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Regulations governing the practice of attorneys, certified public accountants, enrolled agents, and enrolled actuaries before the Internal Revenue Service; 31 Code of Federal Regulations, Subtitle A, Part 10, Revised as of July 1, 1978 and changes as announced in the Federal Register dated January 24, 1979 (Vol. 44, No. 17); Treasury Department Circular no. 230 (Revised 6-79) Circular 230 (Revised 6-79)

United States. Internal Revenue Service

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**Treasury  
Department  
Circular No. 230  
(Revised 6-79)**

**Regulations Governing the  
Practice of Attorneys,  
Certified Public Accountants,  
Enrolled Agents, and  
Enrolled Actuaries before the  
Internal Revenue Service**

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Department  
of the  
Treasury  
**Internal  
Revenue  
Service**

**31 Code of Federal Regulations,  
Subtitle A, Part 10, Revised as of  
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Circular  
No. 230  
(Rev. 6-79)

This publication contains the revision of Department Circular No. 230, dated August 9, 1966, appearing in 31 F.R. 10773, dated August 13, 1966, and includes the following amendments:

Amendment appearing in 31 F.R. 12638, dated September 27, 1966, which adds omitted section heading § 10.58.

Amendments dated October 28, 1966, appearing in 31 F.R. 13992, dated November 2, 1966, which adds subparagraphs (b) and (c) to § 10.57 and adds a sentence at the end, and as a continuation, of paragraph (c) of § 10.51.

Amendments dated August 14, 1970, appearing in 31 F.R. 13205, dated August 19, 1970, which are intended primarily to clarify the language of certain provisions of the regulations, strengthen certain conflict of interest and disciplinary provisions, and update statutory references.

Amendment appearing in 36 F.R. 8671, dated May 11, 1971, corrected error in the August 19, 1970, amendment, which incorrectly added a new sentence to subparagraph 10.3(c) rather than subparagraph 10.3(e).

Amendments appearing in 42 F.R. 38350, dated July 28, 1977, which are editorial, eliminate outdated terms and provisions, and which

increase the restrictions on practice by former Government employees.

Amendments appearing in 44 F.R. 4940, dated January 24, 1979, prescribe rules permitting the expansion of advertising and solicitation provisions of the regulations governing practice by attorneys, certified public accountants, enrolled agents and others who represent clients before the Internal Revenue Service.

Amendments appearing in 44 F.R. 4944, dated January 24, 1979, prescribe rules to permit enrolled actuaries to engage in practice before the Internal Revenue Service in connection with the provisions of the Internal Revenue Code involving pension plans under the Employee Retirement Income Security Act of 1974 (ERISA).

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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. 1026; Reorg. Plan No. 26 of 1950, 15 F.R. 4935, 65 Stat. 1280, 3 CFR, 1949-1953 Comp., except as otherwise noted.

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

## § 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; and Subpart D of this part contains general provisions, including provisions relating to availability of official records.

[42 F.R. 38352, July 28, 1977]

## § 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 appeals from decisions of the Commissioner of Internal Revenue denying 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, and enrolled agents; 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.

## § 10.2 Definitions.

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

(a) "Practice before the Internal Revenue Service" comprehends all matters connected with 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 the preparation and filing of necessary documents, correspondence with and communications to the Internal Revenue Service, and the representation of a client at conferences, hearings, and meetings. Neither the preparation of a tax return, nor the appearance of an individual as a witness for the taxpayer, nor the furnishing of information at the request of the Internal Revenue Service or any of its officers or employees is considered practice before the Service.

(b) "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.

(c) "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.

(d) "Commissioner" refers to the Commissioner of Internal Revenue.

