO) to enter or generate the taxpayer's personal identification number (PIN) on his or her e-filed individual income tax return?
 - A. Form 8814
 - B. Form 8829
 - C. Form 8839
 - D. Form 8879

5. With respect to unenrolled return preparers, which of the following statements is correct?
 - A. An unenrolled return preparer is an individual other than an attorney, CPA, enrolled agent, or enrolled actuary who prepares and signs a taxpayer's return as the preparer, or who prepares a return but is not required (by the instructions to the return or regulations) to sign the return
 - B. An unenrolled return preparer is only permitted to appear as a taxpayers' representative before a Customer Service Representative of the Internal Revenue Service
 - C. An unenrolled preparer may receive refund checks on behalf of the taxpayer if Form 8821 has been executed
 - D. An unenrolled preparer is permitted to represent a taxpayer over the telephone with the Automated Collection System unit

6. When an electronic return originator (ERO) advises a taxpayer that the taxpayer's return has been rejected, the ERO must provide all of the following except:
 - A. The reject code(s)
 - B. An explanation of the reject code(s)
 - C. A copy of the IRS acknowledgment file showing the rejection
 - D. The sequence number of each reject code



7. An Enrolled Agent (EA) prepared an individual income tax return for a taxpayer with a balance due of \$25,597. The taxpayer is not able to pay the entire amount upon filing and would like to set up an installment agreement. Which of the following statements are correct with regard to this agreement?
- A. Since the taxpayer owed more than \$25,000 the taxpayer may not apply online
 - B. The taxpayer will not be charged a user fee to set up this installment agreement
 - C. The taxpayer will not be charged interest and penalties while making installment payments
 - D. The taxpayer must be in filing compliance
8. Select the statement below that is correct with respect to the contents of a practitioner's answer that is filed in rebuttal to a complaint filed by the Office of Professional Responsibility.
- A. The answer must be written and general denials are permitted
 - B. The respondent does not have to admit or deny all of the allegations set forth in the complaint and can state they are without sufficient information to admit or deny a specific allegation
 - C. The respondent may not deny a material allegation in the complaint that the respondent knows to be true, or state that the respondent is without sufficient information to form a belief, when the respondent possesses the required information
 - D. The respondent does not have to state affirmatively any special matters of defense on which he or she relies
9. In 2019, the user fee for restructuring or reinstating an established installment agreement is what amount regardless of income levels or method of payment?
- A. \$30
 - B. \$43
 - C. \$45
 - D. \$89
10. The IRS began an examination of Mr. Jones' income tax return. Mr. Jones hired Tyler, an enrolled agent and former IRS employee, to represent him before the IRS. Tyler wrote a memorandum to Mr. Jones outlining the issues that might be raised by the IRS and how to address these issues. Tyler correctly marked this memorandum as confidential and privileged under Section 7525 of the Internal Revenue Code. During the examination, the Revenue Officer assigned to the case asked Tyler for a copy of the memorandum. Mr. Jones, invoking the Section 7525 privilege, told Tyler not to disclose it to the Revenue Officer. Tyler is not required to provide the Revenue Officer with a copy of the memorandum because:
- A. The Revenue Officer did not issue a summons requesting it
 - B. Section 7525 extends the attorney client privilege to Federally authorized tax practitioners
 - C. Circular 230 does not authorize officers or employees of the IRS to request any documents other than a tax return
 - D. The IRS cannot request documents during an examination
11. A levy is a legal seizure of the taxpayer's property to satisfy a tax debt. All of the following are true regarding a levy except:
- A. The IRS will usually only levy after they assessed the tax and sent the taxpayer a Notice and Demand for Payment
 - B. The IRS will usually only levy after the taxpayer neglected or refused to pay the tax
 - C. The IRS will usually only levy after they send the taxpayer a Final Notice of Intent to Levy and Notice of Your Right to A Hearing (levy notice) at least 30 days before the levy
 - D. If the IRS determines the levy is creating an immediate economic hardship, the levy may be released, and the taxpayer is exempt from paying the balance
12. If the taxpayer is filing as a corporation, he or she generally has to make estimated tax payments for the corporation if he or she expects it to owe tax of what amount or more when filing its return?
- A. \$500
 - B. \$1,000
 - C. \$2,000
 - D. \$5,000



13. Alec Brandon prepared a return for a client that contained a frivolous position that could not be defended under any circumstances. The examiner who conducted the examination referred Mr. Brandon to the Office of Professional Responsibility. After all procedural requirements had been met, the Office of Professional Responsibility filed a complaint against Alec Brandon. Which statement below is correct with respect to the hearing that will take place for the complaint filed against Mr. Brandon?
- A. An Administrative Law Judge will preside at the hearing on a complaint filed for the censure, suspension, or disbarment of a practitioner or disqualification of an appraiser
 - B. A request by a practitioner or appraiser that a hearing in a disciplinary proceeding concerning him or her be public, and that the record of such disciplinary proceeding be made available for inspection by interested persons may be granted by a United States District Court judge
 - C. The United States District Court judge assigned to the case will determine the location of the hearing
 - D. If either party to the proceeding fails to appear at the hearing, after notice of the proceeding has been sent to him or her, the party will be deemed to have waived the right to a hearing and the United States District Court judge may make his or her decision against the absent party by default
14. Ms. Smith hired Tom Jones, an enrolled agent, to prepare her Federal income tax return for 2019. While gathering information to prepare the return, Tom discovered that Ms. Smith failed to file Federal income tax returns for the 2017 and 2018 tax years. Circular 230 requires that Tom do which of the following?
- A. Promptly advise Ms. Smith that she did not comply with the Internal Revenue laws by failing to file Federal income tax returns for the 2017 and 2018 tax years
 - B. Refuse to prepare Ms. Smith's 2019 Federal income tax return unless she files her 2017 and 2018 Federal income tax returns
 - C. Inform the IRS that Ms. Smith did not file Federal income tax returns for the 2017 and 2018 tax years
 - D. Both B and C
15. An Enrolled Agent's communications with a client may be privileged if they concern:
- A. Encouraging the client to participate in a tax shelter
 - B. Preparing the client's tax return
 - C. Representing the client in an IRS examination
 - D. A criminal tax investigation
16. Processing returns may take longer under certain circumstances. For example, refunds from amended returns will generally be issued within how many weeks?
- A. 10 weeks
 - B. 12 weeks
 - C. 14 weeks
 - D. 20 weeks
17. Which of the following is not considered practicing before the Internal Revenue Service (IRS)?
- A. Representing a taxpayer at conferences, hearings, or meetings with the IRS
 - B. Preparing necessary documents and filing them with the IRS for the taxpayer whose tax returns were prepared by a different practitioner
 - C. Communicating with the IRS for a taxpayer regarding the taxpayer's rights, privileges, or liabilities under laws and regulations administered by the IRS
 - D. Furnishing information at the request of the IRS or appearing as a witness for a taxpayer
18. Catalina filed her 2016 Form 1040 tax return in a timely manner and paid the \$2,000 tax as shown on the return at the time of filing. The return was subsequently examined, and Catalina signed an agreement form for the proposed changes on August 20, 2018. She paid the additional tax due of \$5,000 on September 30, 2018. In 2019, Catalina located the missing records which she believes would make the \$5,000 of the additional assessment erroneous. Which of the following statements accurately states the date by which Catalina must file a claim for refund to get the \$5,000 back?
- A. August 20, 2020, two years from signing the agreement form
 - B. April 15, 2020, three years from the due date of the original return
 - C. September 30, 2020, two years from when the additional tax was paid
 - D. No claim for refund can be filed since an examination agreement form was signed



19. A taxpayer should use *Form 8888 - Allocation of Refund (Including Savings Bond Purchases)* if he or she wants to use a refund to buy up to \$5,000 of what type of savings bonds?
- A. Series E savings bonds
 - B. Series EE savings bonds
 - C. Paper series I savings bonds
 - D. Paper series E savings bonds
20. Disputes involving what areas of taxation may not be resolved in the United States Tax Court?
- A. Income tax
 - B. Gift tax
 - C. Employment tax
 - D. Estate tax
21. Which of the following best describes a levy when it relates to a tax debt?
- A. A levy is not a legal seizure of property
 - B. A levy on salary or wages will end when the time expires for legally collecting the tax
 - C. A levy can only be released by the filing of a lien
 - D. A levy does not apply to apparel and food
22. Taxpayer accounts may be reported Currently Not Collectible (CNC) for all of the following reasons except:
- A. Inability to locate the taxpayer or assets
 - B. Partial expiration of the assessment prior to issuance
 - C. Complete expiration of the statutory period for collection or suit initiated to reduce tax claim to judgment
 - D. When the IRS cannot contact the taxpayer by telephone
23. Christopher was suspended from practice for 4 months by the IRS. Which of the following is Christopher permitted to do during the period of suspension?
- A. Sign a consent to extend the statute of limitations for the assessment and collection of tax
 - B. Sign closing agreements regarding tax liabilities
 - C. Represent taxpayers before the IRS with respect to returns Christopher did not prepare
 - D. Appear as a witness before the IRS
24. Sam is an enrolled agent and a partner in the firm of Taxes-R-Us, LLP. One of Sam's former partners is under investigation by the Office of Professional Responsibility for disreputable conduct. Sam has been asked by the Office of Professional Responsibility to provide information regarding his former partner. Sam must provide all the information requested unless:
- A. Sam has credible evidence that his former partner is not guilty of the disreputable conduct
 - B. Sam believes in good faith and on reasonable grounds that the information requested is privileged or that the request is of doubtful legality
 - C. The partnership agreement prohibits him from providing the information
 - D. The conduct in question relates to the former partner and one of Sam's current clients
25. When dealing with IRS employees, the taxpayer has certain rights. Which of the following most accurately reflects those rights?
- A. A right of appeal is available for most collection actions
 - B. A right of representation is only available in audit matters; it is not available for collection matters
 - C. A case may not be transferred to a different IRS office, even if the taxpayer's authorized representative is located in an area different from the taxpayer's residence
 - D. If the taxpayer disagrees with the IRS employee who handles his or her case, the taxpayer must first have the employee's permission before requesting a meeting with the supervisor
26. If Jamie Dixon wants to appoint his uncle to represent him before the IRS on a tax matter, which form should he use?
- A. Form 8821
 - B. Form 2848
 - C. Form 2848, if his uncle is recognized to practice before the IRS
 - D. His uncle cannot represent him because he is not Jamie's parent, child, sibling, or grandparent



27. If the taxpayer's request for a Collection Due Process (CDP) hearing is not timely, all of the following are true, except:
- A. He or she may request an equivalent hearing on or before the end of the one-year period after the date of the levy notice
 - B. He or she may request an equivalent hearing on or before the end of the one-year period plus 5 business days after the filing date of the Notice of Federal Tax Lien
 - C. The 10-year period the IRS has to collect the taxes will be suspended until the date Appeals' determination becomes final
 - D. The request for a CDP levy hearing does not prohibit the IRS from filing a Notice of Federal Tax Lien
28. Within 6 months from the date Camilo filed his tax return, he received a formal notice from the IRS by certified mail disallowing his \$10,000 tax refund claim. What course of action may Camilo take for his appeal?
- A. File a petition with the U.S. Tax Court and ask that it be handled under the "small tax case procedure"
 - B. File a protest and request that the matter be referred to the IRS appeals office
 - C. File suit in his U.S. District Court or the U.S. Court of Federal Claims no later than 2 years after the time of mailing of the notice
 - D. File a petition with the U.S. Tax Court
29. In which of the following cases may the Internal Revenue Service settle by accepting an Offer in Compromise for less than the full amount of the balance due?
- A. The taxpayer is an employer and has not made all required Federal tax deposits
 - B. The amount offered represents the most the IRS can expect to collect within a reasonable period of time
 - C. The taxpayer has not filed all required Federal tax returns
 - D. The taxpayer is in an open bankruptcy proceeding
30. All of the following persons are authorized to represent a taxpayer before the IRS except:
- A. An officer or full-time employee of a corporation representing the corporation
 - B. A regular full-time employee of an individual employer representing the employer
 - C. An individual representing a member of his or her immediate family
 - D. An unenrolled return preparer
31. An appeal from the initial decision ordering disbarment is made to which of the following?
- A. The Secretary of the Treasury
 - B. The Administrative Law Judge
 - C. The United States District Court for the District of Columbia
 - D. The United States Tax Court
32. Which of the following is the primary source of Federal tax law?
- A. The Internal Revenue Code
 - B. Revenue Rulings
 - C. Treasury Regulations
 - D. Internal Revenue Service Bulletins
33. Which of the following is not one of the levels of Treasury Regulations?
- A. Judicial
 - B. Temporary
 - C. Proposed
 - D. Final
34. Paying the tax debt in full is the best way to get rid of a Federal tax lien. The IRS releases the lien within how many days after the taxpayer has paid the tax debt?
- A. 10 days
 - B. 15 days
 - C. 21 days
 - D. 30 days



35. Where or when does the collection process begin?
- A. In an IRS automated collection branch when telephone contact is made with the taxpayer
 - B. At the IRS service center where notices are generated requesting payment
 - C. With the filing of a Notice of Federal Tax Lien
 - D. Only after the problem resolution officer has acted upon the taxpayer's claim
36. Which of the following is a false statement regarding the Earned Income Tax Credit (EITC) Due Diligence Requirements?
- A. Record retention period changed to three years after the latest of either the date the return was due, the date the returns was filed, the date the return was presented to the taxpayer or the date it was transferred in final form by the preparer to the signing tax return preparer
 - B. A tax return preparer must now keep copies of any documents that the client provides and the preparer used to determine eligibility for or amount of EITC
 - C. The amount of the penalty is subject to a cost of living adjustment under IRC Section 6695(h)
 - D. A tax return preparer is no longer required to use Form 8867 and submit it with every tax return claiming the Earned Income Tax Credit (EITC)
37. What is the penalty for a tax preparer for failure to furnish an identifying number?
- A. \$50 for each failure
 - B. \$100 for each failure
 - C. \$250 for each failure
 - D. \$500 for each failure
38. Which of the following defines how a person can practice before the Internal Revenue Service?
- A. Prepare less than substantially all of the tax return
 - B. Appear as a witness for the taxpayer before the IRS
 - C. Prepare and file the necessary documents with the IRS for the taxpayer
 - D. Furnish information at the request of the IRS
39. Which of the following statements concerning continuing professional education (CPE) requirements for enrolled agents is not true?
- A. The IRS may grant a waiver from the CPE requirements for a given period if there is a compelling reason and the request for waiver is appropriately documented
 - B. An individual who receives initial enrollment during an enrollment cycle must complete 2 hours of CPE credit for each month enrolled
 - C. The enrolled agent must complete a minimum of 72 hours of CPE credit if enrolled for the entire enrollment cycle
 - D. The enrolled agent must complete a minimum of 24 hours of CPE credit in each year of an enrollment cycle if enrolled for the entire cycle
40. If the IRS examines the EITC claims an enrolled agent prepared and finds he or she did not meet all four due diligence requirements the individual may face a monetary penalty. The minimum penalty is what amount if the enrolled agent prepared a client return and the IRS finds any part of the amount of taxes owed is due to an unreasonable position?
- A. \$1,000
 - B. \$2,000
 - C. \$2,500
 - D. \$5,000
41. Which of the following organizations is not required to file an annual information return such as *Form 990 - Return of Organization Exempt From Income Tax*?
- A. All are required to file; no exceptions
 - B. Any exempt organization with annual gross receipts exceeding \$250,000
 - C. A convention or association of churches with annual gross receipts exceeding \$250,000
 - D. Any Chamber of Commerce with annual gross receipts exceeding \$250,000



42. Kate Anderson wants to revoke a power of attorney that she previously executed and does not want to name a new representative. In order to do this, what is Kate's most appropriate action?
- A. Kate must call the Internal Revenue Service toll free number, verify that she is Kate and inform them she wants to revoke the current power of attorney that is on file
 - B. Kate must send a letter to her nearest Internal Revenue Service Center informing them that she wants to revoke the current power of attorney that is on file
 - C. Kate must send a copy of the previously executed power of attorney to the Internal Revenue Service (with an original signature) and write "REVOKE" across the top of the power of attorney
 - D. Kate must send a new power of attorney to the Internal Revenue Service office(s) where the prior power was originally filed and name herself as the representative
43. Which of the following is not an example of disreputable conduct for which an enrolled agent may be censured or suspended from practice before the Internal Revenue Service?
- A. Being convicted of any offense involving dishonesty or breach of trust
 - B. Soliciting new business in matters relating to the Internal Revenue Service through the publishing of a range of fees for particular services
 - C. Circulating or publishing malicious or libelous matter in connection with practice before the Internal Revenue Service
 - D. Maintaining a partnership for the practice of tax law and accounting with a person who is under disbarment from practice before the Internal Revenue Service
44. All of the following individuals are authorized to practice before the IRS for all matters connected with a presentation to the IRS or any of its offices or employees relating to a client's rights, privileges, or liabilities under the Internal Revenue Code except:
- A. Enrolled Agents
 - B. Certified Public Accountants
 - C. Attorneys
 - D. Enrolled Actuaries
45. Once a notice of Federal tax lien has been filed all of the following are true except:
- A. The lien applies to all of the taxpayer's real and personal property and to all of his or her rights to property, until the tax is paid
 - B. The IRS will issue a release of the notice of Federal tax lien within 15 business days after the taxpayer satisfies the tax debt
 - C. By law, a filed notice of tax lien can be withdrawn if withdrawal will speed collecting the tax
 - D. The law requires the IRS to notify the taxpayer in writing within 5 business days after the filing of a lien
46. Barry's individual income tax return for 2019 was examined by the IRS, which resulted in a tax assessment in the amount of \$10,000. Thereafter, Barry discovered papers which he believed would show that the IRS determination was erroneous. Barry can claim a refund of income taxes as follows:
- A. Take a credit for the amount on his 2019 tax return
 - B. File *Form 1045 - Application for Tentative Refund*
 - C. File an amended return within three years from the date he filed his original return for 2019, or two years from the date he paid the tax, whichever is later
 - D. Immediately sue for a refund in court
47. Which of the following is a tax return preparer according to the tax return preparer rules?
- A. Mr. David, an attorney, regularly advises clients in arranging future business transactions to minimize income tax
 - B. Mr. Charles is a fiduciary and files returns for the trust
 - C. Mr. Adams engages a number of persons to prepare tax returns on a commission basis but does not himself prepare returns
 - D. Mr. Beckham, controller of Corporation MU, prepares and files MU's corporate tax return



