

Office of the Secretary of the Treasury

§ 10.2

EFFECTIVE DATE NOTE: At 76 FR 32300, June 3, 2011, §10.0 was revised, effective Aug. 2, 2011. For the convenience of the user, the revised text is set forth as follows:

§ 10.0 Scope of part.

(a) This part contains 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. Subpart A of this part sets forth rules relating to the 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 prescribes the sanctions for violating the regulations; subpart D of this part contains the rules applicable to disciplinary proceedings; and subpart E of this part contains general provisions relating to the availability of official records.

(b) *Effective/applicability date.* This section is applicable beginning August 2, 2011.

Subpart A—Rules Governing Authority to Practice

SOURCE: T.D. 9011, 67 FR 48765, July 26, 2002, unless otherwise noted.

§ 10.1 Director of the Office of Professional Responsibility.

(a) *Establishment of office.* The Office of Professional Responsibility is established in the Internal Revenue Service. The Director of the Office of Professional Responsibility is appointed by the Secretary of the Treasury, or delegate.

(b) *Duties.* The Director of the Office of Professional Responsibility acts on applications for enrollment to practice before the Internal Revenue Service; makes inquiries with respect to matters under the Director's jurisdiction; institutes and provides for the conduct of disciplinary proceedings relating to practitioners (and employers, firms or other entities, if applicable) and appraisers; and performs other duties as are necessary or appropriate to carry out the functions under this part or as are otherwise prescribed by the Secretary of the Treasury, or delegate.

(c) *Acting Director of the Office of Professional Responsibility.* The Secretary of the Treasury, or delegate, will designate an officer or employee of the Treasury Department to act as Director of the Office of Professional Re-

sponsibility in the absence of the Director or during a vacancy in that office.

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

[T.D. 9359, 72 FR 54544, Sept. 26, 2007]

EFFECTIVE DATE NOTE: At 76 FR 32300, June 3, 2011, §10.1 was revised, effective Aug. 2, 2011. For the convenience of the user, the revised text is set forth as follows:

§ 10.1 Offices.

(a) *Establishment of office(s).* The Commissioner shall establish the Office of Professional Responsibility and any other office(s) within the Internal Revenue Service necessary to administer and enforce this part. The Commissioner shall appoint the Director of the Office of Professional Responsibility and any other Internal Revenue official(s) to manage and direct any office(s) established to administer or enforce this part. Offices established under this part include, but are not limited to:

(1) The Office of Professional Responsibility, which shall generally have responsibility for matters related to practitioner conduct and discipline, including disciplinary proceedings and sanctions; and

(2) An office with 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 education.

(b) Officers and employees within any office established under this part may perform acts necessary or appropriate to carry out the responsibilities of their office(s) under this part or as otherwise prescribed by the Commissioner.

(c) *Acting.* The Commissioner will designate an officer or employee of the Internal Revenue Service to perform the duties of an individual appointed under paragraph (a) of this section in the absence of that officer or employee or during a vacancy in that office.

(d) *Effective/applicability date.* This section is applicable beginning August 2, 2011.

§ 10.2 Definitions.

(a) As used in this part, except where the text provides otherwise—

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

(2) *Certified public accountant* means any person who is duly qualified to

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practice as a certified public accountant in any state, territory, or possession of the United States, including a Commonwealth, or the District of Columbia.

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

(4) *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 taxpayer's rights, privileges, or liabilities under laws or regulations administered by the Internal Revenue Service. Such presentations include, but are not limited to, preparing and filing documents, corresponding and communicating with the Internal Revenue Service, rendering written advice with respect to any entity, transaction, plan or arrangement, or other plan or arrangement having a potential for tax avoidance or evasion, and representing a client at conferences, hearings and meetings.

(5) *Practitioner* means any individual described in paragraphs (a), (b), (c), (d) or (e) of § 10.3.

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

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

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

[T.D. 9359, 72 FR 54544, Sept. 26, 2007]

EFFECTIVE DATE NOTE: At 76 FR 32300, June 3, 2011, § 10.2 was amended by revising paragraphs (a)(4) and (a)(5), adding paragraph (a)(8), and revising paragraph (b), effective Aug. 2, 2011. For the convenience of the user, the added and revised text is set forth as follows:

§ 10.2 Definitions.

(a) * * *

(4) *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 taxpayer's rights, privileges, or liabilities under laws or regulations administered by the Internal Revenue Service. Such presentations include, but are not limited to, preparing documents; filing documents; corresponding and communicating with the Internal Revenue Service; rendering written advice with respect to any entity, transaction, plan or arrangement, or other plan or arrangement having a potential for tax

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avoidance or evasion; and representing a client at conferences, hearings, and meetings.

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

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(8) *Tax return preparer* means any individual within the meaning of section 7701(a)(36) and 26 CFR 301.7701-15.

(b) *Effective/applicability date*. This section is applicable beginning August 2, 2011.

§ 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 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 § 10.35 or § 10.37, but their rendering of this advice is practice before the Internal Revenue Service.

(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 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 § 10.35 or § 10.37, but their rendering of this advice is practice before the Internal Revenue Service.

(c) *Enrolled agents*. Any individual enrolled as an agent pursuant to this part who is not currently under suspension or disbarment from practice before the