[31 F.R. 10773, Aug. 13, 1966, as amended at 37 F.R. 1017, Jan. 21, 1972; 42 F.R. 38352, July 28, 1977]

## § 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 is currently qualified as an attorney and is authorized to represent the particular party on whose behalf he acts. An enrollment card issued to such person before the effective date of this regulation shall be invalid and may not be used in lieu of such written declaration.<sup>1</sup>

(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 is currently qualified as a certified public accountant and is authorized to represent the particular party on whose behalf he acts. An enrollment card issued to such person before the effective date of this regulation shall be invalid and may not be used in lieu of such written declaration.<sup>1</sup>

(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 person qualifying under § 10.7 or § 10.5(c) may practice before Internal Revenue Service.

(f) *Government officers and employees; others.* No officer or employee of the United States in the executive, legislative, or judicial branch of the Government, or in any agency of the United States, including the District of Columbia, may practice before the Service, except that such officer or employee may, subject to the conditions and requirements of these regulations and of 18 U.S.C. 205, represent a member of his immediate family or any other person or estate for which he serves as guardian, executor, administrator, trustee, or other personal fiduciary. No Member of Congress or Resident Commissioner (elect or serving) may practice before the Service in connection with any matter for which he directly or indirectly receives, agrees to receive, or seeks any compensation. 18 U.S.C. 203, 205. Nothing herein shall be construed as prohibiting an officer or employee of the United States as aforesaid, who is otherwise eligible to practice under the provision of this part, from representing others before the Internal Revenue Service when doing so in the proper discharge of his official duties.

(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 F.R. 10773, Aug. 13, 1966, as amended at 35 F.R. 13205, Aug. 19, 1970; 36 F.R. 8671, May 11, 1971; 44 F.R. 4944, Jan. 24, 1979]

#### § 10.4 Eligibility for enrollment.

(a) *Enrollment upon examination.* The Commissioner 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 Commissioner 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 and technical experience in the Internal Revenue Service has qualified for such enrollment, as follows:

(1) Application for enrollment on account of former employment in the Internal Revenue Service shall be made to the Commissioner. Each applicant will be supplied a form by the Commissioner, which shall indicate the information required respecting the applicant's qualifications. In addition to the applicant's name, address, educational experience, etc., such information

shall specifically include a detailed account of the applicant's employment in the Internal Revenue Service, which amount shall show (i) positions held, (ii) date of each appointment and termination thereof, (iii) nature of services rendered in each position, with particular reference to the degree of technical experience involved, and (iv) name of supervisor in such positions, together with such other information regarding the experience and training of the applicant as may be relevant.

(2) Upon receipt of each such application, it shall be transmitted to the appropriate officer of the Internal Revenue Service with the request that a detailed report of the nature and rating of the applicant's services in the Internal Revenue Service, accompanied by the recommendation of the superior officer in the particular unit or division of the Internal Revenue Service that such employment does or does not qualify the applicant technically or otherwise for the desired authorization, be furnished to the Commissioner.

(3) In examining the qualification of an applicant for enrollment on account of employment in the Internal Revenue Service, the Commissioner will be governed by the following policies:

(i) Enrollment on account of such employment may be of unlimited scope or may be limited to permit the presentation of matters only of the particular class or only before the particular unit or division of the Internal Revenue Service for which his former employment in the Internal Revenue Service has qualified the applicant.

(ii) Application for enrollment on account of employment in the Internal Revenue Service must be made within 3 years from the date of separation from such employment.

(iii) It shall be requisite for enrollment on account of such employment that the applicant shall have had a minimum of 5 years continuous employment in the Service during which he shall have been regularly engaged in applying and interpreting the provisions of the Internal Revenue Code and the regulations thereunder relating to income, estate, gift, employment, or excise taxes.

(iv) For the purposes of paragraph (b)(3)(iii) of this section an aggregate of 10 or more years of employment, at least 3 of which occurred within the 5 years preceding the date of application, shall be deemed the equivalent of 5 years continuous employment.

(c) *Natural persons.* Enrollment to practice may be granted only to natural persons.

(d) *Attorneys; certified public accountants.* Enrollment is not available to persons who qualify to practice under § 10.3(a) or (b).

