

§ 10.0

EDITORIAL NOTE: Nomenclature changes affecting this part appear at 57 FR 41095, Sept. 9, 1992.

§ 10.0 Scope of part.

This part contains rules governing the recognition of attorneys, certified public accountants, enrolled agents, and other persons representing clients before the Internal Revenue Service. Subpart A of this part sets forth rules relating to authority to practice before the Internal Revenue Service; subpart B of this part prescribes the duties and restrictions relating to such practice; subpart C of this part contains rules relating to disciplinary proceedings; subpart D of this part contains rules applicable to disqualification of appraisers; and Subpart E of this part contains general provisions, including provisions relating to the availability of official records.

[59 FR 31526, June 20, 1994]

Subpart A—Rules Governing Authority To Practice

§ 10.1 Director of Practice.

(a) *Establishment of office.* There is established in the Office of the Secretary of the Treasury the office of Director of Practice. The Director of Practice shall be appointed by the Secretary of the Treasury.

(b) *Duties.* The Director of Practice shall act upon applications for enrollment to practice before the Internal Revenue Service; institute and provide for the conduct of disciplinary proceedings relating to attorneys, certified public accountants, enrolled agents, enrolled actuaries and appraisers; make inquiries with respect to matters under his jurisdiction; and perform such other duties as are necessary or appropriate to carry out his functions under this part or as are prescribed by the Secretary of the Treasury.

(c) *Acting Director.* The Secretary of the Treasury will designate an officer or employee of the Treasury Department to act as Director of Practice in the event of the absence of the director or of a vacancy in that office.

[31 FR 10773, Aug. 13, 1966, as amended at 51 FR 2878, Jan. 22, 1986]

31 CFR Subtitle A (7-1-02 Edition)

§ 10.2 Definitions.

As used in this part, except where the context clearly indicates otherwise:

(a) *Attorney* means any person who is a member in good standing of the bar of the highest court of any State, possession, territory, Commonwealth, or the District of Columbia.

(b) *Certified Public Accountant* means any person who is duly qualified to practice as a certified public accountant in any State, possession, territory, Commonwealth, or the District of Columbia.

(c) *Commissioner* refers to the Commissioner of Internal Revenue.

(d) *Director* refers to the Director of Practice.

(e) *Practice before the Internal Revenue Service* comprehends all matters connected with a presentation to the Internal Revenue Service or any of its officers or employees relating to a client's rights, privileges, or liabilities under laws or regulations administered by the Internal Revenue Service. Such presentations include preparing and filing necessary documents, corresponding and communicating with the Internal Revenue Service, and representing a client at conferences, hearings, and meetings.

(f) *Practitioner* means any individual described in § 10.3 (a), (b), (c), or (d) of this part.

(g) A *return* includes an amended return and a claim for refund.

(h) *Service* means the Internal Revenue Service.

[59 FR 31526, June 20, 1994]

§ 10.3 Who may practice.

(a) *Attorneys.* Any attorney who is not currently under suspension or disbarment from practice before the Internal Revenue Service may practice before the Service upon filing with the Service 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.

(b) *Certified public accountants.* Any certified public accountant who is not currently under suspension or disbarment from practice before the Internal Revenue Service may practice before

the Service upon filing with the Service a written declaration that he or she is currently qualified as a certified public accountant and is authorized to represent the particular party on whose behalf he or she acts.

(c) *Enrolled agents.* Any person enrolled as an agent pursuant to this part may practice before the Internal Revenue Service.

(d) *Enrolled Actuaries.* (1) Any individual who is enrolled as an actuary by the Joint Board for the Enrollment of Actuaries pursuant to 29 U.S.C. 1242 may practice before the Internal Revenue Service upon filing with the Service a written declaration that he/she is currently qualified as an enrolled actuary and is authorized to represent the particular party on whose behalf he/she acts. Practice as an enrolled actuary is limited to representation with respect to issues involving the following statutory provisions. Internal Revenue Code (Title 26 U.S.C.) sections: 401 (qualification of employee plans), 403(a) (relating to whether an annuity plan meets the requirements of section 404(a)(2)), 404 (deductibility of employer contributions), 405 (qualification of bond purchase plans), 412 (funding requirements for certain employee plans), 413 (application of qualification requirements to collectively bargained plans and to plans maintained by more than one employer), 414 (containing definitions and special rules relating to the employee plan area), 4971 (relating to excise taxes payable as a result of an accumulated funding deficiency under section 412), 6057 (annual registration of plans), 6058 (information required in connection with certain plans of deferred compensation), 6059 (periodic report of actuary), 6652(e) (failure to file annual registration and other notifications by pension plan), 6652(f) (failure to file information required in connection with certain plans of deferred compensation), 6692 (failure to file actuarial report), 7805(b) (relating to the extent, if any, to which an Internal Revenue Service ruling or determination letter coming under the herein listed statutory provisions shall be applied without retroactive effect); and 29 U.S.C. 1083 (relating to waiver of funding for nonqualified plans).

(2) An individual who practices before the Internal Revenue Service pursuant to this subsection shall be subject to the provisions of this part in the same manner as attorneys, certified public accountants and enrolled agents.

(e) *Others.* Any individual qualifying under §10.5(c) or §10.7 is eligible to practice before the Internal Revenue Service to the extent provided in those sections.

(f) *Government officers and employees, and others.* An individual, including an officer or employee of the executive, legislative, or judicial branch of the United States Government; officer or employee of the District of Columbia; Member of Congress; or Resident Commissioner, may not practice before the Service if such practice would violate 18 U.S.C. 203 or 205.

(g) *State officers and employees.* No officer or employee of any State, or subdivision thereof, whose duties require him to pass upon, investigate, or deal with tax matters of such State or subdivision, may practice before the Service, if such State employment may disclose facts or information applicable to Federal tax matters.

[31 FR 10773, Aug. 13, 1966, as amended at 35 FR 13205, Aug. 19, 1970; 36 FR 8671, May 11, 1971; 44 FR 4946, Jan. 24, 1979; 59 FR 31526, June 20, 1994]

§ 10.4 Eligibility for enrollment.

(a) *Enrollment upon examination.* The Director of Practice may grant enrollment to an applicant who demonstrates special competence in tax matters by written examination administered by the Internal Revenue Service and who has not engaged in any conduct which would justify the suspension or disbarment of any attorney, certified public accountant, or enrolled agent under the provisions of this part.

(b) *Enrollment of former Internal Revenue Service employees.* The Director of Practice may grant enrollment to an applicant who has not engaged in any conduct which would justify the suspension or disbarment of any attorney, certified public accountant, or enrolled agent under the provisions of this part and who, by virtue of his past service