48. There are two categories of records, basic and specific. Of the items listed below, which records are not considered basic records?
- A. Sales slips, invoices, receipts, cancelled checks or other proof of payment
 - B. Brokerage statements, mutual fund statements, Form 1099, Form 2439
 - C. Separation agreement, casualty and theft losses, Child and Dependent Care Credit, contributions
 - D. Closing statements, purchase and sales invoices, proof of payment, insurance records
49. With regard to the categories of individuals who may practice before the Internal Revenue Service, all of the following statements are true, except:
- A. Trusts, receiverships, guardianships, or estates may be represented before the IRS by their trustees, receivers, guardians, administrators, or executors even if they are not enrolled agents, CPAs, or attorneys
 - B. An individual who is not an enrolled agent, a CPA, or an attorney, who is a regular full-time employee of a corporation, may represent that corporation before the IRS
 - C. Any person may appear as a witness for the taxpayer before the IRS or furnish information at the request of the IRS or any of its officers or employees
 - D. A practitioner who is not an enrolled agent, a CPA, or an attorney, who signs a return as having prepared it for the taxpayer, may, with proper authorization from the taxpayer, appear as the taxpayer's representative before any office of the IRS with respect to the taxpayer's tax liability for the period covered by that return
50. Harry claimed \$5,000 of gambling losses on his income tax return. The return was examined by the IRS and the losses were disallowed. Harry pursued an appeal before the IRS Appeals Office, which sustained the Revenue Agent's adjustment. Harry now wants to take his case to a judge. Harry file a tax action in all of the following courts except:
- A. United States Court of Federal Claims
 - B. United States District Court
 - C. United States Tax Court
 - D. A County Court of Appeals
51. Donovan is an enrolled agent. XYZ Company is an accrual-basis taxpayer. In Year 3, while preparing XYZ Company's Year 2 return, Donovan discovered that XYZ Company failed to include income on its Year 1 return that XYZ Company received in Year 2 but which should have been included as income in Year 1 under the accrual method of accounting. What must Donovan do?
- A. Change XYZ Company to the cash method of accounting
 - B. Refuse to prepare XYZ Company's Year 2 return until XYZ Company agrees to amend its Year 1 return to include the amount of income
 - C. Advise XYZ Company of the error and the consequences of the error
 - D. Include the income on the Year 2 return
52. Who is permitted to represent a taxpayer before the Appeals office of the IRS?
- A. An unenrolled return preparer who has prepared at least one return for any taxpayer in the last three years
 - B. The unenrolled preparer who prepared the tax return that is the subject of the appeal
 - C. The taxpayer's father
 - D. The taxpayer's part-time bookkeeper
53. The examination of Greta's income tax return for 2019 resulted in adjustments creating a tax liability in the amount of \$3,000. Greta does not believe she owes anything. A Notice of Proposed Income Tax Deficiency is issued to Greta, who wants to appeal the Revenue Agent's adjustments to the IRS Office of Appeals. Greta must file a written protest letter no later than which of the following time periods?
- A. 10 days from the date of the letter offering appeal rights
 - B. 30 days from the date of the letter offering appeal rights
 - C. 60 days from the date of the letter offering appeal rights
 - D. 90 days from the date of the letter offering appeal rights



54. Isaac's income tax return was examined by the IRS. This resulted in an income tax deficiency in the amount of \$25,000. The Revenue Agent determined that Isaac was negligent involving the adjustment and proposed an accuracy-related penalty. What is the amount of penalty that the Revenue Agent can propose?
- A. \$2,500
 - B. \$5,000
 - C. \$10,000
 - D. \$12,500
55. Which amount is generally the monetary penalty a tax preparer might receive for promoting abusive tax shelters?
- A. \$1,000
 - B. \$2,000
 - C. \$3,000
 - D. \$4,000
56. Janet Jackson, an Enrolled Agent, prepares and electronically files Form 1040 tax returns. Janet prepared the 2019 tax return for Jim, her client. Jim elects to use *Form 8453 - U.S. Individual Income Tax Transmittal for an IRS e-file Return* as his method of signing the return. On March 1st Janet electronically filed Jim's tax return, which was a refund return. On March 3rd, Janet received acknowledgement from the Internal Revenue Service that Jim's return had been accepted. On March 10th, Jim received his refund. By what date must Janet mail the executed Form 8453 to the IRS?
- A. By March 13th, (within three (3) business days after Jim receives his refund)
 - B. By March 5th, (within five (5) business days after the return was electronically filed)
 - C. By March 6th, (within three (3) business days after the return is acknowledged as accepted by the IRS)
 - D. By March 31st (all Forms 8453 signed during the month must be sent to the IRS by the last day of the month)
57. Which of the following statements is not true regarding contingent fees as outlined in Circular 230?
- A. A practitioner may not charge a contingent fee for preparing an original return
 - B. A practitioner may, in certain circumstances, charge a contingent fee for preparing an amended return
 - C. A practitioner may, in certain circumstances, charge a contingent fee for preparing a claim for refund
 - D. A practitioner may not charge contingent fees for services to a client in connection with the determination of interest or penalties
58. Which of the following statements is correct with respect to a client's request for records of the client that are necessary for the client to comply with his or her Federal tax obligations?
- A. The practitioner may never return records of the client to the client even if the client requests prompt return of the records
 - B. The existence of a dispute over fees always relieves the practitioner of his or her responsibility to return records of the client to the client
 - C. The practitioner must, at the request of the client, promptly return the records of the client to the client unless applicable state law provides otherwise
 - D. The practitioner must, at the request of the client, return the records of the client to the client within three months of receiving the request
59. Which of the following statements is true with respect to the limited practice of an unenrolled return preparer?
- A. An unenrolled return preparer is only permitted to represent taxpayers before appeals or revenue officers
 - B. An unenrolled preparer cannot sign any document on behalf of a taxpayer
 - C. An unenrolled return preparer may represent the taxpayer for any year the taxpayer provides authorization, whether or not the unenrolled preparer prepared the return in question
 - D. If authorized by the taxpayer, an unenrolled return preparer can sign consents to extend the statutory period for assessment or collection of tax



60. With regard to the categories of individuals who may practice before the Internal Revenue Service, which of the following statements is true?
- A. An individual may not represent a member of his or her immediate family
 - B. Only enrolled agents, registered tax return preparers, attorneys, or CPAs may represent trusts and estates before any officer or employee of the IRS
 - C. Under the limited practice provisions in Treasury Department Circular 230, general partners may not represent a partnership
 - D. Under the limited practice provisions in Circular 230, an individual who is under suspension or disbarment from practice before the IRS may not engage in limited practice before the IRS
61. Julie, who lives in Washington, D.C., operated a business without books and records. Her business income and expenses were reported on Schedule C. Julie's tax return for 2019 was examined and substantial adjustments were proposed. Julie disagreed with the adjustments and wants to take her case directly to Tax Court. A Statutory Notice of Deficiency was issued to Julie by the IRS Area Director. Julie can file a petition for a Small Tax case before the U.S. Tax Court during which of the following periods beginning from the date of the issuance of the notice?
- A. 30 days
 - B. 90 days
 - C. 150 days
 - D. 180 days
62. Of the following statements below, which one is not considered practice before the Internal Revenue Service?
- A. Communicating with the Internal Revenue Service for a taxpayer regarding the taxpayer's rights, privileges, or liabilities under laws and regulation administered by the Internal Revenue Service
 - B. Representing a taxpayer at conferences, hearings, or meetings with the Internal Revenue Service
 - C. Preparing a tax return or furnishing information at the request of the Internal Revenue Service
 - D. Preparing and filing necessary documents at the request of the Internal Revenue Service for a taxpayer and discussing issues
63. When a tax practitioner prepares a tax return in which the taxpayer claims the Earned Income Tax Credit (EITC), all of the following are true except:
- A. Due diligence requirements apply
 - B. The preparer may be penalized a fine if no attempt is made to determine eligibility for the Earned Income Tax Credit (EITC)
 - C. The preparer must take additional steps to ensure that a client is eligible for Earned Income Tax Credit (EITC)
 - D. No special requirements apply to returns claiming Earned Income Tax Credit (EITC)
64. How is a proceeding for violation of the regulations in Circular 230 instituted against an attorney, certified public accountant, registered tax return preparer, enrolled agent, enrolled retirement plan agent, or enrolled actuary?
- A. An aggrieved taxpayer files a petition with the United States Tax Court stating a claim against the attorney, certified public accountant, registered tax return preparer, enrolled agent, enrolled retirement plan agent, or enrolled actuary
 - B. The IRS representative signs a complaint naming the attorney, certified public accountant, registered tax return preparer, enrolled agent, enrolled retirement plan agent, or enrolled actuary and files the complaint with the Administrative Law Judge (ALJ)
 - C. The Secretary of the Treasury files a complaint against the attorney, certified public accountant, registered tax return preparer, enrolled agent, enrolled retirement plan agent, or enrolled actuary in the United States District Court for the District of Columbia
 - D. The Commissioner of the IRS files a complaint against the attorney, certified public accountant, registered tax return preparer, enrolled agent, enrolled retirement plan agent, or enrolled actuary with the United States Tax Court



65. The IRS has the burden of proof for any factual issue in a court proceeding if the taxpayer has met any of the following requirements except:
- A. The taxpayer introduced credible evidence relating to the issue
 - B. The taxpayer complied with all substantiation requirements of the Internal Revenue Code
 - C. The taxpayer maintained all records required by the Internal Revenue Code
 - D. The taxpayer has lost in a court of appeal on a substantially similar issue
66. If an enrolled agent changes his or her address, within how many days must the agent report the change of address to the IRS?
- A. Within 10 days
 - B. Within 15 days
 - C. Within 45 days
 - D. Within 60 days
67. Kevin Durham, CPA, represents his brother Darren Durham and Darren's business partner Tom Jones. Darren Durham and Tom Jones are equal shareholders in the DT Corporation. The Internal Revenue Service examined the corporation and determined that one of the shareholders committed fraud but could not determine which shareholder it was. Kevin has made an appointment with the Internal Revenue Service to determine which partner was guilty. Which of the following statements reflects what Kevin should do in accordance with Circular 230?
- A. Kevin should meet with the Internal Revenue Service and try to convince the examiner that each shareholder is equally guilty
 - B. Advise Darren and Tom that they should dissolve the corporation, thereby making it difficult for the Internal Revenue Service to pursue the issue
 - C. Advise Darren and Tom that he cannot represent them because there is a conflict of interest
 - D. Advise Darren and Tom on creating documents that will convince the Internal Revenue Service that neither shareholder is guilty of fraud
68. The Tax Court has generally held that taxpayers who rely on software to justify errors on self-prepared returns are:
- A. Not liable for the Section 6662 accuracy-related penalty
 - B. Liable for 20% of the Section 6662 accuracy-related penalty
 - C. Liable for 40% of the Section 6662 accuracy-related penalty
 - D. Liable for the Section 6662 accuracy-related penalty
69. With regards to negotiating a taxpayer's refund check, a tax preparer that is also a financial institution, but has not made a loan to the taxpayer on the basis of the taxpayer's anticipated refund, may complete all of the following transactions except:
- A. Cash a refund check and remit all of the cash to the taxpayer
 - B. Accept a refund check for deposit in full to a taxpayer's account provided the bank does not initially endorse or negotiate the check
 - C. Endorse a taxpayer's refund check and electronically direct payment into an account owned and controlled by the practitioner for an income tax return the practitioner prepared
 - D. Endorse a refund check for deposit in full to a taxpayer's account pursuant to a written authorization of the taxpayer
70. Tax advisors should adhere to "best practices" in providing advice and in preparing a submission to the IRS. Best practices include all of the following except:
- A. Acting fairly with integrity in practice before the IRS
 - B. Clearly communicating the terms of the engagement with the client
 - C. Advising the client regarding the importance of the conclusions reached
 - D. Establishing the facts, their relevancy, and arriving at a conclusion supported solely by the facts



71. Mike is an enrolled agent. For the past five years, the information that Anne provided Mike to prepare her return included a Schedule K-1 from a partnership showing significant income. However, Mike did not see a Schedule K-1 from the partnership among the information Anne provided to him this year. What does due diligence require Mike to do?
- A. Without talking to Anne, Mike should estimate the amount that would be reported as income on the Schedule K-1 based on last year's Schedule K-1 and include that amount on Anne's return
 - B. Call Anne's financial advisor and ask him about Anne's investments
 - C. Nothing, because Mike is required to rely only on the information provided by his client, even if he has a reason to know the information is not accurate
 - D. Make reasonable inquiries to Anne about the fact that she did not provide him with a Schedule K-1
72. Sam timely filed his U.S. individual income tax return for calendar year 2009 without any extensions. The return showed a balance of income taxes due in the amount of \$5,000. Sam has not paid his IRS liability, nor has he entered into any installment agreement extending the statute of limitations or submitted any offer in compromise. The statute of limitations for collection of Sam's tax liability expires on which of the following dates?
- A. April 15, 2013
 - B. April 15, 2019
 - C. December 31, 2019
 - D. April 15, 2020
73. A new client visits an Enrolled Agent (EA). The taxpayer believes that the U S tax system is purely voluntary and filed a return showing no income tax, requesting all withholding be refunded. The IRS assessed a \$5,000 frivolous return penalty. The taxpayer has received a Notice of Intent to Levy and Right to Collection Due Process (CDP) Hearing concerning the \$5,000 penalty. The taxpayer wants the EA to present the previous arguments about the tax system. Which of the following is a correct statement regarding the CDP hearing request raising arguments previously deemed frivolous?
- A. If the CDP request is deemed frivolous, the taxpayer will be given 30 days to withdraw or amend the CDP request in order to avoid a frivolous submission penalty
 - B. The EA would not be subject to a frivolous submission penalty by submitting the CDP hearing request
 - C. Since a \$5,000 frivolous return penalty has been assessed, a second penalty cannot be assessed for the same tax period
 - D. In all circumstances, filing the CDP request will suspend any levies while Appeals considers the request
74. Alex Smart recently passed the Special Enrollment Examination and is advertising for his business. Which of the following presentations will violate the Circular 230 rules for advertising?
- A. Alex Smart, enrolled to practice before the Internal Revenue Service
 - B. Alex Smart, Certified Enrolled Agent
 - C. Alex Smart, enrolled to represent taxpayers before the Internal Revenue Service
 - D. Alex Smart, admitted to practice before the Internal Revenue Service
75. All of the following statements are true regarding the manner in which Circular 230 discusses standards for advising clients with respect to tax return positions except:
- A. A practitioner may not sign a tax return as a preparer if the practitioner determines that the tax return contains a position that does not have a realistic possibility of being sustained on its merits (the realistic possibility standard) unless the position is not frivolous and is adequately disclosed to the Internal Revenue Service
 - B. A practitioner advising a client to take a position on a tax return, or preparing or signing a tax return as a preparer, must inform the client of the penalties reasonably likely to apply to the client with respect to the position advised, prepared, or reported
 - C. A practitioner advising a client to take a position on a tax return generally may rely in good faith without verification upon information furnished by the client.
 - D. The practitioner is not required to make reasonable inquiries if the information as furnished appears to be incorrect, inconsistent with an important fact or another factual assumption, or incomplete



76. Phil, an enrolled agent, prepares William's income tax return. William gives Phil power of attorney, including the authorization to receive his Federal income tax refund check. Accordingly, the IRS sends William's \$100 refund check to Phil's office. William is very slow in paying his bills and owes Phil \$500 for tax services. Phil should:
- A. Use William's check as collateral for a \$100 loan to tide him over until William pays him
 - B. Refuse to give William the check until William pays him the \$500
 - C. Get William's written authorization to endorse the check, cash the check, and reduce the amount William owes him to \$400
 - D. Turn the check directly over to William
77. If found guilty of a misdemeanor, tax preparers who willfully prepare a false or fraudulent individual taxpayer return may be disciplined by which of the following penalties?
- A. \$500 and 1 month in jail or both
 - B. \$1,000 and 3 months in jail or both
 - C. \$5,000 and 6 months in jail or both
 - D. \$10,000 and 1 year in jail or both
78. A copy of a written consent must be retained by the practitioner for at least how many months from the date of the conclusion of the representation of the affected clients?
- A. 12 months
 - B. 24 months
 - C. 36 months
 - D. 48 months
79. A taxpayer received a notice from the IRS saying a prior year's tax return had been examined, creating a tax assessment of \$2,560. The taxpayer disagrees with the amount of tax assessed. The taxpayer could request an audit reconsideration in all of the following situations except:
- A. There is new documentation for the examination
 - B. The full amount owed has already been paid
 - C. They neither appeared for the examination nor sent information to the IRS
 - D. They moved and never received the examination notice
80. If a taxpayer and the IRS fail to settle a non-docketed examination controversy in the IRS Appeals Office, the next event to occur is:
- A. Issuance of notice and demand for payment
 - B. Return of the case to the Revenue Agent for further review
 - C. Referral of the case to the Taxpayer Advocate
 - D. Issuance of a notice of deficiency
81. A tax return preparer must complete the paid preparer's area of the return if:
- A. The taxpayer prepares his or her own return
 - B. The individual volunteers to complete the return for no cost
 - C. The individual was paid to prepare, assist in preparing, or review the tax return
 - D. An employee prepares a tax return for his or her employer by whom he or she is regularly and continuously employed
82. A revenue agent is examining Phillip's tax return. During the middle of the examination, the agent is sent to an extended training course. The agent's supervisor decides not to reassign Phillip's case, so the work is unreasonably delayed until the agent returns. Which of the following is true regarding the administrative decision to not reassign the case?
- A. The decision is a ministerial act
 - B. The decision is a managerial act
 - C. The IRS cannot reduce the interest because of any unreasonable delay in the case
 - D. The IRS cannot reduce the amount of interest because both the decision to send the agent to the training class and not to reassign the case are due to a general administrative decision