[31 F.R. 10773, Aug. 13, 1966, as amended at 35 F.R. 13205, Aug. 19, 1970; 42 F.R. 38352, July 28, 1977]

### § 10.5 Application for enrollment.

(a) *Form; fee.* An applicant for enrollment shall file with the Commissioner of Internal Revenue an application on Form 23, properly executed under oath or affirmation. Such

application shall be accompanied by a check or money order in the amount set forth on Form 23, payable to the Internal Revenue Service, which amount shall constitute a fee which shall be charged to each applicant for enrollment. The fee shall be retained by the United States whether or not the applicant is granted enrollment.

(b) *Additional information; examination.* The Commissioner, as a condition to consideration of an application for enrollment, may require the applicant to file additional information and to submit to any written or oral examination under oath or otherwise. The Commissioner shall upon written request, afford an applicant the opportunity to be heard with respect to his application for enrollment.

(c) *Temporary recognition.* Upon receipt of a properly executed application, the Commissioner may grant the applicant temporary recognition to practice pending a determination as to whether enrollment to practice should be granted. Such temporary recognition shall not be granted if the application is not regular on its face; if the information stated therein, if true, is not sufficient to warrant enrollment to practice; if there is any information before the Commissioner which indicates that the statements in the application are untrue; or which indicates that the applicant would not otherwise qualify for enrollment. Issuance of temporary recognition shall not constitute enrollment to practice or a finding of eligibility for enrollment, and the temporary recognition may be withdrawn at any time by the Commissioner.

(d) *Appeal from denial of application.* (1) The Commissioner, in denying an application for enrollment, shall inform the applicant as to the reason(s) therefor. The applicant may, within 30 days after receipt of the notice of denial, file a written appeal therefrom, together with his reasons in support thereof, to the Director of Practice. A decision on the appeal will be rendered by the Director of Practice as soon as practicable.

(2) A decision of the Director of Practice in sustaining a denial of enrollment may be appealed to the Secretary of the Treasury within 30 days after receipt of the decision of the Director.

(Sec. 501, Pub. L. 82-137, 8b Stat. 290; 31 U.S.C. 483a).

[31 F.R. 10773, Aug. 13, 1966, as amended at 42 F.R. 38352, July 28, 1977]

### § 10.6 Enrollment.

(a) *Roster.* The Commissioner shall maintain rosters of all agents who are enrolled to practice, of all persons who have been disbarred or suspended from practice before the Internal Revenue Service, and of persons whose applications for enrollment have been denied.

(b) *Enrollment card.* The Commissioner shall issue an enrollment card to each agent who is enrolled to practice before the Internal Revenue Service after the effective date of this regulation. Each such enrollment card shall be valid so long as the holder shall remain enrolled and in good standing before the Service. Unless advised to the contrary by the Commissioner, any officer or

employee of the Internal Revenue Service may consider the holder of a valid enrollment card to be duly authorized to practice before the Service.

(c) *Termination of enrollment.* The enrollment of any agent to whom an enrollment card is issued after the effective date of this regulation shall terminate at such time as such agent may become eligible to practice without enrollment under § 10.3(a) or (b), and such agent shall forthwith return his enrollment card to the Commissioner of Internal Revenue for cancellation.

(31 U.S.C. 483a)

[31 F.R. 10773, Aug. 13, 1966, as amended at 42 F.R. 38352, July 28, 1977]

### § 10.7 Limited practice without enrollment.

(a) *In general.* Individuals may appear on their own behalf and may otherwise appear without enrollment, provided they present satisfactory identification, in the following classes of cases:

(1) An individual may represent another individual who is his regular full-time employer, may represent a partnership of which he is a member or a regular full-time employee, or may represent without compensation a member of his immediate family.

(2) Corporations (including parents, subsidiaries or affiliated corporations), trusts, estates, associations, or organized groups may be represented by bona fide officers or regular full-time employees.

(3) Trusts, receiverships, guardianships, or estates may be represented by their trustees, receivers, guardians, administrators or executors or their regular full-time employees.

(4) Any governmental unit, agency, or authority may be represented by an officer or regular employee in the course of his official duties.

