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§ 10.24 Assistance from disbarred or suspended persons and former Internal Revenue Service employees.

No attorney, certified public accountant, enrolled agent, or enrolled actuary shall, in practice before the Internal Revenue Service, knowingly and directly or indirectly:

(a) Employ or accept assistance from any person who is under disbarment or suspension from practice before the Internal Revenue Service.

(b) Accept employment as associate, correspondent, or subagent from, or share fees with, any such person.

(c) Accept assistance from any former government employee where the provisions of § 10.26 of these regulations or any Federal law would be violated.

[44 FR 4943, Jan. 24, 1979, as amended at 57 FR 41095, Sept. 9, 1992]

§ 10.25 Practice by partners of Government employees.

No partner of an officer or employee of the executive branch of the U.S. Government, of any independent agency of the United States, or of the District of Columbia, shall represent anyone in any matter administered by the Internal Revenue Service in which such officer or employee of the Government participates or has participated personally and substantially as a Government employee or which is the subject of his official responsibility.

[31 FR 10773, Aug. 13, 1966, as amended at 35 FR 13205, Aug. 19, 1970]

§ 10.26 Practice by former Government employees, their partners and their associates.

(a) *Definitions.* For purposes of § 10.26, (1) *Assist* means to act in such a way as to advise, furnish information to or otherwise aid another person, directly or indirectly.

(2) *Government employee* is an officer or employee of the United States or any agency of the United States, including a *special government employee* as defined in 18 U.S.C. 202(a), or of the District of Columbia, or of any State, or a member of Congress or of any State legislature.

(3) *Member of a firm* is a sole practitioner or an employee or associate

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thereof, or a partner, stockholder, associate, affiliate or employee of a partnership, joint venture, corporation, professional association or other affiliation of two or more practitioners who represent non-Government parties.

(4) *Practitioner* includes any individual described in § 10.3(e).

(5) *Official responsibility* means the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct Government action, with or without knowledge of the action.

(6) *Participate* or *participation* means substantial involvement as a Government employee by making decisions, or preparing or reviewing documents with or without the right to exercise a judgment of approval or disapproval, or participating in conferences or investigations, or rendering advice of a substantial nature.

(7) *Rule* includes Treasury Regulations, whether issued or under preparation for issuance as Notices of Proposed Rule Making or as Treasury Decisions, and revenue rulings and revenue procedures published in the Internal Revenue bulletin. *Rule* shall not include a *transaction* as defined in paragraph (a)(9) of this section.

(8) *Transaction* means any decision, determination, finding, letter ruling, technical advice, contract or approval or disapproval thereof, relating to a particular factual situation or situations involving a specific party or parties whose rights, privileges, or liabilities under laws or regulations administered by the Internal Revenue Service, or other legal rights, are determined or immediately affected therein and to which the United States is a party or in which it has a direct and substantial interest, whether or not the same taxable periods are involved. *Transaction* does not include *rule* as defined in paragraph (a)(7) of this section.

(b) *General rules.* (1) No former Government employee shall, subsequent to his Government employment, represent anyone in any matter administered by the Internal Revenue Service if the representation would violate 18 U.S.C.

207 (a) or (b) of any other laws of the United States.

(2) No former Government employee who participated in a transaction shall, subsequent to his Government employment, represent or knowingly assist, in that transaction, any person who is or was a specific party to that transaction.

(3) No former Government employee who within a period of one year prior to the termination of his Government employment had official responsibility for a transaction shall, within one year after his Government employment is ended, represent or knowingly assist in that transaction any person who is or was a specific party to that transaction.

(4) No former Government employee shall, within one year after his Government employment is ended, appear before any employee of the Treasury Department in connection with the publication, withdrawal, amendment, modification, or interpretation of a rule in the development of which the former Government employee participated or for which, within a period of one year prior to the termination of his Government employment, he had official responsibility. However, this subparagraph does not preclude such former employee for appearing on his own behalf or from representing a taxpayer before the Internal Revenue Service in connection with a transaction involving the application or interpretation of such a rule with respect to that transaction: *Provided*, That such former employee shall not utilize or disclose any confidential information acquired by the former employee in the development of the rule, and shall not contend that the rule is invalid or illegal. In addition, this subparagraph does not preclude such former employee from otherwise advising or acting for any person.

(c) *Firm representation.* (1) No member of a firm of which a former Government employee is a member may represent or knowingly assist a person who was or is a specific party in any transaction with respect to which the restrictions of paragraph (b)(1) (other than 18 U.S.C. 207 (b)) or (b)(2) of this section apply to the former Govern-

ment employee, in that transaction, unless:

(i) No member of the firm who had knowledge of the participation by the Government employee in the transaction initiated discussions with the Government employee concerning his becoming a member of the firm until his Government employment is ended or six months after the termination of his participation in the transaction, whichever is earlier;

(ii) The former Government employee did not initiate any discussions concerning becoming a member of the firm while participating in the transaction or, if such discussions were initiated, they conformed with the requirements of 18 U.S.C. 208(b); and

(iii) The firm isolates the former Government employee in such a way that he does not assist in the representation.