83. Leslie Taylor, an Enrolled Agent, received a complaint from the Office of Professional Responsibility. Select the statement below that is correct with respect to the contents of the answer that Leslie will file in rebuttal to the complaint.
- A. Leslie may only state a general denial of the allegations
 - B. Leslie must specifically admit or deny each allegation set forth in the complaint, and may not state that she is without sufficient information to admit or deny a specific allegation
 - C. Leslie may deny a material allegation in the complaint even though she knows it to be true
 - D. Leslie must specifically admit or deny each allegation set forth in the complaint, except that she may state that she is without sufficient information to admit or deny a specific allegation
84. A preparer tax identification number (PTIN) is required of any person that prepares a return or assists in the preparation of a significant portion of a return in exchange for compensation. All PTINs expire on what day of each year?
- A. December 31
 - B. January 15
 - C. April 15
 - D. April 30
85. Jill received a notice of deficiency and would like to petition the Tax Court for review. However, she did not file the petition on time and the proposed tax will be assessed. A \$500 bill was sent to her on June 1. Jill is no longer eligible to take her case to the Tax Court and must pay the tax by what date?
- A. June 11
 - B. June 15
 - C. June 22
 - D. June 30
86. After a decision has been made on a complaint filed by the Office of Professional Responsibility, the practitioner or the Office of Professional Responsibility may appeal the decision. Which statement is correct with respect to filing an appeal of the decision?
- A. Within 30 days from the date of the District Court Judge's decision, either party may appeal to the Secretary of the Treasury, or his or her delegate
 - B. Within 30 days from the date of the District Court Judge's decision, either party may appeal to the Supreme Court
 - C. Within 30 days from the date of the Administrative Law Judge's decision, either party may appeal to the Secretary of the Treasury, or his or her delegate
 - D. Within 45 days from the date of the Administrative Law Judge's decision, either party may appeal to the Secretary of the Treasury, or his or her delegate
87. Because people sometimes disagree on tax matters, the IRS has an appeals system. Most differences can be settled within this system without expensive and time-consuming court trials. However, a taxpayer's reasons for disagreeing must come from which of the following?
- A. Conscientious objection
 - B. The scope of the tax laws
 - C. Religious belief
 - D. Political affiliation
88. A taxpayer must keep his or her records as long as they may be needed for the administration of any provision of the Internal Revenue Code. Generally, this means he or she must keep records that support items shown on the return until the period of limitations for that return runs out. The period of limitations is the period of time in which the taxpayer can amend his or her return to claim a credit or refund, or the Internal Revenue Service can assess additional tax. Which statement listed below is incorrect?
- A. If no other provisions apply, the statute of limitations is 3 years after the return was filed
 - B. If more than 25% of gross income has been omitted from the tax return, the statute of limitations is 6 years after the return was filed, unless the omitted amount was disclosed in the return or in a statement attached to the return, in a manner adequate to apprise the Internal Revenue Service of the nature and amount of the omission
 - C. If a fraudulent return is filed, the statute of limitations is 7 years
 - D. If a tax return is not filed at all, keep records indefinitely



89. Which official has the authority to censure, suspend, or disbar a practitioner from IRS practice?
- A. The Director of the IRS
 - B. The Director of the Office of Professional Responsibility
 - C. An U.S. Tax Court Judge
 - D. An Administrative Law Judge
90. All of the following are true regarding an Electronic Return Originator (ERO) except:
- A. The ERO originates the electronic submission by electronically sending the return to a Transmitter that will transmit the return to the IRS
 - B. The ERO originates the electronic submission by emailing the return to his or her client for transmission to the IRS
 - C. The ERO originates the electronic submission by directly transmitting the return to the IRS
 - D. The ERO originates the electronic submission by providing a return to an Intermediate Service Provider for processing prior to transmission to the IRS
91. With regard to continuing professional education (CPE) for enrolled agents, which of the following statements is false?
- A. An enrolled agent must complete a minimum of 72 hours of CPE credit if enrolled for an entire enrollment cycle
 - B. An individual who receives initial enrollment during an enrollment cycle must complete 1 hour of CPE credit for each month enrolled during the cycle, beginning with the month the individual is enrolled
 - C. CPE credit may be awarded for publications on Federal taxation or Federal tax-related matters
 - D. All continuing professional education programs will be measured in terms of contact hours. A contact hour is 50 minutes of continuous participation in a program
92. Which of the following statements may not be used when an enrolled agent advertises?
- A. Membership in professional organizations
 - B. Name, address, and office hours
 - C. Names of associates of the firm
 - D. Claims of quality of service that are misleading
93. What is the initial action required in the IRS collection process?
- A. A notification of a pending examination audit
 - B. The filing of a Notice of Levy
 - C. The IRS will make an assessment of the taxes
 - D. The receipt of a subsequent notice by certified mail
94. A taxpayer must request innocent spouse relief no later than how many years after the date the IRS first attempted to collect the tax from him or her?
- A. Two years
 - B. Three years
 - C. Four years
 - D. Five years
95. Lincoln's 2019 tax return is examined by the IRS. At the conclusion of the examination, Lincoln agrees with the proposed changes and signs an agreement form acknowledging he must pay an additional \$3,500 (including interest and penalties) for 2019. He does not pay the tax at the time of signing the agreement and understands he will receive a bill. Lincoln must pay the amount due within how many calendar days of the billing date to avoid paying more interest or penalties?
- A. 10 calendar days
 - B. 15 calendar days
 - C. 21 calendar days
 - D. 30 calendar days



96. Which fee arrangement described below is permissible for an electronic return originator (ERO)?
- A. Fees based on adjusted gross income (AGI) of the taxpayer
 - B. Fees based on percentage of refund
 - C. Separate fees for direct deposits
 - D. Fee for providing the e-file services
97. If the taxpayer's tax return was examined for the same items in either of the 2 previous years and no change was proposed to the tax liability:
- A. The taxpayer may ignore the examination notice
 - B. The taxpayer should call the Taxpayer Advocate Office and file a complaint
 - C. The taxpayer should call the IRS as soon as possible to see if the examination should be discontinued
 - D. The taxpayer should write a letter to the Service Center and complain that the Revenue Agents are harassing him or her
98. The installment agreement is one of the acceptable methods of paying off a tax debt to the United States Treasury. Financial information on a "Collection Information Statement" may be required as a condition of the installment agreement. Generally, an installment agreement will be accepted without this statement if the dollar amount is:
- A. \$50,000 or less in combined individual income tax, penalties and interest
 - B. \$150,000 or less in combined individual income tax, penalties and interest if it is a joint return
 - C. \$50,000 or more in combined individual income tax, penalties and interest
 - D. At least \$100,000 for the current year, but less than \$200,000 for all years
99. With regard to an IRS audit, all of the following are true except:
- A. Sometimes returns are selected based solely on a statistical formula
 - B. An audit may be conducted by mail
 - C. Audits can result in no changes
 - D. An audit always suggests that an error has been made
100. Within 180 days after the conclusion of an evidentiary hearing the Administrative Law Judge should enter a decision in the case. A copy of the decision will be provided to the Internal Revenue Service's representative and to the respondent. In the absence of an appeal or further proceedings, after how many days does it become the decision of the agency?
- A. 30 days
 - B. 60 days
 - C. 90 days
 - D. 120 days



Practice Exam #1 Answer Key

Question 1 - D. \$5,000 frivolous return penalty, applied in addition to any other applicable penalty or penalties

If a taxpayer files a frivolous return, the penalty may be \$5,000. Jointly file the return, and the taxpayer and his or her spouse may be liable for \$5,000 each. This penalty is added to other penalties.

Lesson 1 - Frivolous Tax Return Penalty

Source - GPO.GOV - 26 USC Section 6702 - Frivolous tax submissions

Question 2 - D. An enrolled agent may obtain CPE credits only from an organization that has filed a sponsor agreement with the IRS to obtain approval of its program as a qualified CPE program

In order to qualify for continuing professional education credit, a course of learning must be a qualifying program designed to enhance the knowledge of an individual in Federal taxation and be conducted by a qualifying sponsor. To qualify as a sponsor, a program presenter must be an accredited educational institution, be recognized for continuing professional education by the licensing body of any state, be recognized by an organization qualified by the IRS, or be recognized by the IRS as a professional organization.

Lesson 1 - Rules for Qualified Continuing Professional Education

Source - Circular 230 - Subpart A - Section 10.90

Question 3 - C. The representative can be anyone who helped the taxpayer prepare the return

As of January 1, 2017, only unenrolled return preparers who hold an AFSP – Record of Completion for BOTH the tax return year (2017 or thereafter) under examination and the year the examination is conducted may represent under the following conditions: Unenrolled return preparers may represent taxpayers only before revenue agents, customer service representatives, or similar officers and employees of the Internal Revenue Service (including the Taxpayer Advocate Service) and only during an examination of the taxable year or period covered by the tax returns they prepared and signed. Unenrolled return preparers may not represent taxpayers, regardless of the circumstances requiring representation, before appeals officers, revenue officers, counsel or similar officers or employees of the Internal Revenue Service or the Department of Treasury. Unenrolled return preparers may not execute closing agreements, extend the statutory period for tax assessments or collection of tax, execute waivers, or sign any document on behalf of a taxpayer.

Lesson 1 - Practice Before the IRS

Source - Publication 947 - Practice Before the IRS

Question 4 - D. Privileged

A practitioner must, on a proper and lawful request by a duly authorized officer or employee of the Internal Revenue Service, promptly submit records or information in any matter before the Internal Revenue Service unless the practitioner believes in good faith and on reasonable grounds that the records or information are privileged.

Lesson 1 - Information Furnished to the IRS

Source - Circular 230 - Subpart B - Section 10.20

Question 5 - D. All of the above

Any practitioner or unenrolled return preparer may be disbarred or suspended from practice before the IRS, or censured, for incompetence or disreputable conduct including, but not limited to, criminal conviction of an offense under the Internal Revenue Code, misappropriation of funds received from a client for the purpose of tax payments or disbarment or suspension from the practice as an attorney, CPA, accountant or actuary.

Lesson 1 - Practice Before the IRS

Source - Publication 947 - What Are the Rules of Practice?

Question 6 - B. 4 years

A taxpayer should keep all employment tax records for at least 4 years after the date that the tax becomes due or is paid, whichever is later.

Lesson 4 - Period of Limitations

Source - IRS.GOV - How Long Should I Keep Records?



Question 7 - C. Jenny must advise Steve and Ashley promptly of the omission and the consequences provided by the Internal Revenue Code and Regulations for such omission

Section 10.21 of Treasury Department Circular 230 requires an attorney, a certified public accountant, a registered tax return preparer, or an enrolled agent who knows that a client has not complied with the revenue laws of the United States to promptly advise the client of the noncompliance and advise the client of the consequences for the noncompliance under the revenue laws.

Lesson 1 - Client Omissions

Source - Circular 230 - Subpart B - Section 10.21

Question 8 - C. The Internal Revenue Service will assess the tax it says the taxpayer owes

If the taxpayer does not respond to the 30-day letter, or if he or she later does not reach an agreement with an Appeals Officer, the IRS will send him or her a 90-day letter, which is also known as a Statutory Notice of Deficiency. The Statutory Notice of Deficiency notifies the taxpayer of the Internal Revenue Service's intent to assess a tax deficiency and informs him or her of his or her right to petition the United States Tax Court to dispute the proposed adjustments. The taxpayer will have 90 days (150 days if it is addressed outside the United States) from the date of this notice to file a petition with the Tax Court. The notice will show the 90th (and 150th) day by which the taxpayer must file the petition with the Tax Court.

Lesson 3 - Representing a Taxpayer in Audits/Examinations

Source - Publication 556 - Examination of Returns

Question 9 - C. An admission of the allegations in the complaint and a waiver of a hearing

If a respondent fails to answer a complaint filed by the IRS for disbarment, the IRS and/or the administrative law judge may treat the respondent as if (s)he had admitted all allegations and waived a hearing. Every allegation in the complaint that is not denied in the answer is deemed admitted and will be considered proved; no further evidence in respect of such allegation need be adduced at a hearing.

Lesson 1 - Answer

Source - Circular 230 - Subpart D - Section 10.64

Question 10 - C. Will must file a written appeal no later than the 19th of February with the Secretary of the Treasury or his delegate

If the applicant does not pass the tax compliance or suitability check, the applicant will not be issued an enrollment or registration card or certificate. The applicant will be informed in writing as to the reason(s) for any denial of an application. The applicant may, within 30 days after receipt of the notice of denial of the application, file a written protest of the denial as prescribed by the Internal Revenue Service in forms, guidance, or other appropriate guidance.

Lesson 1 - Application

Source - Circular 230 - Subpart A - Section 10.5

Question 11 - D. Local county commissioner's board

On the issuance of a final order censuring, suspending, or disbaring a practitioner or a final order disqualifying an appraiser, notification of the censure, suspension, disbarment or disqualification will be given to appropriate officers and employees of the Internal Revenue Service and interested departments and agencies of the Federal government. The Internal Revenue Service may determine the manner of giving notice to the proper authorities of the State by which the censured, suspended, or disbarred person was licensed to practice.

Lesson 1 - Notice of Disbarment, Suspension, Censure, or Disqualification

Source - Circular 230 - Subpart D - Section 10.80

Question 12 - A. \$50 for each failure

In 2019, the penalty assessable for failure to sign return is \$50 for each failure to sign a return for refund with a maximum penalty of \$26,500 in a calendar year, unless such failure is due to reasonable cause and not to willful neglect.

Lesson 1 - Failure to Follow Procedures

Source - IRS.GOV - Summary of Preparer Penalties under Title 26



Question 13 - B. Failure by an individual to receive notification from the Office of Professional Responsibility of the renewal requirement will not be justification for the failure to timely renew enrollment.

An application for renewal is required to maintain active renewal status. Failure to receive notice of the renewal requirement from the IRS does not justify circumventing this requirement. A noncomplying enrolled agent will be given an opportunity to state the basis for the noncompliance with the possible consequence of being placed on the roster of inactive enrolled agents.

Lesson 1 - Term and Renewal

Source - Circular 230 - Subpart A - Section 10.6

Question 14 - A. Willfully disclosing tax return information with the consent of the taxpayer

Section 10.51 of Circular 230 lists several examples of disreputable conduct for which an enrolled agent may be disbarred or suspended from practice before the Internal Revenue Service. Willfully disclosing tax return information with the consent of the taxpayer is not disreputable conduct under Section 10.51 of Circular 230.

Lesson 1 - Sanctions for Violation of the Regulations

Source - Circular 230 - Subpart C - Section 10.51

Question 15 - C. Furnishing information at the request of the IRS or appearing as a witness for a taxpayer

A person is practicing before the IRS if he or she:

- Corresponding and communicating with the IRS.
- Representing a taxpayer at conferences, hearings, or meetings with the IRS.
- Preparing and filing documents with the IRS for a taxpayer.
- Providing written advice with respect to any entity, transaction plan or arrangement, or other plan or arrangement having a potential for tax avoidance or evasion.

Just furnishing information at the request of the IRS or appearing as a witness for the taxpayer is not practice before the IRS.

Lesson 2 - Practice Before the IRS

Source - Publication 947 - Practice Before the IRS

Question 16 - D. \$250

A professional tax preparer who uses tax return information for any purpose other than to prepare returns, or who makes an unauthorized disclosure of return information, is subject to a \$250 penalty for each disclosure, up to a \$10,000 maximum. If the action is undertaken knowingly or recklessly, the tax preparer may be subject to criminal penalties or a fine of up to \$1,000 or up to one year in jail, or both, together with the cost of prosecution.

Lesson 1 - Sanctionable Acts

Source - IRS.GOV - Summary of Preparer Penalties under Title 26

Question 17 - D. Imprisonment

The Secretary of the Treasury may reprimand, suspend or disbar from practice before the Department, or censure, a representative who:

- Is incompetent.
- Is disreputable.
- Violates regulations prescribed under this section.
- With intent to defraud, willfully and knowingly misleads or threatens the person being represented or a prospective person to be represented.

Also, the Secretary may impose a monetary penalty on any representative described in the preceding sentence.

Lesson 1 - Practice Before the Department

Source - GPO.GOV - 31 USC Section 330 - Practice before the Department



Question 18 - C. \$100,000

When a taxpayer is using a debit or credit card for payment, keep in mind these additional considerations:

- High balance payments of \$100,000 or greater may require special coordination with the service provider chosen.
- The taxpayer cannot make Federal Tax Deposits with a debit or credit card.
- The taxpayer cannot get an immediate release of a Federal Tax Lien by making a debit or credit card payment.
- Making an electronic payment eliminates the need to use a voucher.
- On the monthly debit or credit card statement, the payment to the IRS will be listed as "United States Treasury Tax Payment." The convenience fee paid to the service provider will be listed as "Tax Payment Convenience Fee" or something similar.
- If the taxpayer made an overpayment, IRS will refund it after the return is processed, except in circumstances such as offsets or debt on the account.

Lesson 4 - Debit or Credit Card

Source - IRS.GOV - Pay Your Taxes by Debit or Credit Card

Question 19 - C. Current year + 3

On Form 2848 - Power of Attorney and Declaration of Representative a representative may list the current year/period and any tax years or periods that have already ended as of the date he or she signs the power of attorney. He or she may also list future tax years or periods. However, the IRS will not record on the Centralized Authentication File (CAF) system future tax years or periods listed that exceed 3 years from December 31 of the year that the IRS receives the power of attorney.

Lesson 2 - Power of Attorney

Source - Instructions for Form 2848

Question 20 - D. \$225

In 2019, the one-time installment agreement user fee for entering into such an agreement has increased to \$225 (\$107 if the taxpayer elects to have electronic funds withdrawal). Taxpayers can qualify for a low fee of \$43 if their income is below a certain level.

Lesson 2 - Installment Agreements

Source - IRS.GOV - Tax Topic 202 - Tax Payment Options

Question 21 - A. Taxpayer and lender

A Refund Anticipation Loan (RAL) is money borrowed by a taxpayer from a lender based on the taxpayer's anticipated income tax refund. Financial Institutions also offer a variety of other financial products to taxpayers based on their refunds. The IRS is in no way involved in or responsible for RALs or the other financial products. Providers that assist taxpayers in applying for a RAL or other financial product have additional responsibilities and may be sanctioned by the IRS if they fail to adhere to certain requirements.

Lesson 4 - IRS e-File Rules and Requirements

Source - IRS.GOV - RALs and Other Financial Products

Question 22 - D. 3.8%

As of January 1, 2013, a Net Investment Income Tax (NIIT) applies at a rate of 3.8% to individuals, estates, and trusts that have certain investment income above threshold amounts. When calculating the 2019 estimated tax payments, the taxpayer may need to take account of any additional tax liability associated with the NIIT.

Lesson 4 - Estimated Taxes

Source - IRS.GOV - Net Investment Income Tax FAQs



Question 23 - C. 21 days

If the taxpayer e-files a complete and accurate tax return, the refund should be issued within 21 days of the received date. This time-frame does not include mail and IRS handling time for paper returns. Even though the IRS issues most refunds in less than 21 days, it's possible the tax return may require review and take longer.

Lesson 4 - Refund Options

Source - IRS.GOV - Tax Topic 152 - Refund Information

Question 24 - A. \$1.00

When the taxpayer's refund is made by direct deposit (whether into one account or more), the total refund amount must be \$1.00 or more.

Lesson 4 - Refund Options

Source - IRS.GOV - Tax Topic 152 - Refund Information

Question 25 - D. Flat fee identical for all customers

When assisting a taxpayer in applying for a RAL or other financial product, the Provider may charge a flat fee for that assistance. The fee must be identical for all customers and must not relate to the amount of the refund or the financial product. The Provider must not accept a fee that is contingent upon the amount of the refund or a RAL or other financial product from a financial institution for any service connected with a financial product.