(5) Unenrolled persons may participate in rule making as provided by section 4 of the Administrative Procedure Act, 60 Stat. 238 (5 U.S.C. 1003).

(6) Enrollment is not required for representation outside of the United States before personnel of the Internal Revenue Service.

(7) Any individual who is not under disbarment or suspension from practice before the Internal Revenue Service or other practice of his profession by any other authority (in the case of attorneys, certified public accountants, and public accountants) and who signs a return as having prepared it for the taxpayer, or who prepared a return with respect to which the instructions or regulations do not require that it be signed by the person who prepared the return for the taxpayer, may appear without enrollment as the taxpayer's representative, with or without the taxpayer, before revenue agents and examining officers of the Examination Division in the offices of District Directors with respect to the tax liability of the taxpayer for the taxable year or period covered by that return. Proper authorization from the taxpayer will be required. All such persons will be subject to such rules regarding standards of conduct, the extent of their authority, and other matters as the Commissioner of Internal Revenue

shall prescribe. Such persons will be permitted to represent taxpayers within those limits without enrollment, except that the Commissioner may deny permission to engage in such limited practice to any person who has engaged in conduct which would justify suspension or disbarment of any attorney, certified public accountant, or enrolled agent under the provisions of this part.

(b) *Special appearance.* The Commissioner, subject to such conditions as he deems appropriate, may authorize any person to represent another without enrollment for the purpose of a particular matter.

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

### § 10.8 Customhouse brokers.

Nothing contained in the regulations in this part shall be deemed to affect or limit the right of a customhouse broker, licensed as such by the Commissioner of Customs in accordance with the regulations prescribed therefor, in any customs district in which he is so licensed, at the office of the District Director of Internal Revenue or before the National Office of the Internal Revenue Service, to act as a representative in respect to any matters relating specifically to the importation or exportation of merchandise under the customs or internal revenue laws, for any person for whom he has acted as a customhouse broker.

## Subpart B—Duties and Restrictions Relating to Practice Before the Internal Revenue Service

### § 10.20 Information to be furnished.

(a) *To the Internal Revenue Service.* No attorney, certified public accountant, or enrolled agent shall neglect or refuse promptly to submit records or information in any matter before the Internal Revenue Service, upon proper and lawful request by a duly authorized officer or employee of the Internal Revenue Service, or shall interfere, or attempt to interfere, with any proper and lawful effort by the Internal Revenue Service or its officers or employees to obtain any such record or information, unless he believes in good faith and on reasonable grounds that such record or information is privileged or that the request for, or effort to obtain, such record or information is of doubtful legality.

(b) *To the Director of Practice.* It shall be the duty of an attorney or certified public accountant, who practices before the Internal Revenue Service, or enrolled agent, when requested by the Director of Practice, to provide the Director with any information he may have concerning violation of the regulations in this part by any person, and to testify thereto in any proceeding instituted under this part for the disbarment or suspension of an attorney, certified public accountant, or enrolled agent, unless he believes in good faith and on reasonable grounds that such information is

privileged or that the request therefor is of doubtful legality.

#### § 10.21 Knowledge of client's omission.

Each attorney, certified public accountant, or enrolled agent who, having been retained by a client with respect to a matter administered by the Internal Revenue Service, knows that the client has not complied with the revenue laws of the United States or has made an error in or omission from any return, document, affidavit, or other paper which the client is required by the revenue laws of the United States to execute, shall advise the client promptly of the fact of such noncompliance, error, or omission.

[42 F.R. 38352, July 28, 1977]

#### § 10.22 Diligence as to accuracy.

Each attorney, certified public accountant, or enrolled agent shall exercise due diligence:

(a) In preparing or assisting in the preparation of, approving, and filing returns, documents, affidavits, and other papers relating to Internal Revenue Service matters;

(b) In determining the correctness of oral or written representations made by him to the Department of the Treasury; and

(c) In determining the correctness of oral or written representations made by him to clients with reference to any matter administered by the Internal Revenue Service.

