

## Office of the Secretary of the Treasury

## § 10.79

an appeal of the decision of the Administrative Law Judge with the Secretary of the Treasury, or delegate. The appeal must include a brief that states exceptions to the decision of the Administrative Law Judge and supporting reasons for such exceptions.

(b) *Time and place for filing of appeal.* The appeal and brief must be filed, in duplicate, with the Director of the Office of Professional Responsibility within 30 days of the date that the decision of the Administrative Law Judge is served on the parties. The Director of the Office of Professional Responsibility will immediately furnish a copy of the appeal to the Secretary of the Treasury or delegate who decides appeals. A copy of the appeal for review must be sent to any non-appealing party. If the Director of the Office of Professional Responsibility files an appeal, he or she will provide a copy of the appeal and certify to the respondent that the appeal has been filed.

(c) *Effective/applicability date.* This section is applicable on September 26, 2007.

[T.D. 9359, 72 FR 54555, Sept. 26, 2007]

### § 10.78 Decision on review.

(a) *Decision on review.* On appeal from or review of the decision of the Administrative Law Judge, the Secretary of the Treasury, or delegate, will make the agency decision. The Secretary of the Treasury, or delegate, should make the agency decision within 180 days after receipt of the appeal.

(b) *Standard of review.* The decision of the Administrative Law Judge will not be reversed unless the appellant establishes that the decision is clearly erroneous in light of the evidence in the record and applicable law. Issues that are exclusively matters of law will be reviewed de novo. In the event that the Secretary of the Treasury, or delegate, determines that there are unresolved issues raised by the record, the case may be remanded to the Administrative Law Judge to elicit additional testimony or evidence.

(c) *Copy of decision on review.* The Secretary of the Treasury, or delegate, will provide copies of the agency decision to the Director of the Office of Professional Responsibility and the re-

spondent or the respondent's authorized representative.

(d) *Effective/applicability date.* This section is applicable on September 26, 2007.

[T.D. 9359, 72 FR 54555, Sept. 26, 2007]

### § 10.79 Effect of disbarment, suspension, or censure.

(a) *Disbarment.* When the final decision in a case is against the respondent (or the respondent has offered his or her consent and such consent has been accepted by the Director of the Office of Professional Responsibility) and such decision is for disbarment, the respondent will not be permitted to practice before the Internal Revenue Service unless and until authorized to do so by the Director of the Office of Professional Responsibility pursuant to § 10.81.

(b) *Suspension.* When the final decision in a case is against the respondent (or the respondent has offered his or her consent and such consent has been accepted by the Director of the Office of Professional Responsibility) and such decision is for suspension, the respondent will not be permitted to practice before the Internal Revenue Service during the period of suspension. For periods after the suspension, the practitioner's future representations may be subject to conditions as authorized by paragraph (d) of this section.

(c) *Censure.* When the final decision in the case is against the respondent (or the respondent has offered his or her consent and such consent has been accepted by the Director of the Office of Professional Responsibility) and such decision is for censure, the respondent will be permitted to practice before the Internal Revenue Service, but the respondent's future representations may be subject to conditions as authorized by paragraph (d) of this section.

(d) *Conditions.* After being subject to the sanction of either suspension or censure, the future representations of a practitioner so sanctioned shall be subject to conditions prescribed by the Director of the Office of Professional Responsibility designed to promote high standards of conduct. These conditions can be imposed for a reasonable period

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in light of the gravity of the practitioner's violations. For example, where a practitioner is censured because he or she failed to advise his or her clients about a potential conflict of interest or failed to obtain the clients' written consents, the Director of the Office of Professional Responsibility may require the practitioner to provide the Director of the Office of Professional Responsibility or another Internal Revenue Service official with a copy of all consents obtained by the practitioner for an appropriate period following censure, whether or not such consents are specifically requested.

### **§ 10.80 Notice of disbarment, suspension, censure, or disqualification.**

On the issuance of a final order censuring, suspending, or disbarring a practitioner or a final order disqualifying an appraiser, the Director of the Office of Professional Responsibility may give notice of the censure, suspension, disbarment, or disqualification to appropriate officers and employees of the Internal Revenue Service and to interested departments and agencies of the Federal government. The Director of the Office of Professional Responsibility 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.

### **§ 10.81 Petition for reinstatement.**

The Director of the Office of Professional Responsibility may entertain a petition for reinstatement from any person disbarred from practice before the Internal Revenue Service or any disqualified appraiser after the expiration of 5 years following such disbarment or disqualification. Reinstatement may not be granted unless the Director of the Office of Professional Responsibility 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.

### **§ 10.82 Expedited suspension.**

(a) *When applicable.* Whenever the Director of the Office of Professional Responsibility determines that a practi-

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tioner is described in paragraph (b) of this section, the Director of the Office of Professional Responsibility may institute a proceeding under this section to suspend the practitioner from practice before the Internal Revenue Service.

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

(1) Has had a license to practice as an attorney, certified public accountant, or actuary suspended or revoked for cause (not including failure to pay a professional licensing fee) by any authority or court, agency, body, or board described in § 10.51(a)(10).

(2) Has, irrespective of whether an appeal has been taken, been convicted of any crime under title 26 of the United States Code, any crime involving dishonesty or breach of trust, or any felony for which the conduct involved renders the practitioner unfit to practice before the Internal Revenue Service.

(3) Has violated conditions imposed on the practitioner pursuant to § 10.79(d).

(4) Has been sanctioned by a court of competent jurisdiction, whether in a civil or criminal proceeding (including suits for injunctive relief), relating to any taxpayer's tax liability or relating to the practitioner's own tax liability, for—

(i) Instituting or maintaining proceedings primarily for delay;

(ii) Advancing frivolous or groundless arguments; or

(iii) Failing to pursue available administrative remedies.

(c) *Instituting a proceeding.* A proceeding under this section will be instituted by a complaint that names the respondent, is signed by the Director of the Office of Professional Responsibility or a person representing the Director of the Office of Professional Responsibility under § 10.69(a)(1), is filed in the Director of the Office of Professional Responsibility's office, and is served according to the rules set forth in paragraph (a) of § 10.63. The complaint must give a plain and concise description of the allegations that constitute the basis for the proceeding.