Lesson 4 - IRS e-File Rules and Requirements

Source - Publication 1345 - Handbook for Authorized IRS e-file Providers of Individual Income Tax Returns

Question 26 - C. Both A and B

Generally, the return is examined in the area where the taxpayer lives. But if the return can be examined more quickly and conveniently in another area, such as where the taxpayer books and records are located or if he or she moves from one state to another before the IRS selects the tax return for examination, the taxpayer can ask to have the case transferred to that area.

Lesson 3 - Penalty Relief

Source - Publication 556 - If Your Return Is Examined

Question 27 - A. \$5,000

A taxpayer should use Form 8888 if he or she wants to directly deposit his or her refund (or part of it) to one or more accounts at a bank or other financial institution (such as a mutual fund, brokerage firm, or credit union) in the United States or he or she wants to use the refund to buy up to \$5,000 in paper series I savings bonds.

Lesson 4 - Form 8888 - Allocation of Refund (Including Savings Bond Purchases)

Source - IRS.GOV - Tax Topic 152 - Refund Information

Question 28 - B. 3 years

If the taxpayer was due a refund but he or she did not file a return, the taxpayer generally must file the return within 3 years from the date the return was due (including extensions) to get that refund.

Lesson 4 - Overpayment

Source - Publication 1 - Refunds

Question 29 - A. The circular contains the rules regarding eligibility to become an enrolled agent and renewal of enrollment

Treasury Circular 230 governs the practice of attorneys, CPAs, enrolled agents, enrolled retirement plan agents, enrolled actuaries, registered tax return preparers, and appraisers before the IRS, and includes the rules regarding eligibility to become an enrolled agent and rules for renewal of enrollment.

Lesson 1 - Rules for Tax Preparers - Circular 230

Source - Circular 230 - 10.0 Scope of Part



Question 30 - B. Form 8867

In December of 2011, the Internal Revenue Service issued final regulations requiring paid tax return preparers to file a due diligence checklist, *Form 8867 - Paid Preparer's Due Diligence Checklist*, with any Federal return claiming the Earned Income Tax Credit (EITC). This is the same form that is currently required to be completed and retained in a preparer's records.

Lesson 1 - Earned Income Tax Credit (EITC) Due Diligence Requirements

Source - Form 8867 - Paid Preparer's Due Diligence Checklist

Question 31 - C. Written protests do not require a signature

When the taxpayer requests an Appeals conference, he or she may also need to file either a formal written protest or a small case request with the office named in the letter he or she received. When a protest is required, send it within the time limit specified in the letter received. The taxpayer must sign the written protest, stating that it is true, under the penalties of perjury.

Lesson 3 - Representing a Taxpayer Before Appeals

Source - Publication 5 - Your Appeal Rights and How To Prepare a Protest If You Don't Agree

Question 32 - C. For a period of 4 years following the date of renewal of enrollment

Circular 230, Part 10.6(h) states that each individual applying for renewal must retain for a period of four years following the date of renewal the information required with regard to qualifying continuing professional education credit hours.

Lesson 1 - Recordkeeping

Source - Circular 230 - Subpart A - Section 10.6

Question 33 - D. All of the above

With respect to an offer in compromise, the taxpayer may be allowed to pay less than the full amount owed, collection actions, such as levy, may be delayed and a rejected offer may be appealed.

Lesson 3 - Offer in Compromise (OIC)

Source - IRS.GOV - Offer in Compromise

Question 34 - B. 30 days

If a practitioner believes a competent representation that is not prohibited by law is reasonable, each of the affected clients can waive the conflict of interest and give informed consent, confirmed in writing, at the time the existence of the conflict of interest is known by the practitioner. The confirmation may be made within a reasonable period of time after the informed consent, but in no event later than 30 days.

Lesson 1 - Conflict of Interest

Source - Circular 230 - Subpart B - Section 10.29

Question 35 - D. A case for which the IRS has not sent the taxpayer a notice of deficiency

The taxpayer can take his or her case to the United States Tax Court if he or she disagrees with the IRS over:

- Income tax.
- Estate tax.
- Gift tax.
- Certain excise taxes of private foundations, public charities, qualified pension and other retirement plans, or real estate investment trusts.

A taxpayer cannot take his or her case to the Tax Court before the IRS sends him or her a notice of deficiency. The taxpayer can only appeal the case if he or she files a petition within 90 days from the date the notice is mailed (150 days if it is addressed outside the United States).

Lesson 3 - Tax Court

Source - Publication 556 - Appeals to the Courts



Question 36 - D. Ten

If the IRS examines your client's return and denies all or a part of EITC, your client:

- Must pay back the amount in error with interest.
- May need to file the *Form 8862 - Information to Claim Earned Income Credit after Disallowance*
- May be banned from claiming EITC for the next two years if the IRS finds the error is because of reckless or intentional disregard of the rules.
- May be banned from claiming EITC for the next ten years if the IRS finds the error is because of fraud.

Lesson 1 - Consequences of Filing EITC Returns Incorrectly

Source - IRS.GOV - Consequences of Filing EITC Returns Incorrectly

Question 37 - D. An ERO must comply with the advertising and solicitation provisions of Circular 230

An ERO must comply with the advertising and solicitation provisions of Circular 230. This circular prohibits the use or participation in the use of any form of public communication containing a false, fraudulent, misleading, deceptive, unduly influencing, coercive, or unfair statement or claim.

Lesson 4 - ERO Advertising

Source - Circular 230 - Subpart B - Section 10.30

Question 38 - D. \$530

In 2019, if the IRS examines the Earned Income Tax Credit (EITC) claims a tax practitioner prepared and finds he or she did not meet all four due diligence requirements, the tax practitioner can get a \$530 penalty for each failure to comply with EITC due diligence requirements. The penalty amounts are covered in IRC Section 6695(g).

Lesson 1 - Consequences of Filing EITC Returns Incorrectly

Source - IRS.GOV - Consequences of Filing EITC Returns Incorrectly

Question 39 - A. Certified financial planner

Circular 230 states that attorneys, CPAs, enrolled actuaries, enrolled agents, enrolled retirement plan agents, registered tax return preparers, and other individuals who qualify for limited practice may practice before the IRS. Certified financial planners do not qualify under this section.

Lesson 2 - Practice Before the IRS

Source - Circular 230 - Subpart A Sections 10.3 and 10.7

Question 40 - D. 10 years from the date of assessment

The IRS can attempt to collect taxes up to 10 years from the date they were assessed. However, there are exceptions to this time frame.

Lesson 3 - Collections Statute of Limitations

Source - Publication 594 - How Long We Have to Collect Taxes

Question 41 - B. Three years

A tax preparer must keep the records described in Part IV in the due diligence checklist at the bottom of Form 8867. He or she must keep those records for 3 years from the latest of the following dates that apply:

- The due date of the tax return (not including extensions).
- The date the return was filed (if you are a signing tax return preparer electronically filing the return).
- The date the return was presented to the taxpayer for signature (if you are a signing tax return preparer not electronically filing the return).
- The date you submitted to the signing tax return preparer the part of the return for which you were responsible (if you are a non-signing tax return preparer).

These records may be kept on paper or electronically in the manner described in Revenue Procedure 97-22 (or later update).

Lesson 1 - Document Retention

Source - Instructions for Form 8867



Question 42 - C. \$1,000 or 50% of income derived from refund

Section 6694 imposes a penalty of the greater of \$1,000 or 50% of income derived by the preparer as to the return on a preparer for substantial underpayment on a tax return. However, the penalty only applies if the preparer knows, or has reason to know, that the position taken has no reasonable belief of being sustained on the merits. A "reasonable belief" has been defined by the courts as having at least a more likely than not chance of being sustained on the merits. A reasonable belief of success is a legal conclusion as to whether substantial authority supporting the position outweighs authority against the position.

Lesson 1 - Understatement of Taxpayer's Liability

Source - [IRS.GOV - Summary of Preparer Penalties under Title 26](#)

Question 43 - A. Victims of identity theft need to complete the IRS Identity Theft Affidavit

Taxpayers subject to identity theft will need to fill out the IRS Identity Theft Affidavit, Form 14039. The taxpayers should be aware that the IRS does not initiate contact with taxpayers by email to request personal or financial information. This includes any type of electronic communication, e.g., text messages and social media channels.

Lesson 4 - Identity Theft

Source - [IRS.GOV - Taxpayer Guide to Identity Theft](#)

Question 44 - D. The tax must have been assessed and paid before the Tax Court proceedings

If the amount in the case is \$50,000 or less for any 1 tax year or period, the taxpayer can request that his or her case be handled under the small tax case procedure. If the Tax Court approves, the taxpayer can present his or her case to the Tax Court for a decision that is final and that he or she cannot appeal.

Lesson 3 - Small Tax Case

Source - [Publication 556 - Appeals to the Courts](#)

Question 45 - D. \$530

In 2019, a \$530 penalty may be imposed for a tax preparer who endorse or otherwise negotiate any check (including directing or accepting payment by any means, electronic or otherwise into an account owned or controlled by the practitioner or any firm or other entity with whom the practitioner is associated) issued to a client by the government in respect to a Federal tax liability. The prohibition on return preparers negotiating a refund check is limited to a refund check for returns they prepared.

Lesson 1 - Negotiation of Taxpayer Checks

Source - [IRS.GOV - Summary of Preparer Penalties under Title 26](#)

Question 46 - D. Completing mandatory tax law courses at an accredited university or college

Section 10.35 previously titled Covered Opinions has been eliminated and a new section has been added. Tax practitioners will no longer need to follow a separate set of standards regarding covered opinions when providing written advice to their clients. The new section 10.35 states a practitioner must possess the necessary competence to engage in practice before the Internal Revenue Service. Competent practice requires the appropriate level of knowledge, skill, thoroughness and preparation necessary for the matter for which the practitioner is engaged. A practitioner may become competent for the matter for which the practitioner has been engaged through various methods, such as consulting with experts in the relevant area or studying the relevant law. Completing mandatory tax law courses at an accredited university or college is not included in Section 10.35.

Lesson 1 - Competence

Source - [Circular 230 10.35](#)

Question 47 - A. The unit and employee of the Internal Revenue Service that recommended the action against Jim

If the IRS has reason to believe an agent has violated a law or regulation governing practice before the IRS, the IRS may reprimand the agent or institute a proceeding for suspension or disbarment. This complaint should contain a clear and concise statement of one of the allegations that constitute the basis of the proceeding. It is not required to include the unit and employee of the Internal Revenue Service who recommended the action.

Lesson 1 - Complaint

Source - [Circular 230 - Subpart D - Section 10.63](#)



Question 48 - B. 24 hours

If the IRS rejects the electronic portion of a taxpayer's individual income tax return for processing, and the ERO cannot rectify the reason for the rejection, the ERO must take reasonable steps to inform the taxpayer of the rejection within 24 hours.

Lesson 4 - Resubmission of Rejected Tax Returns

Source - IRS.GOV - ERO Duties After Submitting the Return to the IRS

Question 49 - D. Failure to timely pay personal income taxes

Section 10.51 of Circular 230 lists several examples of disreputable conduct for which an enrolled agent may be disbarred or suspended from practice before the Internal Revenue Service. Failure to timely pay personal income taxes is not disreputable conduct under Section 10.51 of Circular 230.

Lesson 1 - Sanctions for Violation of the Regulations

Source - Circular 230 - Subpart C - Section 10.51

Question 50 - D. Has lost in courts of appeal for other circuits on substantially similar issues

According to *Publication 556 - Examination of Returns, Appeal Rights, and Claims for Refund* in any court proceeding, the IRS has the burden of proof for any factual issue if the taxpayer has introduced credible evidence for the issue, provided that the taxpayer has done all of the following:

- The taxpayer introduced credible evidence relating to the issue.
- The taxpayer complied with all substantiation requirements of the Internal Revenue Code.
- The taxpayer maintained all records required by the Internal Revenue Code.
- The taxpayer cooperated with all reasonable requests by the IRS for information regarding the preparation and related tax treatment of any item reported on the tax return.
- The taxpayer had a net worth of \$7 million or less and not more than 500 employees at the time his or her tax liability is contested in any court proceeding if his or her tax return is for a corporation, partnership, or trust.

The IRS also has the burden of initially producing evidence in court proceedings with respect to the liability of any individual taxpayer for any penalty, addition to tax, or additional amount imposed by the tax laws.

Lesson 3 - Appeals to the Courts

Source - Publication 556 - Appeal Within the IRS

Question 51 - D. Estimates

The IRS recommends that taxpayers keep Form(s) W-2, Form(s) 1099, Bank statements, Brokerage statements and Form(s) K-1 as proof of income.

Lesson 4 - Recordkeeping for Individuals

Source - Publication 552 - Table 1 - Proof of Income and Expense

Question 52 - A. Meagan must wait for a Notice of Federal Tax Lien to be filed before she can request an installment agreement

When setting up an installment agreement the taxpayer may have to fill out a Collection Information Statement, will be charged a user fee to set up an installment agreement and must file all of the returns that are due to be eligible for an installment agreement. The taxpayer does not need to wait for a Notice of Federal Tax Lien to be filed before he or she can request an installment agreement.

Lesson 4 - Installment Agreements

Source - IRS.GOV - Payment Plans, Installment Agreements



Question 53 - A. Form 1040 returns

Generally, e-File can be used to file any return of income tax imposed by subtitle A of the Internal Revenue Code on individuals, trusts, or estates, such as Forms 1040 and 1041. Forms 1040NR, 1041QFT, and 990T (when the exempt organization is a trust subject to tax on unrelated business taxable income under Section 511(b)) also meet the definition of a return of income tax, but these forms cannot be electronically filed at this time. Additionally, production filing generally ends of October 15 and the last day to retransmit rejected returns is October 19 so tax returns for prior years are not eligible for the e-file program. Also, an amended tax return cannot be filed electronically under the e-file system.

Lesson 4 - IRS e-File Rules and Requirements

Source - Publication 1437 - Procedures for the Form 1041 e-file Program - U.S. Income Tax returns for Estates and Trusts

Question 54 - A. Canceled check

Expenses can be proved by sales slips, invoices, receipts for goods or services, canceled checks or other proof of payment, or written communications from qualified charities.

Lesson 4 - Recordkeeping for Individuals

Source - Publication 552 -Table 1 - Proof of Income and Expense

Question 55 - C. Internal Revenue Bulletin

The Internal Revenue Bulletin (IRB) is the authoritative instrument for announcing official rulings and procedures of the IRS and for publishing Treasury Decisions, Executive Orders, Tax Conventions, legislation, court decisions, and other items of general interest.

Lesson 2 - Internal Revenue Bulletins

Source - IRS.GOV - Internal Revenue Bulletins

Question 56 - D. A power of attorney that does not include a CAF number will not be rejected

The purpose of the CAF number is to facilitate the processing of a power of attorney or a tax information authorization submitted by a recognized representative or an appointee. A recognized representative or an appointee should include the same CAF number on every power of attorney or tax information authorization filed. However, because the CAF number is not a substantive requirement, a tax information authorization or power of attorney will not be rejected based on the absence of a CAF number.

Lesson 2 - Power of Attorney

Source - Form 2848 - Power of Attorney and Declaration of Representative

Question 57 - A. Circular 230

Treasury Department Circular No. 230 contains rules and ethical standards governing the recognition of attorneys, certified public accountants, enrolled agents, enrolled retirement plan agents, registered tax return preparers, and other persons representing taxpayers before the Internal Revenue Service.

Lesson 1 - Rules for Tax Preparers – Circular 230

Source - Circular 230 - 10.0 Scope of part

Question 58 - D. Health insurance premiums

The Treasury Department's Bureau of the Fiscal Service (BFS) is the agency that issues tax refunds and conducts the Treasury Offset Program. If a taxpayer has unpaid debts, such as overdue child support, state income tax or student loans, BFS may apply part or all of the tax refund to pay that debt.

Lesson 4 - Refund Offsets

Source - IRS.GOV - Topic 203 - Refund Offsets: For Unpaid Child Support, and Certain Federal, State and Unemployment Compensation Debts



Question 59 - D. A limited partner in a partnership may represent the partnership

The individuals who qualify are a taxpayer representing him or herself; an individual representing a family member; a full-time employee of a company; a general partner; a bona fide officer of a corporation, an association, or an organized group that represents the corporation or association; and a trustee, an administrator, or an executor of a trust or an estate. A limited partner does not qualify, only general partners and full-time partnership employees may represent the partnership.

Lesson 1 - Representing Oneself and Limited Practice

Source - Circular 230 - Subpart A - Section 10.70

Question 60 - B. To the Director of the Office of Professional Responsibility

If an officer or employee of the Internal Revenue Service has reason to believe a practitioner has violated any provision of this part, the officer or employee will promptly make a written report of the suspected violation. The report will explain the facts and reasons upon which the officer's or employee's belief rests and must be submitted to the office(s) of the Internal Revenue Service responsible for administering or enforcing this part i.e. the Director of the Office of Professional Responsibility.

Lesson 1 - Receipt of Information

Source - Circular 230 - Subpart C - Section 10.53

Question 61 - C. Authorize an individual to represent a taxpayer at a conference with the IRS

A power of attorney is required when a taxpayer wants to authorize another individual to appear on his or her behalf at a conference with the IRS.

Lesson 2 - Power of Attorney

Source - Publication 947 - What Is a Power of Attorney?

Question 62 - B. \$50,000

A taxpayer can apply online for an installment agreement if he or she owes \$50,000 or less in combined individual income tax, penalties and interest. If the taxpayer owes more than \$50,000, he or she will need to complete and mail *Form 433-F - Collection Information Statement* and *Form 9465 - Installment Agreement Request*.

Lesson 4 - Installment Agreements

Source - IRS.GOV - Payment Plans, Installment Agreements

Question 63 - D. 11 or more

As of January 1, 2012, any tax return preparer who anticipates preparing and filing 11 or more Forms 1040 and 1041 during a calendar year must use IRS e-file (unless the preparer or a particular return is administratively exempt from the e-file requirement or the return is filed by a preparer with an approved hardship waiver).

Lesson 4 - Tax Return Preparers Must Use IRS e-File

Source - IRS.GOV - Most Tax Return Preparers Must Use IRS e-file

Question 64 - D. After a substitution of a representative is made, both the newly recognized representatives will be considered the taxpayer's representative

A recognized representative can substitute or delegate authority under the power of attorney to another recognized representative only if the act is specifically authorized by the taxpayer on the power of attorney. After a substitution has been made, only the newly recognized representative will be recognized as the taxpayer's representative. If a delegation of power has been made, both the original and the delegated representative will be recognized by the IRS to represent the taxpayer.

