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§10.75 Petition for reinstatement.

The Director of Practice may entertain a petition for reinstatement from any person disbarred from practice before the Internal Revenue Service after the expiration of 5 years following such disbarment. Reinstatement may not be granted unless the Director of Practice is satisfied that the petitioner, thereafter, is not likely to conduct himself contrary to the regulations in this part, and that granting such reinstatement would not be contrary to the public interest.

[31 FR 10773, Aug. 13, 1966, as amended at 35 FR 13206, Aug. 19, 1970]

§10.76 Expedited suspension upon criminal conviction or loss of license for cause.

(a) *When applicable.* Whenever the Director has reason to believe that a practitioner is described in paragraph (b) of this section, the Director may institute a proceeding under this section to suspend the practitioner from practice before the Service.

(b) *To whom applicable.* This section applies to any practitioner who, within 5 years of the date a complaint instituting a proceeding under this section is served—

(1) Has had his or her license to practice as an attorney, certified public accountant, or actuary suspended or revoked for cause (not including a failure to pay a professional licensing fee) by any authority or court, agency, body, or board described in §10.51(g); or

(2) Has been convicted of any crime under title 26 of the United States Code, or a felony under title 18 of the United States Code involving dishonesty or breach of trust.

(c) *Instituting a proceeding.* A proceeding under this section will be instituted by a complaint that names the respondent, is signed by the Director, is filed in the Director's office, and is served according to the rules set forth in §10.57(a). The complaint must give a plain and concise description of the allegations that constitute the basis for the proceeding. The complaint, or a separate paper attached to the complaint, must notify the respondent—

(1) Of the place and due date for filing an answer;

(2) That a decision by default may be rendered if the respondent fails to file an answer as required;

(3) That the respondent may request a conference with the Director to address the merits of the complaint and that any such request must be made in the answer; and

(4) That the respondent may be suspended either immediately following the expiration of the period by which an answer must be filed or, if a conference is requested, immediately following the conference.

(d) *Answer.* The answer to a complaint described in this section must be filed no later than 30 calendar days following the date the complaint is served, unless the Director extends the time for filing. The answer must be filed in accordance with the rules set forth in §10.58, except as otherwise provided in this section. A respondent is entitled to a conference with the Director only if the conference is requested in a timely filed answer. If a request for a conference is not made in the answer or the answer is not timely filed, the respondent will be deemed to have waived his or her right to a conference and the Director may suspend such respondent at any time following the date on which the answer was due.

(e) *Conference.* The Director or his or her designee will preside at a conference described in this section. The conference will be held at a place and time selected by the Director, but no sooner than 14 calendar days after the date by which the answer must be filed with the Director, unless the respondent agrees to an earlier date. An authorized representative may represent the respondent at the conference. Following the conference, upon a finding that the respondent is described in paragraph (b) of this section, or upon the respondent's failure to appear at the conference either personally or through an authorized representative, the Director may immediately suspend the respondent from practice before the Service.

(f) *Duration of suspension.* A suspension under this section will commence on the date that written notice of the suspension is issued. A practitioner's suspension will remain effective until the earlier of the following—

(1) The Director lifts the suspension after determining that the practitioner is no longer described in paragraph (b) of this section or for any other reason; or

(2) The suspension is lifted by an Administrative Law Judge or the Secretary of the Treasury in a proceeding referred to in paragraph (g) of this section and instituted under § 10.54.

(g) *Proceeding instituted under § 10.54.* If the Director suspends a practitioner under this § 10.76, the practitioner may ask the Director to issue a complaint under § 10.54. The request must be made in writing within 2 years from the date on which the practitioner's suspension commences. The Director must issue a complaint requested under this paragraph within 30 calendar days of receiving the request.

[59 FR 31528, June 20, 1994]

Subpart D—Rules Applicable to Disqualification of Appraisers

SOURCE: 50 FR 42016, Oct. 17, 1985, unless otherwise noted.

§ 10.77 Authority to disqualify; effect of disqualification.

(a) *Authority to disqualify.* Pursuant to section 156 of the Deficit Reduction Act of 1984, 98 Stat. 695, amending 31 U.S.C. 330, the Secretary of the Treasury, after due notice and opportunity for hearing may disqualify any appraiser with respect to whom a penalty has been assessed after July 18, 1984, under section 6701(a) of the Internal Revenue Code of 1954, as amended (26 U.S.C. 6701(a)).

(b) *Effect of disqualification.* If any appraiser is disqualified pursuant to 31 U.S.C. 330 and this subpart:

(1) 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; and

(2) Such appraiser shall be barred from presenting evidence or testimony in any such administrative proceeding. Paragraph (b)(1) of this section shall apply to appraisals made by such appraiser after the effective date of disqualification, but shall not apply to appraisals made by the appraiser on or before such date. Notwithstanding the foregoing sentence, an appraisal otherwise barred from admission into evidence pursuant to paragraph (b)(1) of this section may be admitted into evidence solely for the purpose of determining the taxpayer's reliance in good faith on such appraisal. Paragraph (b)(2) of this section shall apply to the presentation of testimony or evidence in any administrative proceeding after the date of such disqualification, regardless of whether such testimony or evidence would pertain to an appraisal made prior to such date.

§ 10.78 Institution of proceeding.

(a) *In general.* Whenever the Director of Practice is advised or becomes aware that a penalty has been assessed against an appraiser under 26 U.S.C. 6701(a), he/she may reprimand such person or institute a proceeding for disqualification of such appraiser through the filing of a complaint. Irrespective of whether a proceeding for disqualification has been instituted against an appraiser, the Director of Practice may confer with an appraiser against whom such a penalty has been assessed concerning such penalty.

(b) *Voluntary disqualification.* In order to avoid the initiation or conclusion of a disqualification proceeding, an appraiser may offer his/her consent to disqualification. The Director of Practice, in his/her discretion, may disqualify an appraiser in accordance with the consent offered.

§ 10.79 Contents of complaint.

(a) *Charges.* A proceeding for disqualification of an appraiser shall be instituted through the filing of a complaint, which shall give a plain and concise description of the allegations that constitute the basis for the proceeding. A complaint shall be deemed sufficient if it refers to the penalty previously imposed on the respondent under section 6701(a) of the Internal Revenue Code of 1954, as amended (26 U.S.C. 6701(a)), and advises him/her of the institution of the proceeding.

(b) *Demand for answer.* In the complaint, or in a separate paper attached to the complaint, notification shall be given of the place and time within which the respondent shall file his/her