(2) No member of a firm of which a former Government employee is a member may represent or knowingly assist a person who was or is a specific party in any transaction with respect to which the restrictions of paragraph (b)(3) of this section apply to the former employee, in that transaction unless the firm isolates the former Government employee in such a way that he does not assist in the representation.

(3) When isolation of the former Government employee is required under paragraph (c)(1) or (c)(2) of this section, a statement affirming the fact of such isolation shall be executed under oath by the former Government employee and by a member of the firm acting on behalf of the firm, and shall be filed with the Director of Practice and in such other place and in the manner prescribed by regulation. This statement shall clearly identify the firm, the former Government employee, and the transaction or transactions requiring such isolation.

(d) *Pending representation.* Practice by former Government employees, their partners and associates with respect to representation in specific matters where actual representation commenced before publication of this regulation is governed by the regulations set forth in the June 1972 amendments

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to the regulations of this part (published at 37 FR 11676): *Provided*, That the burden of showing that representation commenced before publication is with the former Government employees, their partners and associates.

[42 FR 38352, July 28, 1977, as amended at 57 FR 41095, Sept. 9, 1992; 59 FR 31527, June 20, 1994]

§ 10.27 Notaries.

No attorney, certified public accountant, enrolled agent, or enrolled actuary as notary public shall with respect to any matter administered by the Internal Revenue Service take acknowledgments, administer oaths, certify papers, or perform any official act in connection with matters in which he is employed as counsel, attorney, or agent, or in which he may be in any way interested before the Internal Revenue Service (26 Op. Atty. Gen. 236).

[31 FR 10773, Aug. 13, 1966, as amended at 57 FR 41095, Sept. 9, 1992]

§ 10.28 Fees.

(a) *Generally*. A practitioner may not charge an unconscionable fee for representing a client in a matter before the Internal Revenue Service.

(b) *Contingent fees for return preparation*. A practitioner may not charge a contingent fee for preparing an original return. A practitioner may charge a contingent fee for preparing an amended return or a claim for refund (other than a claim for refund made on an original return) if the practitioner reasonably anticipates at the time the fee arrangement is entered into that the amended return or claim will receive substantive review by the Service. A contingent fee includes a fee that is based on a percentage of the refund shown on a return or a percentage of the taxes saved, or that otherwise depends on the specific result attained.

[59 FR 31527, June 20, 1994]

§ 10.29 Conflicting interests.

No attorney, certified public accountant, enrolled agent, or enrolled actuary shall represent conflicting interests in his practice before the Internal Revenue Service, except by express consent of all directly interested par-

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ties after full disclosure has been made.

[31 FR 10773, Aug. 13, 1966, as amended at 57 FR 41095, Sept. 9, 1992]

§ 10.30 Solicitation.

(a) *Advertising and solicitation restrictions*. (1) No attorney, certified public accountant, enrolled agent, enrolled actuary, or other individual eligible to practice before the Internal Revenue Service shall, with respect to any Internal Revenue Service matter, in any way use or participate in the use of any form of public communication containing (i) A false, fraudulent, unduly influencing, coercive, or unfair statement or claim; or (ii) a misleading or deceptive statement or claim. Enrolled agents, in describing their professional designation, may not utilize the term of art "certified" or indicate an employer/employee relationship with the Internal Revenue Service. Examples of acceptable descriptions are "enrolled to represent taxpayers before the Internal Revenue Service," "enrolled to practice before the Internal Revenue Service," and "admitted to practice before the Internal Revenue Service." Enrolled agents and enrolled actuaries may abbreviate such designation to either EA or E.A.

(2) No attorney, certified public accountant, enrolled agent, enrolled actuary, or other individual eligible to practice before the Internal Revenue Service shall make, directly or indirectly, an uninvited solicitation of employment in matters related to the Internal Revenue Service. Solicitation includes, but is not limited to, in-person contacts and telephone communications. This restriction does not apply to (i) Seeking new business from an existing or former client in a related matter; (ii) communications with family members; (iii) making the availability of professional services known to other practitioners, so long as the person or firm contacted is not a potential client; (iv) solicitation by mailings; or (v) non-coercive in-person solicitation by those eligible to practice before the Internal Revenue Service while acting as an employee, member, or officer of an exempt organization listed in sections 501(c)(3) or (4) of the