Lesson 2 - Power of Attorney

Source - Publication 947 - What is a Power of Attorney?



Question 65 - D. \$5,000

In 2019, if the IRS examines the EITC claims a tax practitioner prepared and finds he or she did not meet all four due diligence requirements, he or she can get:

- A \$530 penalty for each failure to comply with EITC due diligence requirements. The penalty amounts are covered in IRC [Section 6695\(g\)](#).
- A minimum penalty of \$1,000 if he or she prepares a client return and IRS finds any part of the amount of taxes owed is due to an unreasonable position (For reference see IRC [Section 6694\(a\)](#)).
- A minimum penalty of \$5,000 if he or she prepares a client return and IRS finds any part of the amount of taxes owed is due to his or her reckless or intentional disregard of rules or regulations (For reference see IRC [Section 6694\(b\)](#)).

Lesson 1 - Consequences of Filing EITC Returns Incorrectly

Source - [IRS.GOV - Consequences of Filing EITC Returns Incorrectly](#)

Question 66 - A. Provide Mark with reasonable notice of the contact

The IRS must give the taxpayer reasonable notice before contacting other persons about his or her tax matters. The taxpayer must be given reasonable notice in advance that, in examining or collecting the tax liability, the IRS may contact third parties such as his or her neighbors, banks, employers, or employees. The IRS must also give the taxpayer notice of specific contacts by providing him or her with a record of persons contacted on both a periodic basis and upon the taxpayer's request.

Lesson 3 - Third Party Contact

Source - [Publication 556 - Notice of IRS contact of third parties](#)

Question 67 - C. 60 days

The IRS will provide notice to any person who fails to complete the continuing professional education and fee requirements. Individuals must reply within 60 days of notice to be considered for renewal. If reply is not attempted or the IRS denies renewal the individual may be placed on a roster of inactive enrolled or registered individuals. While on the inactive roster, the individual is not eligible to practice before the IRS.

Lesson 1 - Rules for Qualified Continuing Professional Education

Source - [Circular 230 - Subpart A - Section 10.6](#)

Question 68 - D. The Electronic Return Originator should caution taxpayers that some financial institutions do not permit the deposit of joint refunds into individual accounts.

Providers should caution taxpayers that some financial institutions do not permit the deposit of joint individual income tax refunds into individual accounts. The IRS is not responsible if the financial institution refuses Direct Deposit for this reason. Check or share draft accounts that are "payable through" another institution may not accept Direct Deposit. Taxpayers should verify their financial institution's Direct Deposit policy before they elect the Direct Deposit option.

Lesson 4 - Refund Options

Source - [IRS.GOV - Refund Returns](#)

Question 69 - C. By the due date for filing the return or 10 calendar days after the return was rejected

If the IRS rejects the electronic portion of a taxpayer's individual income tax return for processing, and the ERO cannot rectify the reason for the rejection, the ERO must take reasonable steps to inform the taxpayer of the rejection within 24 hours. If the rejection conditions cannot be resolved, these taxpayers must receive authorization from the e-Help Desk before filing a paper return. To be considered timely filed, the paper return must be postmarked by the later of the due date of the return, including extensions, or 10 calendar days after the date the IRS last gives notification the return was rejected as long as:

1. The first transmission was made on or before the due date of the return (including extensions).
2. The last transmission was made within 10 calendar days of the first transmission.

Lesson 4 - Resubmission of Rejected Tax Returns

Source - [Publication 4163 - Rejected e-filed Returns](#)



Question 70 - D. A record of any questions the taxpayer may have asked the tax preparer about their eligibility for the credits

A tax preparer must keep the records described in Part IV in the due diligence checklist at the bottom of Form 8867. He or she must keep those records for 3 years from the latest of the following dates that apply:

- The due date of the tax return (not including extensions).
- The date the return was filed (if you are a signing tax return preparer electronically filing the return).
- The date the return was presented to the taxpayer for signature (if you are a signing tax return preparer not electronically filing the return).
- The date you submitted to the signing tax return preparer the part of the return for which you were responsible (if you are a non-signing tax return preparer).

These records may be kept on paper or electronically in the manner described in Revenue Procedure 97-22 (or later update).

Lesson 1 - Document Retention

Source - Instructions for Form 8867

Question 71 - C. Soliciting by mailings, the contents of which are designed for the general public

Circular 230 lists several examples of disreputable conduct for which an enrolled agent may be disbarred or suspended from practice before the Internal Revenue Service. Solicitation by mailings, the contents of which are designed for the general public, is not prohibited.

Lesson 1 - Sanctions for Violation of the Regulations

Source - Circular 230 - Subpart C - Section 10.51

Question 72 - A. Failure of the taxpayer to file a return

There are several exceptions to the statute of limitations. If the taxpayer does not file a tax return or he or she files a fraudulent return, then there is no statute of limitations.

Lesson 4 - Period of Limitations

Source - IRS.GOV - How Long Should I Keep Records?

Question 73 - A. A minimum of 16 hours (2 hours of which must be ethics) must be completed in each year of the enrollment cycle

Circular 230, Section 10.6(e) states a minimum of 16 hours of continuing professional education credit must be completed each year of the enrollment cycle. 2 hours of the 16 must be ethics related.

Lesson 1 - Rules for Qualified Continuing Professional Education

Source - Circular 230 - Subpart A - Section 10.6

Question 74 - D. The EA must notify the Office of Professional Responsibility that the EA will be representing both taxpayers

If a practitioner believes a competent representation that is not prohibited by law is reasonable, each of the affected clients can waive the conflict of interest and give informed consent, confirmed in writing, at the time the existence of the conflict of interest is known by the practitioner. The confirmation may be made within a reasonable period of time after the informed consent, but in no event later than 30 days.

Lesson 1 - Conflict of Interest

Source - Circular 230 - Subpart B - Section 10.29



Question 75 - D. Sole proprietorships

To qualify, the organization must be a corporation, community chest, fund, articles of association, or foundation. A trust is a fund or foundation and will qualify. Sole proprietorships, partnerships, individuals, or loosely associated groups of individuals will qualify. Qualifying organizations include nonprofit old-age homes, parent-teacher associations, charitable hospitals or other charitable organizations, alumni associations, schools, chapters of the Red Cross, Boys' or Girls' Clubs and churches.

Lesson 4 - Form 8879-EO - IRS e-file Signature Authorization for an Exempt Organization

Source - Publication 557 - Chapter 3 - Section 501(c)(3) Organizations

Question 76 - A. 3 business days

IRS e-file returns must contain all the same information as returns filed completely on paper. EROs are responsible for ensuring that they submit to the IRS all paper documents required to complete the filing of returns. Attach all appropriate supporting documents that the IRS requires to the *Form 8453 - U.S. Individual Income Tax Transmittal for an IRS e-file Return* and send them to the IRS.

Use Form 8453 to send any required paper forms or supporting documentation listed next to the checkboxes on Form 8453 (do not send Forms W-2, W-2G, or 1099-R). If you are an ERO, you must mail Form 8453 to the IRS within 3 business days after receiving acknowledgement that the IRS has accepted the electronically filed tax return.

Lesson 4 - Submission of Paper Documents to the IRS

Source - Form 8453 - U.S. Individual Income Tax Transmittal for an IRS e-file Return

Question 77 - C. The representative is authorized to represent the taxpayer identified in the power of attorney for the matters specified therein

A power of attorney authorizes the listed representative(s) to receive and inspect confidential tax information and to perform all acts (that is, sign agreements, consents, waivers or other documents) that a taxpayer can perform with respect to matters described in the power of attorney. However, this authorization, does not include the power to receive a check issued in connection with any liability for tax or any act specifically excluded on line 5 of the power of the attorney. Additionally, unless specifically provided in the power of attorney, this authorization does not include the power to substitute another representative or add another representative, the power to sign certain returns or the power to execute a request for disclosure of tax returns or return information to a third party.

Lesson 2 - Power of Attorney

Source - Form 2848 - Power of Attorney and Declaration of Representative

Question 78 - D. May not prepare the return as instructed because the client's position constitutes a frivolous argument

A tax preparer cannot willfully sign a tax return or advise a client knowing that the return, documentation, or other submitted papers lack a reasonable basis, or is an unreasonable position, or is a willful attempt to understate the tax liability or a reckless disregard of rules by the preparer. A practitioner may not advise a client to take a frivolous tax position on any document affidavit or other submitted papers or to impede the administration of Federal tax law.

Lesson 1 - Tax Returns and Documents Standards

Source - Circular 230 - Subpart B - Section 10.34

Question 79 - D. 120 days

A practitioner's fee must be reasonable in matters before the IRS. Contingent fees are only allowed when the IRS is examining or challenging an original tax return; an amended return, claim for a refund or credit where the amended return or claim was filed within 120 days of taxpayer receipt of IRS examination notice. Contingent fees are also allowed for services to a client in connection with the determination of interest or penalties assessed by the service and for services provided with any judicial proceeding arising under the IRC.

Lesson 1 - Fees

Source - Circular 230 - Subpart B - Section 10.27



Question 80 - C. 36 months from date of last use

There are several rules regarding advertising and solicitation of business. In general, an advertisement or solicitation cannot be false, fraudulent, coercive, misleading or deceptive. A copy of direct mail and e-commerce communications must be retained by the practitioner for 36 months from the date of last use.

Lesson 1 - Solicitation

Source - Circular 230 - Subpart B - Section 10.30

Question 81 - C. Software developer

The IRS conducts a suitability check on the applicant and on all Principals and Responsible Officials listed on the application. The IRS does not complete suitability checks on applicants only applying to be Software Developers.

Lesson 4 - IRS e-File Rules and Requirements

Source - Publication 3112 - Pass a Suitability Check

Question 82 - D. Five years

Under Section 10.81 of Circular 230, 5 years after an agent's disbarment, the IRS may entertain a petition for reinstatement. The IRS must be satisfied that the petitioner's conduct will comply with rules and regulations governing practice before the IRS.

Lesson 1 - Petition For Reinstatement

Source - Circular 230 - Subpart D - Section 10.81

Question 83 - B. Answering a tax return question for an individual

Practice before the Internal Revenue Service includes presenting to the IRS or any of its officers or employees all matter relating to a client's rights, privileges or liabilities. Practice before the IRS covers all matters relating to any of the following:

- Communicating with the IRS for a taxpayer regarding the taxpayer's rights, privileges, or liabilities under laws and regulations administered by the IRS.
- Representing a taxpayer at conferences, hearings, or meetings with the IRS.
- Preparing and filing documents, including tax returns, with the IRS for a taxpayer.
- Providing a client with written advice which has a potential for tax avoidance or evasion.

Answering a tax return question for an individual is not practice before the IRS.

Lesson 1 - Practice Before the IRS

Source - Publication 947 - Practice Before the IRS

Question 84 - D. The appointee can inspect and/or receive confidential information for the type of tax and the years or periods listed

Form 8821 does not authorize the taxpayer's appointee to advocate his or her position with respect to Federal tax laws; to execute waivers, consents, or closing agreements; or to otherwise represent him or her before the IRS. If the taxpayer wants to authorize an individual to represent him or her, use *Form 2848 - Power of Attorney and Declaration of Representative*.

The taxpayer should use Form 8821 - Tax Information Authorization to authorize any individual, corporation, firm, organization, or partnership he or she designates to inspect and/or receive his or her confidential information for the type of tax and the years or periods he or she lists on Form 8821. The taxpayer may file his or her own tax information authorization without using Form 8821, but it must include all the information that is requested on Form 8821.

Lesson 2 - Power of Attorney

Source - Form 8821 - Tax Information Authorization



Question 85 - C. An individual who has temporary recognition to practice before the Internal Revenue Service
Sections 10.24(a) and 10.51(a)(11) of Circular 230 prohibit individuals who are eligible to practice before the IRS from accepting assistance from, or assisting, or aiding or abetting a suspended or disbarred individual in matters constituting practice. OPR will consider both a suspended or disbarred individual and any other individual's/firm's participation in such relationships to be in violation of Sections 10.24(a) and 10.51(a)(11) and evidence of disreputable conduct under Section 10.51(a). However, any individual who has been granted temporary recognition to practice by the Commissioner, or delegate, pending a determination as to whether enrollment to practice should be granted is eligible to practice before the IRS.

Lesson 1 - Suspension or Disbarment
Source - Circular 230 - Subpart D - Section 10.51

Question 86 - D. 180 days

Within 180 days after the conclusion of a hearing the Administrative Law Judge should enter a decision in the case. A copy of the decision will be provided to the Internal Revenue Service's representative and to the respondent. In the absence of an appeal or further proceedings, after 30 days it becomes the decision of the agency.

Lesson 1 - Decision
Source - Circular 230 - Subpart D - Section 10.76

Question 87 - A. Due diligence

A tax preparer must exercise due diligence in preparing and filing returns and determining the correctness of representations made to the IRS.

Lesson 1 - Accuracy
Source - Circular 230 - Subpart B - Section 10.22

Question 88 - A. \$50,000

"Small Tax Cases" are conducted under Internal Revenue Code Section 7463, and generally involve only amounts in controversy of \$50,000 or less for any one tax year. "Small tax cases" are handled under simpler, less formal procedures than regular cases. However, the Tax Court's decision in a small tax case cannot be appealed to a Court of Appeals by the IRS or by the taxpayer(s).

Lesson 3 - Small Tax Case
Source - Publication 556 - Appeals to the Courts

Question 89 - D. The taxpayer expects to owe tax of \$1,000 or more when filing the income tax return

If the taxpayer is filing as a sole proprietor, partner, S corporation shareholder, and/or a self-employed individual, he or she generally will have to make estimated tax payments if he or she expects to owe tax of \$1,000 or more when filing the return. If the taxpayer is filing as a corporation, he or she generally has to make estimated tax payments for the corporation if he or she expects it to owe tax of \$500 or more when filing its return. The taxpayer does not have to pay estimated tax for the current year if he or she meets all three of the following conditions:

- The taxpayer had no tax liability for the prior year.
- The taxpayer was a U.S. citizen or resident for the whole year.
- The taxpayer's prior tax year covered a 12-month period.

Lesson 4 - Estimated Taxes
Source - IRS.GOV - Estimated Taxes

Question 90 - B. "I am certified by the IRS."

There are several rules regarding advertising and solicitation of business. In general, an advertisement or solicitation cannot be false, fraudulent, coercive, misleading or deceptive. An example of a business name that is misleading is "Pay Less Tax Service." Additionally, enrolled agents cannot use the term "certified" or give the impression of an employee relationship with the IRS.

Lesson 1 - Solicitation
Source - Circular 230 - Subpart B - Section 10.30



Question 91 - B. Giving false or misleading information, or participating in any way in the giving of false or misleading information to the Department of the Treasury or any officer or employee thereof

The only violation that would be considered disreputable conduct would be the one that involves dishonest behavior, or giving false or misleading information, or participating in any way in the giving of false or misleading information to the Department of the Treasury or any officer or employee thereof.

Lesson 1 - Sanctions for Violation of the Regulations

Source - Circular 230 - Subpart C - Section 10.51

Question 92 - C. Promptly advise the client of such noncompliance, error, or omission and the consequences thereof

If a practitioner knows that a client has made an error or has omitted information from any return, document, affidavit, or other submitted documents, the practitioner must promptly advise the client of the omission or error and the consequences. Due diligence must be exercised by the practitioner in preparing documents and oral and/or written representations to be submitted to the IRS. When relying on the work of others, it is presumed that the practitioner has exercised due care in the oversight of the work of others.

Lesson 1 - Client Omissions

Source - Circular 230 - Subpart B - Section 10.21

Question 93 - B. The regulations in Treasury Department Circular No. 230

Form 2848 requires that a signing representative, under penalties of perjury, declare that he or she is aware of the regulations contained in Treasury Department Circular No. 230.

Lesson 2 - Power of Attorney

Source - Form 2848 - Power of Attorney and Declaration of Representative

Question 94 - C. Their PTIN

New IRS regulations require all paid tax return preparers and enrolled agents (including attorneys, and CPAs if they prepare for compensation all or substantially all of a Federal tax return or claim for refund.) obtain a Preparer Tax Identification Number (PTIN) before preparing any Federal tax returns. A PTIN meets the requirements under Section 6109(a)(4) of furnishing a paid tax return preparer's identifying number on returns that you prepare.

Lesson 4 - Tax Preparers Must Have a Preparer Tax Identification Number

Source - PTIN Requirements for Tax Return Preparers

Question 95 - C. The Federally authorized tax practitioner privilege protects advice only against disclosure to the IRS, not other government agencies

Generally, the same confidentiality protection that a taxpayer has with an attorney also applies to certain communications that he or she has with Federally authorized practitioners.

Confidential communications are those that:

- Advise the taxpayer on tax matters within the scope of the practitioner's authority to practice before the IRS.
- Would be confidential between an attorney and the taxpayer.
- Relate to noncriminal tax matters before the IRS.
- Relate to noncriminal tax proceedings brought in Federal court by or against the United States.

In the case of communications in connection with the promotion of a person's participation in a tax shelter, the confidentiality privilege does not apply to written communications between a Federally authorized practitioner and that person, any director, officer, employee, agent, or representative of that person, or any other person holding a capital or profits interest in that person.

Lesson 3 - Representing a Taxpayer Before Appeals

Source - GPO.GOV - 26 USC Section 7525 - Confidentiality privileges relating to taxpayer communications



Question 96 - C. Cash receipt

Generally, the taxpayer proves payment with a cash receipt, financial account statement, credit card statement, canceled check, or substitute check. If he or she makes payments in cash, he or she should get a dated and signed receipt showing the amount and the reason for the payment.

Lesson 4 - Proof of Payment

Source - Publication 552 - Basic Records - Proof of Payment

Question 97 - A. 10 business days

The taxpayer may appeal before or after the IRS makes a seizure but before the property is sold. If the taxpayer requests an appeal after the IRS makes a seizure, he or she must appeal to the Collection manager within 10 business days after the Notice of Seizure is given to him or her or left at his or her home or business.

Lesson 3 - Seizure of Property

Source - Publication 1660 - Collection Appeal Rights

Question 98 - B. A 90-day letter because the taxpayer generally has 90 days from the date of the letter to file a petition with the Tax Court.

If the taxpayer does not respond to the 30-day letter, or if he or she later does not reach an agreement with an Appeals Officer, the IRS will send him or her a 90-day letter, which is also known as a Statutory Notice of Deficiency. The Statutory Notice of Deficiency notifies the taxpayer of the Internal Revenue Service's intent to assess a tax deficiency and informs him or her of his or her right to petition the United States Tax Court to dispute the proposed adjustments. The taxpayer will have 90 days (150 days if it is addressed outside the United States) from the date of this notice to file a petition with the Tax Court. The notice will show the 90th (and 150th) day by which the taxpayer must file the petition with the Tax Court.