[35 F.R. 13205, Aug. 19, 1970, as amended at 42 F.R. 38352, July 28, 1977]

#### § 10.23 Prompt disposition of pending matters.

No attorney, certified public accountant, or enrolled agent shall unreasonably delay the prompt disposition of any matter before the Internal Revenue Service.

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

No attorney, certified public accountant or enrolled agent 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.

[31 F.R. 10773, Aug. 13, 1966, as amended at 35 F.R. 13205, Aug. 19, 1970; 44 F.R. 4940, Jan. 24, 1979]

#### § 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 F.R. 10773, Aug. 13, 1966, as amended at 35 F.R. 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 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" is an attorney, certified public accountant, enrolled agent or any other person authorized to practice before the Internal Revenue Service.

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

[42 F.R. 38352, July 28, 1977]

#### § 10.27 Notaries.

No attorney, certified public accountant, or enrolled agent 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).

#### § 10.28 Fees.

No attorney, certified public accountant, or enrolled agent shall charge an unconscionable fee for representation of a client in any matter before the Internal Revenue Service.

#### § 10.29 Conflicting interests.

No attorney, certified public accountant, or enrolled agent shall represent conflicting interests in his practice before the Internal Revenue Service, except by express consent of all directly interested parties after full disclosure has been made.

### § 10.30 Solicitation.

(a) *Advertising and Solicitation restriction.* (1) No attorney, certified public accountant, enrolled agent, 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 a false, fraudulent, misleading, deceptive, unduly influencing, coercive or unfair statement or claim. For the purposes of this subsection, the prohibition includes, but is not limited to, statements pertaining to the quality of services rendered unless subject to factual verification, claims of specialized expertise not authorized by State or Federal agencies having jurisdiction over the practitioner, and statements or suggestions that the ingenuity and/or prior record of a representative rather than the merit of the matter are principal factors likely to determine the result of the matter.

(2) No attorney, certified public accountant, enrolled agent 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, telephone communications, and personal mailings directed to the specific circumstances unique to the recipient. This restriction does not apply to: (i) seeking new business from an existing or former client in a related matter; (ii) solicitation by mailings, the contents of which are designed for the general public; or (iii) 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 Internal Revenue Code of 1954 (26 U.S.C.).

(b) *Permissible Advertising.* (1) Attorneys, certified public accountants, enrolled agents and other individuals eligible to practice before the Internal Revenue Service, may publish, broadcast, or use in a dignified manner through any means of communication set forth in paragraph (d) of this section:

(i) The name, address, telephone number, and office hours of the practitioner or firm.

(ii) The names of individuals associated with the firm.

(iii) A factual description of the services offered.

(iv) Acceptable credit cards and other credit arrangements.

(v) Foreign language ability.

(vi) Membership in pertinent, professional organizations.

(vii) Pertinent professional licenses.

(viii) A statement that an individual's or firm's practice is limited to certain areas.

(ix) In the case of an enrolled agent, the phrase "enrolled to represent taxpayers before the Internal Revenue Service" or "enrolled to practice before the Internal Revenue Service."

(x) Other facts relevant to the selection of a practitioner in matters related to the Internal Revenue Service which are not prohibited by these regulations.

(2) Attorneys, certified public accountants, enrolled agents and other individuals eligible to practice before the Internal Revenue Service may use, to the extent they are consistent with the regulations in this section, customary biographical insertions in approved law lists and reputable professional journals and directories, as well as professional cards, letterheads and announcements: *Provided*, That: (i) attorneys do not violate applicable standards of ethical conduct adopted by the American Bar Association, (ii) certified public accountants do not violate applicable standards of ethical conduct adopted by the American Institute of Certified Public Accountants, and (iii) enrolled agents do not violate applicable standards of ethical conduct adopted by either the National Society of Public Accountants or the National Association of Enrolled Agents.

(c) *Fee Information.* (1) Attorneys, certified public accountants, enrolled agents and other individuals eligible to practice before the Internal Revenue Service may disseminate the following fee information:

(i) Fixed fees for specific routine services.

