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AUTHORITY: Sec. 3, 23 Stat. 258, secs. 2–12, 60 Stat. 237 *et seq.*; 5 U.S.C. 301, 500, 551–559; 31 U.S.C. 330; Reorg. Plan No. 26 of 1950, 15 FR 4935, 64 Stat. 1280, 3 CFR, 1949–1953 Comp., p. 1017.

SOURCE: Department Circular 230, Revised, 31 FR 10773, Aug. 13, 1966, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 10 appear by T.D. 9359, 72 FR 54544, Sept. 26, 2007.

§ 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

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

31 CFR Subtitle A (7–1–08 Edition)

§ 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 Responsibility 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]

§ 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 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]

§ 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 Internal Revenue Service 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 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 stating that he or she is currently qualified as an enrolled actuary and is authorized to represent the party or parties on whose behalf he or she acts.

(2) Practice as an enrolled actuary is limited to representation with respect to issues involving the following statutory provisions in title 26 of the United States Code: sections 401 (relating to qualification of employee plans), 403(a) (relating to whether an annuity plan meets the requirements of section 404(a)(2)), 404 (relating to deductibility of employer contributions), 405 (relating to qualification of bond purchase plans), 412 (relating to funding requirements for certain employee plans), 413 (relating to application of qualification requirements to collectively bargained plans and to plans maintained by more than one employer), 414 (relating to definitions and special rules with respect to the employee plan area), 419 (relating to treatment of funded welfare benefits), 419A (relating to qualified asset accounts), 420 (relating to transfers of excess pension assets to retiree health accounts), 4971 (relating to