Lesson 3 - Representing a Taxpayer in Audits/Examinations

Source - IRS.GOV - Understanding Your CP3219B Notice

Question 99 - C. Name of the preparer of the return for the year(s) and period(s) involved

A power of attorney must contain the following information:

- The taxpayer's name and mailing address.
- The taxpayer's Social Security number and/or employer identification number.
- The taxpayer's employee plan number, if applicable.
- The name and mailing address of the taxpayer's representative(s).
- The types of tax involved.
- The Federal tax form number.
- The specific year(s) or period(s) involved.
- For estate tax matters, the decedent's date of death.
- A clear expression of the taxpayer's intention concerning the scope of authority granted to his or her representative(s).
- The taxpayer's signature and date.

Lesson 2 - Power of Attorney

Source - Publication 947 - What Is a Power of Attorney?

Question 100 - B. 30 days

Both OPR and the practitioner have the right to appeal the Initial Decision and Order of the ALJ to the Department of the Treasury within 30 days of being served. A specially designated senior attorney (called "the Appellate Authority") within The Department of Treasury's Office of Chief Counsel reviews the appeals and accompanying briefs and renders the Final Agency Decision in the case

Lesson 1 - Appeal from Administrative Decision

Source - Circular 230 - Subpart D - Section 10.77

Question 1 - C. 7 years

There are several exceptions to the statute of limitations. If the taxpayer files a claim for a loss from worthless securities or bad debt deduction, he or she should keep records for 7 years.

Lesson 4 - Period of Limitations

Source - IRS.GOV - How Long Should I Keep Records?

Question 2 - C. Both A and B

Among others, an Attorney, in good standing of the bar of the highest court of the jurisdiction, a Certified Public Accountant duly qualified to practice as a certified public accountant and an Enrolled Agent enrolled as an agent under the requirements of Circular 230 are authorized to practice before the IRS if they hold power of attorney.

Lesson 2 - Power of Attorney

Source - Form 2848 - Power of Attorney and Declaration of Representative

Question 3 - D. If the total amount for any tax period is not more than \$50,000, the taxpayer may make a small case request instead of filing a formal written protest

If the total amount for any tax period is not more than \$25,000, the taxpayer may make a small case request instead of filing a formal written protest. In figuring the total amount, include a proposed increase or decrease in tax (including penalties), or claimed refund.

Lesson 3 - Written Protest

Source - Publication 5 - Your Appeal Rights and How To Prepare a Protest

If You Don't Agree

Question 4 - D. Form 8879

Form 8879 - IRS e-file Signature Authorization is the declaration document and signature authorization for an e-filed return filed by an electronic return originator (ERO). Complete Form 8879 when the Practitioner PIN method is used or when the taxpayer authorizes the ERO to enter or generate the taxpayer's personal identification number (PIN) on his or her e-filed individual income tax return. Many types of these forms are available, and the form used depends on the business type.

Lesson 4 - Form 8879 IRS e-file Signature Authorization

Source - Form 8879 - IRS e-file Signature Authorization

Question 5 - A. An unenrolled return preparer is an individual other than an attorney, CPA, enrolled agent, or enrolled actuary who prepares and signs a taxpayer's return as the preparer, or who prepares a return but is not required (by the instructions to the return or regulations) to sign the return

Tax professionals have differing levels of skills, education and expertise. There are several different types of return preparers with credentials. However, certain preparers without any credentials are known as "unenrolled preparers" and have limited practice rights. They may only represent clients whose returns they prepared and signed and only at the initial audit level.

Lesson 1 - Practice Before the IRS

Source - Publication 947 - Practice Before the IRS

Question 6 - C. A copy of the IRS acknowledgment file showing the rejection

If the IRS rejects the electronic portion of a taxpayer's return the ERO must take reasonable steps to inform the taxpayer that the taxpayer's return has not been filed within 24 hours of receiving the rejection. When the ERO advises the taxpayer that the taxpayer's return has not been filed, the ERO must provide the taxpayer with the reject code(s), an explanation of the reject code(s), and the sequence number of each reject code. The ERO does not have to provide the taxpayer with a copy of the IRS acknowledgment file showing the rejection of the electronically filed return.

Lesson 4 - Rejected Electronically Filed Returns

Source - IRS.GOV - ERO Duties After Submitting the Return to the IRS



Question 7 - D. The taxpayer must be in filing compliance

The taxpayer's specific tax situation will determine which payment options are available to him or her. Payment options include full payment, short-term payment plan (paying in 120 days or less) or a long-term payment plan (installment agreement) (paying in more than 120 days).

If the taxpayer is an individual, he or she may qualify for a long-term payment plan (installment agreement) if he or she owes \$50,000 or less in combined tax, penalties and interest, and filed all required returns. Additionally, interest and some penalty charges continue to be added to the amount the taxpayer owes until the balance is paid in full. Also, the Office of Management and Budget has directed federal agencies to charge user fees for services such as the Installment Agreement program. The IRS utilizes the user fees to cover the cost of processing installment agreements.

Lesson 4 - Installment Agreements

Source - [IRS.GOV - Additional Information on Payment Plans](#)

Question 8 - C. The respondent may not deny a material allegation in the complaint that the respondent knows to be true, or state that the respondent is without sufficient information to form a belief, when the respondent possesses the required information

The respondent must specifically admit or deny each allegation set forth in the complaint, except that the respondent may state that the respondent is without sufficient information to admit or deny a specific allegation. The respondent, nevertheless, may not deny a material allegation in the complaint that the respondent knows to be true, or state that the respondent is without sufficient information to form a belief, when the respondent possesses the required information. The respondent also must state affirmatively any special matters of defense on which he or she relies.

Lesson 1 - Answer

Source - [Circular 230 - Subpart D - Section 10.64](#)

Question 9 - D. \$89

In 2019, the one-time installment agreement user fee for entering into such an agreement has increased to \$225 (\$107 if the taxpayer elects to have electronic funds withdrawal). Taxpayers can qualify for a low fee of \$43 if their income is below a certain level. The user fee for restructuring or reinstating an established installment agreement is \$89 regardless of income levels or method of payment.

Lesson 2 - Installment Agreements

Source - [IRS.GOV - Tax Topic 202 - Tax Payment Options](#)

Question 10 - B. Section 7525 extends the attorney client privilege to Federally authorized tax practitioners

With respect to tax advice, the same common law protections of confidentiality which apply to a communication between a taxpayer and an attorney shall also apply to a communication between a taxpayer and any Federally authorized tax practitioner to the extent the communication would be considered a privileged communication if it were between a taxpayer and an attorney.

Lesson 3 - Representing a Taxpayer before Appeals

Source - [GPO.GOV - 26 USC Section 7525 - Confidentiality privileges relating to taxpayer communications](#)

Question 11 - D. If the IRS determines the levy is creating an immediate economic hardship, the levy may be released and the taxpayer is exempt from paying the balance

If the IRS determines the levy is creating an immediate economic hardship, the levy may be released. A levy release does not mean the taxpayer is exempt from paying the balance. The IRS will work with him or her to establish payment plans or take other steps to help him or her pay off the balance.

Lesson 3 - Notice of Levy

Source - [IRS.GOV - Levy](#)



Question 12 - A. \$500

If the taxpayer is filing as a sole proprietor, partner, S corporation shareholder, and/or a self-employed individual, he or she generally will have to make estimated tax payments if he or she expects to owe tax of \$1,000 or more when filing the return. If the taxpayer is filing as a corporation, he or she generally has to make estimated tax payments for the corporation if he or she expects it to owe tax of \$500 or more when filing its return.

Lesson 4 - Estimated Taxes

Source - IRS.GOV - Estimated Taxes

Question 13 - A. An Administrative Law Judge will preside at the hearing on a complaint filed for the censure, suspension, or disbarment of a practitioner or disqualification of an appraiser

An evidentiary hearing must be held in all proceeding prior to the issuance of a decision. All hearings will be recorded and transcribed. The testimony of witnesses will be taken under oath or affirmation. Proceedings on complaints for the sanction of a practitioner, employer, firm or other entity, or appraiser will be conducted by an Administrative Law Judge appointed as provided by 5 U.S.C. 3105.

Lesson 1 - Hearing

Source - Circular 230 - Subpart D - Section 10.70

Question 14 - A. Promptly advise Ms. Smith that she did not comply with the Internal Revenue laws by failing to file Federal income tax returns for the 2017 and the 2018 tax years

If a practitioner knows that a client has made an error or has omitted information from any return, document, affidavit, or other submitted documents, the practitioner must promptly advise the client of the omission or error and the consequences. Due diligence must be exercised by the practitioner in preparing documents and oral and/or written representations to be submitted to the IRS. When relying on the work of others, it is presumed that the practitioner has exercised due care in the oversight of the work of others.

Lesson 1 - Client Omissions

Source - Circular 230 - Subpart B - Section 10.21

Question 15 - C. Representing the client in an IRS examination

Generally, the same confidentiality protection that a taxpayer has with an attorney also applies to certain communications that he or she has with Federally authorized practitioners. Confidential communications are those that:

- Advise the taxpayer on tax matters within the scope of the practitioner's authority to practice before the IRS.
- Would be confidential between an attorney and the taxpayer.
- Relate to noncriminal tax matters before the IRS.
- Relate to noncriminal tax proceedings brought in Federal court by or against the United States.

In the case of communications in connection with the promotion of a person's participation in a tax shelter, the confidentiality privilege does not apply to written communications between a Federally authorized practitioner and that person, any director, officer, employee, agent, or representative of that person, or any other person holding a capital or profits interest in that person.

Lesson 3 - Representing a Taxpayer before Appeals

Source - Publication 556 - Confidentiality Privilege

Question 16 - B. 12 weeks

Processing refunds may take longer under certain circumstances. Refunds from amended returns will generally be issued within 12 weeks. Injured spouse claims can take longer depending on the circumstances.

Lesson 4 - Refund Options

Source - IRS.GOV - Topic 152 - Refund Information



Question 17 - D. Furnishing information at the request of the IRS or appearing as a witness for a taxpayer

A person is practicing before the IRS if he or she:

- Communicates with the IRS for a taxpayer regarding the taxpayer's rights, privileges, or liabilities under laws and regulations administered by the IRS;
- Represents a taxpayer at conferences, hearings, or meetings with the IRS;
- Prepares necessary documents and files them with the IRS for a taxpayer; or
- Renders written advice with respect to any entity, transaction, plan, or arrangement, or other plan or arrangement having a potential for tax avoidance or evasion.

Just furnishing information at the request of the IRS or appearing as a witness for the taxpayer is not practice before the IRS. These acts can be performed by anyone.

Lesson 1 - Practice Before the IRS

Source - Publication 947 - Practice Before the IRS

Question 18 - C. September 30, 2020, two years from when the additional tax was paid

If a taxpayer thinks he or she paid too much tax, he or she may file a claim for refund. The taxpayer must generally file the claim within 3 years from the date he or she filed the original return or 2 years from the date he or she paid the tax, whichever is later. The law generally provides for interest on the refund if it is not paid within 45 days of the date the taxpayer filed the return or claim for refund.

Lesson 4 - Overpayment

Source - Publication 556 - Examination of Returns, Appeal Rights, and Claims for Refund

Question 19 - C. Paper series I savings bonds

A taxpayer should use Form 8888 if he or she wants to directly deposit his or her refund (or part of it) to one or more accounts at a bank or other financial institution (such as a mutual fund, brokerage firm, or credit union) in the United States or he or she wants to use the refund to buy up to \$5,000 in paper series I savings bonds.

Lesson 4 - Form 8888 - Allocation of Refund (Including Savings Bond Purchases)

Source - IRS.GOV - Topic 152 - Refund Information

Question 20 - C. Employment tax

The taxpayer can take his or her case to the United States Tax Court if he or she disagrees with the IRS over income tax, estate tax, gift tax or certain excise taxes of private foundations, public charities, qualified pension and other retirement plans, or real estate investment trusts.

Lesson 3 - Tax Court

Source - Publication 556 - Appeals to the Courts

Question 21 - B. A levy on salary or wages will end when the time expires for legally collecting the tax

If the IRS levies the taxpayer's wages, salary, Federal payments or state refunds, the levy will end when the levy is released, the taxpayer pays his or her tax debt or the time expires for legally collecting the tax.

Lesson 3 - Notice of Levy

Source - IRS.GOV - Levy

Question 22 - D. When the IRS cannot contact the taxpayer by telephone

Accounts may be reported Currently Not Collectible (CNC) for a variety of reasons. Some, but not all, of the most commonly used closing codes are inability to locate the taxpayer or assets, partial expiration of the assessment prior to issuance and complete expiration of the statutory period for collection or suit initiated to reduce tax claim to judgment.

Lesson 3 - Currently Not Collectible (CNC)

Source - IRS.GOV - Internal Revenue Manual - Currently Not Collectible Policy and Procedure Overview



Question 23 - D. Appear as a witness before the IRS

A suspended or disbarred individual may appear as a witness for the taxpayer. A witness is limited to providing factual information, and he or she may not advocate particular positions on issues or controversies arising during a tax examination.

Lesson 1 - Suspension or Disbarment

Source - IRS.GOV - Guidance on Restrictions During Suspension or Disbarment from Practice Before the Internal Revenue Service

Question 24 - B. Sam believes in good faith and on reasonable grounds that the information requested is privileged or that the request is of doubtful legality

Information requested by the IRS is to be promptly submitted unless the practitioner has good reason to believe the information is subject to attorney/client privilege. Unreasonable delays by a practitioner are not permitted in matters before the IRS. The practitioner must also provide any information and/or testify concerning any alleged violations when questioned by a duly authorized representative of the IRS, unless the practitioner believes in good faith that the information is privileged.

Lesson 1 - Information Furnished to the IRS

Source - Circular 230 - Subpart B - Section 10.20

Question 25 - A. A right of appeal is available for most collection actions

The taxpayer can appeal most collection actions. The main options for appeals are a Collection Due Process (CDP) and the Collection Appeals Program (CAP). The taxpayer may represent him or herself at CDP, CAP and other Appeals proceedings. Or, he or she may be represented by an attorney, certified public accountant, or a person enrolled to practice before the IRS.

Lesson 3 - Appeal an IRS Decision

Source - Publication 1660 - Collection Appeal Rights

Question 26 - C. Form 2848, if his uncle is recognized to practice before the IRS

Jamie's uncle does not meet the definition of a family member for the purposes of Form 2848, Power of Attorney and Declaration of Representative, but if his uncle is recognized to practice before the IRS, for example if his uncle is an enrolled agent, then Jamie should use Form 2848 to appoint him.

Lesson 2 - Power of Attorney

Source - Form 2848 - Power of Attorney and Declaration of Representative

Question 27 - C. The 10-year period the IRS has to collect the taxes will be suspended until the date Appeals' determination becomes final

If the taxpayer's request for a CDP hearing is not timely, he or she may request an equivalent hearing. To receive an equivalent hearing, his or her request must be postmarked on or before the end of the one-year period after the date of the levy notice or on or before the end of the one-year period plus 5 business days after the filing date of the Notice of Federal Tax Lien.

If the request for a CDP hearing is timely, the 10-year period the IRS has to collect the taxes will be suspended until the date Appeals' determination becomes final or the taxpayer withdraws his or her request for a hearing in writing.

The request for a CDP levy hearing, whether timely or Equivalent, does not prohibit the IRS from filing a Notice of Federal Tax Lien.

Lesson 3 - Equivalent Hearing

Source - Form 12153 - Request for a Collection Due Process or Equivalent Hearing



Question 28 - C. File suit in his U.S. District Court or the U.S. Court of Federal Claims no later than 2 years after the time of mailing of the notice

Per 26 USC Section 6532 - Periods of limitation on suits, the general rule is that a suit must be brought within 2 years of the time of mailing of the notice. Appeals may be made to a U.S. District Court or the U.S. Court of Federal Claims.

Lesson 2 - IRS Notice or Letter

Source - GPO.GOV - 26 USC Section 6532 - Periods of limitation on suits

Question 29 - B. The amount offered represents the most IRS can expect to collect within a reasonable period of time

The IRS generally approves an offer in compromise when the amount offered represents the most it can expect to collect within a reasonable period of time.

Lesson 2 - Offer in Compromise (OIC)

Source - IRS.GOV - Offer in Compromise

Question 30 - D. An unenrolled return preparer

Per Circular 230, attorneys, CPAs, enrolled agents, registered tax return preparers, and other individuals who qualify for limited practice may practice before the IRS. The individuals who qualify are a taxpayer representing him or herself; an individual representing a family member; a full-time employee of a company; a partner; a bona fide officer of a corporation, an association, or an organized group that represents the corporation or association; and a trustee, an administrator, or an executor of a trust or an estate.

Lesson 1 - Representing Oneself and Limited Practice

Source - Circular 230 - Subpart A Section 10.7

Question 31 - A. The Secretary of the Treasury

Any party to the proceeding under this subpart D may appeal the decision of the Administrative Law Judge by filing a notice of appeal with the Secretary of the Treasury, or delegate deciding appeals. The notice of appeal must include a brief that states exceptions to the decision of Administrative Law Judge and supporting reasons for such exceptions.

Lesson 1 - Appeal from Administrative Decision

Source - Circular 230 - Subpart D - Section 10.77

Question 32 - A. The Internal Revenue Code

The Internal Revenue Code is the primary source of Federal tax law. It imposes income, estate, gift, employment and miscellaneous excise taxes and provisions controlling the administration of Federal taxation.

Lesson 2 - Internal Revenue Code

Source - Tax Code, Regulations and Official Guidance

Question 33 - A. Judicial

The three levels of Treasury Regulations are proposed, temporary and final regulations.

Lesson 2 - Treasury Regulations

Source - IRS.GOV - Tax Code, Regulations and Official Guidance

Question 34 - D. 30 days

Paying the tax debt in full is the best way to get rid of a Federal tax lien. The IRS releases the lien within 30 days after the taxpayer has paid the tax debt. When conditions are in the best interest of both the government and the taxpayer, other options for reducing the impact of a lien exist.

Lesson 3 - Notice of Federal Tax Lien

Source - IRS.GOV - Understanding a Federal Tax Lien



Question 35 - B. At the IRS service center where notices are generated requesting payment

The collection process begins at the IRS service center where notices are generated requesting payment. The district director or the director of the regional service center shall, after making a tax assessment, give notice to the person liable for the unpaid tax, stating the amount of the tax and demanding payment.