(ii) Hourly rates.

(iii) Range of fees for particular services.

(iv) Fee charged for an initial consultation.

(2) Attorneys, certified public accountants, enrolled agents and other individuals eligible to practice before the Internal Revenue Service may also publish the availability of a written schedule of fees.

(3) Attorneys, certified public accountants, enrolled agents and other individuals eligible to practice before the Internal Revenue Service shall be bound to charge the hourly rate, the fixed fee for specific routine services, the range of fees for particular services, or the fee for an initial consultation published for a reasonable period of time, but no less than thirty days from the last publication of such hourly rate or fees.

(d) *Communications.* Communications, including fee information, shall be limited to professional lists, telephone directories, print media, permissible mailings as provided in these regulations, radio and television. In the case of radio and television broadcasting, the broadcast shall be pre-recorded and the practitioner shall retain a recording of the actual audio transmission.

(e) *Improper Associations.* An attorney, certified public accountant or enrolled agent may, in matters related to the Internal Revenue Service, employ or accept employment or assistance as an associate, correspondent, or sub-agent from, or share fees with, any person or entity who, to the knowledge of the practitioner, obtains clients or otherwise practices in a manner forbidden under this section: *Provided*, That a practitioner does not, directly or indirectly, act or hold himself out as an Internal Revenue Service practitioner in

connection with that relationship. Nothing herein shall prohibit an attorney, certified public accountant, or enrolled agent from practice before the Internal Revenue Service in a capacity other than that described above.

[44 F.R. 4940, Jan. 24, 1979]

### § 10.31 Negotiation of taxpayer refund checks.

No attorney, certified public accountant or enrolled agent who is an income tax return preparer shall endorse or otherwise negotiate any check made in respect of income taxes which is issued to a taxpayer other than the attorney, certified public accountant or enrolled agent.

[42 F.R. 38353, July 28, 1977]

### § 10.32 Practice of law.

Nothing in the regulations in this part shall be construed as authorizing persons not members of the bar to practice law.

[31 F.R. 10773, Aug. 13, 1966. Redesignated at 42 F.R. 38353, July 28, 1977]

## Subpart C—Rules Applicable to Disciplinary Proceedings

### § 10.50 Authority to disbar or suspend.

Pursuant to section 3 of the Act of July 7, 1884, 23 Stat. 258 (31 U.S.C. 1026), the Secretary of the Treasury, after due notice and opportunity for hearing, may suspend or disbar from practice before the Internal Revenue Service any attorney, certified public accountant, or enrolled agent shown to be incompetent, disreputable or who refuses to comply with the rules and regulations in this part or who shall, with intent to defraud, in any manner willfully and knowingly deceive, mislead, or threaten any claimant or prospective claimant, by word, circular, letter, or by advertisement.

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

### § 10.51 Disreputable conduct.

Disreputable conduct for which an attorney, certified public accountant, or enrolled agent may be disbarred or suspended from practice before the Internal Revenue Service includes, but is not limited to:

(a) Conviction of any criminal offense under the revenue laws of the United States, or of any offense involving dishonesty, or breach of trust.

(b) Giving false or misleading information, or participating in any way in the giving of false or misleading information to the Department of the Treasury or any officer or employee thereof, or to any tribunal authorized to pass upon Federal tax matters, in connection with any matter pending or likely to be pending before them, knowing such information to be false or misleading. Facts or other matters contained in testimony, Federal tax returns, financial statements, applications for enrollment, affidavits, declarations, or any other

document or statement, written or oral, are included in the term "information."

(c) Solicitation of employment as prohibited under § 10.30 of this part, the use of false or misleading representations with intent to deceive a client or prospective client in order to procure employment, or intimating that the practitioner is able improperly to obtain special consideration or action from the Internal Revenue Service or officer or employee thereof.