Lesson 3 - Currently Not Collectible (CNC)

Source - gpo.GOV - 26 CFR 301.6203-1 - Method of assessment

Question 36 - D. A tax return preparer is no longer required to use Form 8867 and submit it with every tax return claiming the Earned Income Tax Credit (EITC)

All paid tax return preparers who determine the eligibility for, or the amount of, the EITC are now subject to the EITC due diligence requirements and to the penalty under Section 6695(g) of the Internal Revenue Code for failure to comply. This includes preparers who sign the return, preparers who prepare the EITC portion but do not sign the return, and the employers of these preparers.

Here's a summary of the changes:

- Record retention period changed to three years after the later of the date the return was due or the date it was transferred in final form by the preparer to the next person in the filing process.
- Preparer must now keep copies of any documents that the client provides and the preparer used to determine eligibility for or amount of EITC.
- Preparer **is required** to use Form 8867 and submit it with every EITC tax return or claim for refund.
- The amount of the penalty is subject to a cost of living adjustment under IRC Section 6695(h).

Lesson 1 - Earned Income Tax Credit (EITC) Due Diligence Requirements

Source - IRS.GOV - Due Diligence FAQs

Question 37 - A. \$50 for each failure

In 2019, a tax preparer may face a penalty of \$50 for each failure to furnish an identifying number on a return with a maximum penalty of \$26,500 in a calendar year.

Lesson 1 - Failure to Follow Procedures

Source - IRS.GOV - Summary of Preparer Penalties under Title 26

Question 38 - C. Prepare and file the necessary documents with the IRS for the taxpayer

Practice before the Internal Revenue Service includes presenting to the IRS or any of its officers or employees all matter relating to a client's rights, privileges or liabilities.

Practice before the IRS covers all matters relating to any of the following:

- Communicating with the IRS for a taxpayer regarding the taxpayer's rights, privileges, or liabilities under laws and regulations administered by the IRS.
- Representing a taxpayer at conferences, hearings, or meetings with the IRS.
- Preparing and filing documents, including tax returns, with the IRS for a taxpayer.
- Providing a client with written advice which has a potential for tax avoidance or evasion.

Furnishing information at the request of the IRS or appearing as a witness for the taxpayer is not practice before the IRS.

Lesson 1 - Practice Before the IRS

Source - Publication 947 - Practice Before the IRS



Question 39 - D. The enrolled agent must complete a minimum of 24 hours of CPE credit in each year of an enrollment cycle if enrolled for the entire cycle

For enrolled agents, a minimum of 16 hours of continuing professional education credit must be completed in each year of an enrollment cycle. A minimum of 72 hours of continuing professional education credit must be completed during each 3-year enrollment cycle.

Lesson 1 - Continuing Professional Education Requirement

Source - Circular 230 - Subpart A - Section 10.6

Question 40 - A. \$1,000

In 2019, if the IRS examines the EITC claims a tax practitioner prepared and finds he or she did not meet all four due diligence requirements, he or she can get:

- A \$530 penalty for each failure to comply with EITC due diligence requirements. The penalty amounts are covered in IRC Section 6695(g).
- A minimum penalty of \$1,000 if he or she prepares a client return and IRS finds any part of the amount of taxes owed is due to an unreasonable position (For reference see IRC Section 6694(a)).
- A minimum penalty of \$5,000 if he or she prepares a client return and IRS finds any part of the amount of taxes owed is due to his or her reckless or intentional disregard of rules or regulations (For reference see IRC Section 6694(b)).

Lesson 1 - Consequences of Filing EITC Returns Incorrectly

Source - IRS.GOV - Consequences of Filing EITC Returns Incorrectly

Question 41 - C. A convention or association of churches with annual gross receipts exceeding \$25,000

An organization does not have to file Form 990 or 990-EZ even if it has at least \$200,000 of gross receipts for the tax year or \$500,000 of total assets at the end of the tax year if it is a church, an interchurch organization of local units of a church, a convention or association of churches, or an integrated auxiliary of a church as described in Regulations Section 1.6033-2(h) (such as a men's or women's organization, religious school, mission society, or youth group).

Lesson 4 - Return of Organization Exempt From Income Tax

Source - Instructions for Form 990 Return of Organization Exempt From Income Tax

Question 42 - C. Kate must send a copy of the previously executed power of attorney to the Internal Revenue Service (with an original signature) and write "REVOKE" across the top of the power of attorney

If an individual wants to revoke an existing power of attorney and does not want to name a new representative, or if a representative wants to withdraw from representation, mail or fax a copy of the previously executed power of attorney to the IRS office handling the matter. If the taxpayer is revoking the power of attorney, the taxpayer must write "REVOKE" across the top of the first page with a current signature and date below this annotation.

Lesson 2 - Power of Attorney

Source - Form 2848 - Power of Attorney and Declaration of Representative

Question 43 - B. Soliciting new business in matters relating to the Internal Revenue Service through the publishing of a range of fees for particular services

The Secretary of the Treasury, or delegate, after notice and an opportunity for a proceeding, may censure, suspend, or disbar any practitioner from practice before the Internal Revenue Service if the practitioner is shown to be incompetent or disreputable, fails to comply with any regulation in Circular 230 or with intent to defraud, willfully and knowingly misleads or threatens a client or prospective client.

Soliciting new business by publishing a range of fees for particular services is an acceptable practice and is not an example of disreputable conduct for an enrolled agent.

Lesson 1 - Sanctions for Violation of the Regulations

Source - Circular 230 - Subpart C - Section 10.50



Question 44 - D. Enrolled Actuaries

Any individual who is enrolled as an actuary by the Joint Board for the Enrollment of Actuaries who is not currently under suspension or disbarment from practice before the IRS may practice before the IRS. The practice of enrolled actuaries is **limited** to certain Internal Revenue Code sections that relate to their area of expertise, principally those sections governing employee retirement plans.

Lesson 1 - Enrolled Actuaries

Source - Publication 947 - Practice Before the IRS

Question 45 - B. The IRS will issue a release of the notice of Federal tax lien within 15 business days after the taxpayer satisfies the tax debt

Section 6325 directs the IRS to issue a certificate of release of lien within 30 days after the tax liability is satisfied (or becomes unenforceable) or after a bond guaranteeing payment of the liability is accepted.

Lesson 2 - Notice of Federal Tax Lien

Source - IRS.GOV - Understanding a Federal Tax Lien

Question 46 - C. File an amended return within three years from the date he filed his original return for 2019, or two years from the date he paid the tax, whichever is later

Generally, to claim a refund, *Form 1040X - Amended U.S. Individual Income Tax Return* must be filed within 3 years from the due date of the original return or within 2 years from the date the taxpayer paid the tax, whichever is later. Returns filed before the due date (without regard to extensions) are considered filed on the due date.

Lesson 4 - Amended Returns

Source - IRS.GOV - Topic 308 - Amended Returns

Question 47 - C. Mr. Adams engages a number of persons to prepare tax returns on a commission basis but does not himself prepare returns

The term “tax return preparer” means any person who prepares for compensation, or who employs one or more persons to prepare for compensation, any return of tax imposed by this title or any claim for refund of tax imposed by this title. For purposes of the preceding sentence, the preparation of a substantial portion of a return or claim for refund shall be treated as if it were the preparation of such return or claim for refund.

Lesson 1 - Rules for Tax Preparers – Circular 230

Source - GPO.GOV - 26 USC Section 7701 - Definitions

Question 48 - C. Separation agreement, casualty and theft losses, Child and Dependent Care Credit, contributions

Basic records are documents that everybody should keep. These are the records that prove the taxpayer’s income and expenses. If he or she owns a home or investments, the basic records should contain documents related to those items. A list is provided in Publication 552. Separation agreement, casualty and theft losses, Child and Dependent Care Credit, contributions do not appear on the list of basic records.

Lesson 4 - Recordkeeping for Individuals

Source - Publication 552 - Table 1 - Proof of Income and Expense



Question 49 - D. A practitioner who is not an enrolled agent, a CPA, or an attorney, who signs a return as having prepared it for the taxpayer, may, with proper authorization from the taxpayer, appear as the taxpayer's representative before any office of the IRS with respect to the taxpayer's tax liability for the period covered by that return

Registered tax return preparers and unenrolled return preparers may only represent taxpayers before revenue agents, customer service representatives, or similar officers and employees of the Internal Revenue Service (including the Taxpayer Advocate Service) during an examination of the taxable year or period covered by the tax return they prepared and signed. Registered tax return preparers and unenrolled return preparers cannot represent taxpayers, regardless of the circumstances requiring representation, before appeals officers, revenue officers, counsel or similar officers or employees of the Internal Revenue Service or the Department of Treasury. Registered tax return preparers and unenrolled return preparers cannot execute closing agreements, extend the statutory period for tax assessments or collection of tax, execute waivers, execute claims for refund, or sign any document on behalf of a taxpayer.

Lesson 1 - Practice Before the IRS

Source - Publication 947 - Practice Before the IRS

Question 50 - D. A County Court of Appeal

If the taxpayer and the IRS still disagree after the appeals conference, he or she may be entitled to take the case to the United States Tax Court, the United States Court of Federal Claims, or the United States District Court. These courts are independent of the IRS.

Lesson 3 - Appeals to the Courts

Source - Publication 556 - Appeals to the Court

Question 51 - C. Advise XYZ Company of the error and the consequences of the error

A practitioner who knows that his or her client has not complied with the revenue laws or has made an error or omission in any return, document, affidavit, or other required paper, has the responsibility to advise the client promptly of the noncompliance, error, or omission. The practitioner also must advise the client of any consequences as provided under the IRC and regulations of such noncompliance, error, or omission. Under Circular 230, the agent is not required to notify the IRS.

Lesson 1 - Accuracy

Source - IRS.GOV - Internal Revenue Manual 4.11.55.1.3.2 - Duty to Advise

Question 52 - C. The taxpayer's father

Either a member of the taxpayer's immediate family or a taxpayer's regular, full-time employee can represent that taxpayer before the IRS, provided they present satisfactory identification and proof of authority to represent the taxpayer. Unenrolled preparers may not represent a taxpayer in matters involving appeals.

Lesson 1 - Practice Before the IRS

Source - Publication 947 - Practice Before the IRS

Question 53 - B. 30 days from the date of the letter offering appeal rights

The taxpayer must tell IRS if he or she agrees with the proposed changes or if he or she wants to appeal, generally within 30 days from the date of the letter offering appeal rights. Be sure to send the request to the address on the letter within the timeframe given.

Lesson 3 - Written Protest

Source - Publication 3498 - The Examination Process (Examinations by Mail)



Question 54 - B. \$5,000

For any portion of an underpayment of tax required to be shown on a return, there shall be added to the tax an amount equal to 20% of the portion of the underpayment. This penalty shall apply to the portion of any underpayment which is attributable to one or more of the following:

1. Negligence or disregard of rules or regulations.
2. Any substantial understatement of income tax.
3. Any substantial valuation misstatement under chapter 1.
4. Any substantial overstatement of pension liabilities.
5. Any substantial estate or gift tax valuation understatement.
6. Any disallowance of claimed tax benefits by reason of a transaction lacking economic substance (within the meaning of Section 7701 (o)) or failing to meet the requirements of any similar rule of law.
7. Any undisclosed foreign financial asset understatement.

Lesson 1 - Accuracy Related Penalties

Source - GPO.GOV - 26 USC Section 6662 - Imposition of accuracy-related penalty on underpayments

Question 55 - A. \$1,000

The penalty for promoting abusive tax shelters is generally equal to \$1,000 or, if lesser, 100% of income derived from each organization or sale of the abusive plan. IRS, the Office of Chief Counsel and Treasury issue formal guidance on certain tax avoidance transactions that are referred to as "listed transactions". Taxpayers are required to disclose their participation in listed transactions.

Lesson 1 - Promoting Abusive Tax Shelters

Source - IRS.GOV - Summary of Preparer Penalties under Title 26

Question 56 - C. By March 6th, (within three (3) business days after the return is acknowledged as accepted by the IRS)

Use Form 8453 to send any required paper forms or supporting documentation listed next to the checkboxes on Form 8453 (do not send Forms W-2, W-2G, or 1099-R). If you are an ERO, you must mail Form 8453 to the IRS within 3 business days after receiving acknowledgement that the IRS has accepted the electronically filed tax return.

Lesson 4 - Submission of Paper Documents to the IRS

Source - Form 8453 - U.S. Individual Income Tax Transmittal for an IRS e-file Return

Question 57 - D. A practitioner may not charge contingent fees for services to a client in connection with the determination of interest or penalties

A practitioner's fee must be reasonable in matters before the IRS. Contingent fees are only allowed when the IRS is examining or challenging an original tax return; an amended return, claim for a refund or credit where the amended return or claim was filed within 120 days of taxpayer receipt of IRS examination notice. Contingent fees are also allowed for services to a client in connection with the determination of interest or penalties assessed by the service and for services provided with any judicial proceeding arising under the IRC.

Lesson 1 - Fees

Source - Circular 230 - Subpart B - Section 10.27

Question 58 - C. The practitioner must, at the request of the client, promptly return the records of the client to the client unless applicable state law provides otherwise

A practitioner must return a client's records on request, regardless of any fee dispute. Records deemed returnable for purposes of this requirement are those records necessary for a client to comply with his or her Federal tax obligations. Returns or other documents prepared by the practitioner that the practitioner is withholding pending payment of a fee are not includible.

Lesson 1 - Return of Client's Records

Source - Circular 230 - Subpart B - Section 10.28



Question 59 - B. An unenrolled preparer cannot sign any document on behalf of a taxpayer

Registered tax return preparers and unenrolled return preparers cannot represent taxpayers, regardless of the circumstances requiring representation, before appeals officers, revenue officers, counsel or similar officers or employees of the Internal Revenue Service or the Department of Treasury. Registered tax return preparers and unenrolled return preparers cannot execute closing agreements, extend the statutory period for tax assessments or collection of tax, execute waivers, execute claims for refund, or sign any document on behalf of a taxpayer.

Lesson 1 - Practice Before the IRS

Source - Publication 947 - Practice Before the IRS

Question 60 - D. Under the limited practice provisions in Circular 230, an individual who is under suspension or disbarment from practice before the IRS may not engage in limited practice before the IRS

An individual who is under suspension or disbarment from practice before the IRS may not participate in limited practice. Additionally, after notice, a delegate of the IRS may also deny eligibility for an individual to engage in limited practice.

Lesson 1 - Representing Oneself and Limited Practice

Source - Circular 230 - Subpart A - Section 10.7

Question 61 - B. 90 days

The Statutory Notice of Deficiency notifies the taxpayer of the Internal Revenue Service's intent to assess a tax deficiency and informs him or her of his or her right to petition the United States Tax Court to dispute the proposed adjustments. The taxpayer will have 90 days (150 days if it is addressed outside the United States) from the date of this notice to file a petition with the Tax Court. The notice will show the 90th (and 150th) day by which the taxpayer must file the petition with the Tax Court.

Lesson 3 - Audit Conclusion

Source - IRS.GOV - Understanding Your CP3219B Notice

Question 62 - C. Preparing a tax return or furnishing information at the request of the Internal Revenue Service

Practice before the Internal Revenue Service includes presenting to the IRS or any of its officers or employees all matter relating to a client's rights, privileges or liabilities. Practice before the IRS covers all matters relating to any of the following:

- Communicating with the IRS for a taxpayer regarding the taxpayer's rights, privileges, or liabilities under laws and regulations administered by the IRS.
- Representing a taxpayer at conferences, hearings, or meetings with the IRS.
- Preparing and filing documents, including tax returns, with the IRS for a taxpayer.
- Providing a client with written advice which has a potential for tax avoidance or evasion.

Furnishing information at the request of the IRS or appearing as a witness for the taxpayer is not practice before the IRS.

Lesson 1 - Practice Before the IRS

Source - Publication 947 - Practice Before the IRS



Question 63 - D. No special requirements apply to returns claiming Earned Income Tax Credit (EITC)

A paid tax return preparer must exercise due diligence to determine whether a taxpayer meets all of the eligibility requirements for the EITC. The tax return preparer must complete the Due Diligence Questions for Returns Claiming EITC on *Form 8867 - Paid Preparer's Due Diligence Checklist*. Although lines 9a and 9b only ask two specific questions about EITC eligibility related to claiming a qualifying child, the tax preparer's client must meet all of the eligibility requirements for claiming the EITC. Therefore, the tax preparer's client cannot claim the EITC if all of the eligibility requirements for the EITC are not satisfied, even if the tax preparer answers "yes" to 9a and 9b.

To help ensure compliance with the law and that eligible taxpayers receive the right credit amount, the regulations require preparers, effective January 1, 2012, to file the Form 8867 with each return claiming the EITC. The regulations also reflect recent congressional action to increase the penalty for noncompliance with the due diligence requirement to \$530 in 2019. Further details can be found in Treasury Decision 9570, published in the Federal Register.

Lesson 1 - Due Diligence Questions for Returns Claiming EITC

Source - Form 8867 - Paid Preparer's Due Diligence Checklist

Question 64 - B. The IRS representative signs a complaint naming the attorney, certified public accountant, registered tax return preparer, enrolled agent, enrolled retirement plan agent, or enrolled actuary and files the complaint with the ALJ

A complaint must name the respondent, provide a clear and concise description of the facts and law that constitute the basis for the proceeding, and be signed by an authorized representative of the Internal Revenue Service. The original paper, plus one additional copy, must be filed with the Administrative Law Judge.

Lesson 1 - Complaint

Source - Circular 230 - Subpart D - Section 10.62 - 63

Question 65 - D. The taxpayer has lost in a court of appeal on a substantially similar issue

According to *Publication 556 - Examination of Returns, Appeal Rights, and Claims for Refund* in any court proceeding, the IRS has the burden of proof for any factual issue if the taxpayer has introduced credible evidence for the issue, provided that the taxpayer has done all of the following:

- The taxpayer introduced credible evidence relating to the issue.
- The taxpayer complied with all substantiation requirements of the Internal Revenue Code.
- The taxpayer maintained all records required by the Internal Revenue Code.
- The taxpayer cooperated with all reasonable requests by the IRS for information regarding the preparation and related tax treatment of any item reported on the tax return.
- The taxpayer had a net worth of \$7 million or less and not more than 500 employees at the time his or her tax liability is contested in any court proceeding if his or her tax return is for a corporation, partnership, or trust.

Whether or not the taxpayer has lost in a court of appeal on a substantially similar issue has no bearing on the IRS' burden of proof for any factual issue in a court proceeding.

Lesson 3 - Appeals to the Courts

Source - Publication 556 - Appeal Within the IRS

Question 66 - D. Within 60 days

In general, enrolled agents must renew their credentials with the IRS between November 1 and January 31 of every subsequent third year according to the last number of the individual's Social Security number. Enrolled retirement plan agents must renew their status between April 1 and June 30 of every third year subsequent to their enrollment. Upon renewal and payment of a renewal fee, a new card or certificate will be issued. Changes of address must be reported to the IRS within 60 days of the address change.

Lesson 1 - Term and Renewal

Source - Circular 230 - Subpart A - Section 10.6



Question 67 - C. Advise Darren and Tom that he cannot represent them because there is a conflict of interest

According to Circular 230, a conflict of interest exists if:

1. The representation of one client will be directly adverse to another client.
2. There is a significant risk that the representation of one or more clients will be materially limited by the practitioner's responsibilities to another client, a former client or a third person, or by a personal interest of the practitioner.

However, if a practitioner believes a competent representation that is not prohibited by law is reasonable, each of the affected clients can waive the conflict of interest and give informed consent, confirmed in writing, at the time the existence of the conflict of interest is known by the practitioner. Because acquiring the consent of the parties is involved and it is not given as an option in the answers, Kevin should advise Darren and Tom that he cannot represent them.

Lesson 1 - Conflict of Interest

Source - Circular 230 - Subpart B - Section 10.29

Question 68 - D. Liable for the 6662 accuracy-related penalty

The two most common accuracy related penalties are the substantial understatement penalty and the negligence or disregard of the rules or regulations penalty. These penalties are calculated as a flat 20% of the net understatement of the tax. However, in *Anyika v. Commissioner*, (T.C. Memo. 2011-69) the judge determined practitioners who rely on software to justify errors are liable for the entire Section 6662 penalties.

Lesson 1 - Accuracy Related Penalties

Source - T.C. Memo. 2011-69

Question 69 - C. Endorse a taxpayer's refund check and electronically direct payment into an account owned and controlled by the practitioner for an income tax return the practitioner prepared

A penalty may be imposed for a tax preparer who endorse or otherwise negotiate any check (including directing or accepting payment by any means, electronic or otherwise into an account owned or controlled by the practitioner or any firm or other entity with whom the practitioner is associated) issued to a client by the government in respect to a Federal tax liability. The prohibition on return preparers negotiating a refund check is limited to a refund check for returns they prepared.

A tax preparer that is also a financial institution, but has not made a loan to the taxpayer on the basis of the taxpayer's anticipated refund, may:

- Cash a refund check and remit all of the cash to the taxpayer.
- Accept a refund check for deposit in full to a taxpayer's account provided the bank does not initially endorse or negotiate the check.
- Endorse a refund check for deposit in full to a taxpayer's account pursuant to a written authorization of the taxpayer.

Lesson 1 - Negotiation of Taxpayer Checks

Source - Penalty Information for Authorized IRS e-file Providers



Question 70 - D. Establishing the facts, their relevancy, and arriving at a conclusion supported solely by the facts

Tax advisors should offer their clients high quality representation concerning Federal tax issues by observing best practices that include the following:

1. 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.
2. 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.
3. Advising the client regarding the import 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.
4. Acting fairly and with integrity in practice before the Internal Revenue Service.

Answer D failed to include the law as a basis of support for a conclusion.

Lesson 1 - Best Practices

Source - Circular 230 - Subpart B - Section 10.33

Question 71 - D. Make reasonable inquiries to Anne about the fact that she did not provide him with a Schedule K-1

A practitioner advising a client to take a position on a tax return, document, affidavit or other paper submitted to the Internal Revenue Service or preparing or signing a tax return as a preparer, generally may rely in good faith without verification upon information furnished by the client. The practitioner may not, however, ignore the implications of information furnished to, or actually known by, the practitioner, and must make reasonable inquiries if the information as furnished appears to be incorrect, inconsistent with an important fact or another factual assumption, or incomplete.

Lesson 1 - Tax Returns and Documents Standards

Source - Circular 230 - Subpart B - Section 10.34

Question 72 - D. April 15, 2020

The IRS has three years to give the taxpayer a refund, three years to audit a tax return, and ten years from the day a tax liability has been finalized to collect any tax due. If a taxpayer filed his or her taxes before the deadline, the time is measured from the April 15th deadline. Together, these laws are called the statute of limitations.

Lesson 4 - Statute of Limitations

Source - Publication 594 - How Long We Have to Collect Taxes

Question 73 - A. If the CDP request is deemed frivolous, the taxpayer will be given 30 days to withdraw or amend the CDP request in order to avoid a frivolous submission penalty

To request a Collection Due Process hearing, complete [Form 12153 - Request for a Collection Due Process or Equivalent Hearing](#), and send it to the address on the taxpayer's notice. The taxpayer has 30 days from the date of the notice to request a Collection Due Process hearing. He or she can also request an Equivalent Hearing within one year from the date of the notice. Additionally, the taxpayer will be given 30 days to withdraw or amend the CDP request in order to avoid a frivolous submission penalty.

Lesson 3 - Collection Due Process (CDP)

Source - Section 6702 - Frivolous tax submissions

Question 74 - B. Alex Smart, Certified Enrolled Agent

There are several rules regarding advertising and solicitation of business. In general, an advertisement or solicitation cannot be false, fraudulent, coercive, misleading or deceptive. An example of a business name that is misleading is "Pay Less Tax Service." Additionally, enrolled agents cannot use the term "certified" or give the impression of an employee relationship with the IRS.

Lesson 1 - Solicitation

Source - Circular 230 - Subpart B - Section 10.30



Question 75 - D. The practitioner is not required to make reasonable inquiries if the information as furnished appears to be incorrect, inconsistent with an important fact or another factual assumption, or incomplete

A tax preparer cannot willfully sign a tax return or advise a client knowing that the return, documentation, or other submitted papers lack a reasonable basis, or is an unreasonable position, or is a willful attempt to understate the tax liability or a reckless disregard of rules by the preparer. A practitioner may not advise a client to take a frivolous tax position on any document affidavit or other submitted papers or to impede the administration of Federal tax law.

Any penalties that are likely to be applied must be communicated to the client by the practitioner if the practitioner advised the client with respect to the position, prepared or signed the tax return or any other document submitted to the IRS. The practitioner can rely on information provided by the client without verification, but the practitioner may not ignore implications of information furnished that appears to be incorrect or inconsistent with other factual assumptions.

A practitioner advising a client to take a position on a tax return, document, affidavit or other paper submitted to the Internal Revenue Service or preparing or signing a tax return as a preparer, generally may rely in good faith without verification upon information furnished by the client. The practitioner may not, however, ignore the implications of information furnished to, or actually known by, the practitioner, and must make reasonable inquiries if the information as furnished appears to be incorrect, inconsistent with an important fact or another factual assumption, or incomplete.

Lesson 1 - Tax Returns and Documents Standards

Source - Circular 230 - Subpart B - Section 10.34

Question 76 - D. Turn the check directly over to William

Practitioners must not endorse or otherwise negotiate (cash) any refund check (including directing or accepting payment by any means, electronic or otherwise, in an account owned or controlled by the practitioner or any firm or other entity with whom the practitioner is associated) issued to the taxpayer. Practitioners cannot keep a check until fees are paid.

Lesson 1 - Restrictions

Source - Publication 947 - Practice Before the IRS

Question 77 - D. \$10,000 and 1 year in jail or both

Per IRC Section 7207, upon conviction of a misdemeanor for fraudulent returns, statements, or other documents, the practitioner will receive a fine of not more than \$10,000 (\$50,000 in the case of a corporation), imprisonment of not more than one year, or both.

Lesson 1 - Willful Preparation of a False or Fraudulent Return

Source - Summary of Preparer Penalties under Title 26 - Section 7207

Question 78 - C. 36 months

Copies of the written consents must be retained by the practitioner for at least 36 months from the date of the conclusion of the representation of the affected clients, and the written consents must be provided to any officer or employee of the Internal Revenue Service on request.

Lesson 1 - Conflict of Interest

Source - Circular 230 - Subpart B - Section 10.29



Question 79 - B. The full amount owed has already been paid

An Audit Reconsideration is a process used by the Internal Revenue Service to help the taxpayer when he or she disagrees with the results of an IRS audit of his or her tax return, or a return created for the taxpayer by the IRS because he or she did not file a tax return as authorized by the Internal Revenue Code Section 6020.

The taxpayer may request audit reconsideration if he or she:

- Did not appear for his or her audit.
- Moved and did not receive correspondence from the IRS.
- Have additional information to present that he or she did not provide during his or her original audit.
- Disagree with the assessment from the audit.

An audit reconsideration request can be made any time after an examination assessment has been made on the taxpayer's account and the tax remains unpaid.

Lesson 3 - Audit Reconsideration

Source - Publication 3598 - The Audit Reconsideration Process

Question 80 - D. Issuance of a notice of deficiency

Within a few weeks after the taxpayer's closing conference with the examiner and/or supervisor, he or she will receive a package with a letter (known as a 30-day letter) notifying him or her of his or her right to appeal the proposed changes within 30 days. The taxpayer generally has 30 days from the date of the 30-day letter to tell the IRS whether he or she will accept or appeal the proposed changes. The letter will explain what steps the taxpayer should take, depending on which action he or she chooses.

If the taxpayer does not respond to the 30-day letter, or if he or she later does not reach an agreement with an Appeals Officer, the IRS will send him or her a 90-day letter, which is also known as a notice of deficiency. The taxpayer will have 90 days (150 days if it is addressed to him or her outside the United States) from the date of this notice to file a petition with the Tax Court.

Lesson 3 - Audit Conclusion

Source - Publication 556 - 30-day letter and 90-day letter

Question 81 - C. The individual was paid to prepare, assist in preparing, or review the tax return

The term "tax return preparer" means any person who prepares for compensation, or who employs one or more persons to prepare for compensation, any return of tax imposed by this title or any claim for refund of tax imposed by this title. For purposes of the preceding sentence, the preparation of a substantial portion of a return or claim for refund shall be treated as if it were the preparation of such return or claim for refund.

Lesson 1 - Rules for Tax Preparers – Circular 230

Source - GPO.GOV - 26 USC Section 7701 - Definitions

Question 82 - B. The decision is a managerial act

A managerial act is an administrative act during the processing of a case that involves the loss of records or the exercise of judgment or discretion concerning the management of personnel. A decision concerning the proper application of Federal tax law (or other Federal or state law) is not a managerial act.

Lesson 3 - Penalty Relief

Source - Publication 556 - Managerial Act



Question 83 - D. Leslie must specifically admit or deny each allegation set forth in the complaint, except that she may state that she is without sufficient information to admit or deny a specific allegation.

The respondent must specifically admit or deny each allegation set forth in the complaint, except that the respondent may state that the respondent is without sufficient information to admit or deny a specific allegation. The respondent, nevertheless, may not deny a material allegation in the complaint that the respondent knows to be true, or state that the respondent is without sufficient information to form a belief, when the respondent possesses the required information. The respondent also must state affirmatively any special matters of defense on which he or she relies.

Lesson 1 - Answer

Source - Circular 230 - Subpart D - Section 10.64

Question 84 - A. December 31

All PTINs expire on December 31 of each year. PTIN renewal begins approximately October 16th each year for the following year. Options for renewal include logging into your PTIN online account or by submitting a paper Form W-12 with the "Renewal" box checked.

Lesson 1 - Return Preparation

Source - Circular 230 - Subpart A - Section 10.8

Question 85 - C. June 22

Generally, the Tax Court hears cases before any tax has been assessed and paid; however, the taxpayer can pay the tax after the notice of deficiency has been issued and still petition the Tax Court for review. If he or she does not file the petition on time, the proposed tax will be assessed, a bill will be sent, and the taxpayer will not be able to take his or her case to the Tax Court. Under the law, the taxpayer must pay the tax within 21 days (10 business days if the amount is \$100,000 or more). Collection can proceed even if he or she thinks that the amount is excessive.

Lesson 3 - Tax Court

Source - Publication 556 - Appeals to the Courts

Question 86 - C. Within 30 days from the date of the Administrative Law Judge's decision, either party may appeal to the Secretary of the Treasury, or his or her delegate

Either the Office of Professional Responsibility or the respondent may appeal the Administrative Law Judge's decision to the Secretary of the Treasury within 30 days of its date.

Lesson 1 - Appeal from Administrative Decision

Source - Circular 230 - Subpart D - Section 10.77

Question 87 - B. The scope of the tax laws

Because people sometimes disagree on tax matters, the IRS has an appeals system. Most differences can be settled within this system without expensive and time-consuming court trials. However, the taxpayer's reasons for disagreeing must come within the scope of the tax laws. For example, he or she cannot appeal his or her case based only on moral, religious, political, constitutional, conscientious, or similar grounds. In most instances, the taxpayer may be eligible to take his or her case to court if he or she does not reach an agreement at his or her appeals conference, or if he or she does not want to appeal his or her case to the IRS Office of Appeals.

Lesson 3 - Written Protest

Source - Publication 556 - Appeal Rights

Question 88 - C. If a fraudulent return is filed, the statute of limitations is 7 years

If the taxpayer files a fraudulent return; he or she should keep records indefinitely.

Lesson 4 - Period of Limitations

Source - IRS.GOV - How Long Should I Keep Records?



Question 89 - D. An Administrative Law Judge

The Secretary of the Treasury and the Administrative Law Judge can enter orders of censure, suspension, disbarment, imposition of a monetary penalty, and dismissal. The Office of Professional Responsibility generally has the responsibility for matters related to practitioner conduct and discipline, including disciplinary proceedings and sanctions; and has the responsibility for matters related to authority to practice before the Internal Revenue Service, including acting on applications for enrollment to practice before the Internal Revenue Service and administering competency testing and continuing professional education. The Director of the Office of Professional Responsibility can reprimand a practitioner but cannot impose other penalties on his own.

Lesson 1 - Rules for Tax Preparers - Circular 230

Source - Circular 230 - Subpart Section A - 10.1

Question 90 - B. The ERO originates the electronic submission by emailing the return to his or her client for transmission to the IRS

An ERO originates the electronic submission of a return after the taxpayer authorizes the filing of the return via IRS e-file. An ERO must originate the electronic submission of only returns that the ERO either prepared or collected from a taxpayer. An ERO originates the electronic submission by either of the following:

- Electronically sending the return to a Transmitter that will transmit the return to the IRS.
- Directly transmitting the return to the IRS.
- Providing a return to an Intermediate Service Provider for processing prior to transmission to the IRS.

Lesson 4 - Electronic Return Originator

Source - IRS.GOV - Electronic Return Originator

Question 91 - B. An individual who receives initial enrollment during an enrollment cycle must complete 1 hour of CPE credit for each month enrolled during the cycle, beginning with the month the individual is enrolled

When an enrolled agent is newly enrolled in the middle of an enrollment cycle, the individual must complete two hours of qualified continuing professional education for each month enrolled during the enrollment cycle. Two hours of qualified ethics or professional conduct is required for every year an enrolled agent becomes enrolled during an enrollment cycle.

Lesson 1 - Continuing Professional Education Requirement

Source - Circular 230 - Subpart A - Section 10.6

Question 92 - D. Claims of quality of service that are misleading

An enrolled agent may not use or participate in the use of any form of public communication containing a false, fraudulent, misleading, deceptive, or unfair statement or claim.

Lesson 1 - Solicitation

Source - Circular 230 - Subpart B - Section 10.30

Question 93 - C. The IRS will make an assessment of the taxes

The Internal Revenue Service is authorized to make a determination of all taxes. If the IRS makes a determination that a tax liability exists, the IRS has the authority to assess the tax. The assessment of the taxes is the initial action required in the collection process.

Lesson 3 - The IRS Collection Process

Source - Publication 594 - The IRS Collection Process

Question 94 - A. Two years

A taxpayer must request innocent spouse relief or separation of liability relief no later than 2 years after the date the IRS first attempted to collect the tax from him or her. For equitable relief, the taxpayer must request relief during the time the IRS has to collect the tax from him or her.

Lesson 4 - Joint and Several Liability

Source - IRS.GOV - Topic 205 - Innocent Spouse Relief (Including Separation of Liability and Equitable Relief)



Question 95 - C. 21 calendar days

If a taxpayer does not pay the additional tax when he or she signs an examination agreement, he or she will receive a bill that includes interest. If the taxpayer pays the amount due within 10 business days of the billing date, he or she will not have to pay more interest or penalties. This period is extended to 21 calendar days if the amount due is less than \$100,000.

Lesson 3 - Audit Conclusion

Source - Publication 556 - Examination of Returns, Appeal Rights, and Claims for Refund

Question 96 - D. Fee for providing the e-file services

An ERO can charge a fee for providing the e-file service to their clients while others may offer it free of charge. However, this fee cannot be based on any figure from the tax return. An ERO must never charge a separate fee for Direct Deposit and must accept any Direct Deposit election by a taxpayer to any eligible financial institution.

Lesson 4 - IRS e-File Rules and Requirements

Source - Publication 1345 - Handbook for Authorized IRS e-file Providers of Individual Income Tax Returns

Question 97 - C. The taxpayer should call the IRS as soon as possible to see if the examination should be discontinued

If the IRS examined the taxpayer's return for the same items in either of the 2 previous years and proposed no change to the tax liability, contact the IRS as soon as possible so they can determine if the examination should be discontinued.

Lesson 2 - Preliminary Work

Source - Publication 1 - Your Rights as a Taxpayer

Question 98 - A. \$50,000 or less in combined individual income tax, penalties and interest

When applying for an installment agreement, if the taxpayer owes more than \$50,000, he or she will need to complete *Form 433-F - Collection Information Statement*.

Lesson 4 - Installment Agreements

Source - IRS.GOV - Payment Plans, Installment Agreements

Question 99 - D. An audit always suggests that an error has been made

Selecting a return for audit does not always suggest that an error has been made. Returns are selected using a variety of methods, including:

- Random selection and computer screening.
- Document matching.
- Related examinations.

An audit may be conducted by mail or through an in-person interview and review of the taxpayer's records. The interview may be at an IRS office (office audit) or at the taxpayer's home, place of business, or accountant's office (field audit). The IRS will tell the taxpayer what records are needed. Audits can result in no changes or changes. Any proposed changes to a return will be explained.

Lesson 2 - Preliminary Work

Source - IRS.GOV - Audits

Question 100 - A. 30 days

Within 180 days after the conclusion of a hearing the Administrative Law Judge should enter a decision in the case. A copy of the decision will be provided to the Internal Revenue Service's representative and to the respondent. In the absence of an appeal or further proceedings, after 30 days it becomes the decision of the agency.

Lesson 1 - Decision

Source - Circular 230 - Subpart D - Section 10.76