(d) Willfully failing to make Federal tax return in violation of the revenue laws of the United States, or evading, attempting to evade, or participating in any way in evading or attempting to evade any Federal tax or payment thereof, knowingly counseling or suggesting a client or prospective client an illegal plan to evade Federal taxes or payment thereof, or concealing assets of himself or another to evade Federal taxes or payment thereof.

(e) Misappropriation of, or failure properly and promptly to remit funds received from a client for the purpose of payment of taxes or other obligations due the United States.

(f) Directly or indirectly attempting to influence, or offering or agreeing to attempt to influence, the official action of any officer or employee of the Internal Revenue Service by the use of threats, false accusations, duress or coercion, by the offer of any special inducement or promise of advantage or by the bestowing of any gift, favor or thing of value.

(g) Disbarment or suspension from practice as an attorney, certified public accountant, public accountant, or actuary by any duly constituted authority of any State, possession, territory, Commonwealth, the District of Columbia, any Federal court of record, or any Federal agency, body or board.

(h) Knowingly aiding and abetting another person to practice before the Internal Revenue Service during a period of suspension, disbarment, or ineligibility of such other person. Maintaining a partnership for the practice of law, accountancy, or other related professional service with a person who is under disbarment from practice before the Service shall be presumed to be a violation of this provision.

(i) Contemptuous conduct in connection with practice before the Internal Revenue Service, including the use of abusive language, making false accusations and statements knowing them to be false, or circulating or publishing malicious or libelous matter.

[Dept. Circ. 230, Rev., 31 F.R. 10773, Aug. 13, 1966, as amended at 35 F.R. 13205, Aug. 19, 1970; 42 F.R. 38353, July 28, 1977; 44 F.R. 4944, Jan. 24, 1979]

### § 10.52 Violation of regulations.

Any attorney, certified public accountant, or enrolled agent may be disbarred or suspended from practice before the Internal Revenue Service for willful violation of any of the regulations contained in this part.

**§ 10.53 Receipt of information concerning attorneys, certified public accountants and enrolled agents.**

If an officer or employee of the Internal Revenue Service has reason to believe that an attorney, certified public accountant, or enrolled agent has violated any provision of this part, or if any such officer or employee receives information to that effect, he shall promptly make a written report thereof, which report or a copy thereof shall be forwarded to the Director of Practice. If any other person has information of such violations, he may make a report thereof to the Director of Practice or to any officer or employee of the Internal Revenue Service.

**§ 10.54 Institution of proceeding.**

Whenever the Director of Practice has reason to believe that any attorney, certified public accountant, or enrolled agent has violated any provision of the laws or regulations governing practice before the Internal Revenue Service, he may reprimand such person or institute a proceeding for disbarment or suspension of such person. The proceeding shall be instituted by a complaint which names the respondent and is signed by the Director of Practice and filed in his office. Except in cases of willfulness, or where time, the nature of the proceeding, or the public interest does not permit, a proceeding will not be instituted under this section until facts or conduct which may warrant such action have been called to the attention of the proposed respondent in writing and he has been accorded opportunity to demonstrate or achieve compliance with all lawful requirements.

**§ 10.55 Conferences.**

(a) *In general.* The Director of Practice may confer with an attorney, certified public accountant, or enrolled agent concerning allegations of misconduct irrespective of whether a proceeding for disbarment or suspension has been instituted against him. If such conference results in a stipulation in connection with a proceeding in which such person is the respondent, the stipulation may be entered in the record at the instance of either party to the proceeding.

(b) *Resignation or voluntary suspension.* An attorney, certified public accountant, or enrolled agent, in order to avoid the institution or conclusion of a disbarment or suspension proceeding, may offer his consent to suspension from practice before the Internal Revenue Service. An enrolled agent may also offer his resignation. The Director of Practice, in his discretion, may accept the offered resignation of an enrolled agent and may suspend an attorney, certified public accountant, or enrolled agent in accordance with the consent offered.

[31 F.R. 10773, Aug. 13, 1966, as amended at 35 F.R. 13206, Aug. 19, 1970]

**§ 10.56 Contents of complaint.**

(a) *Charges.* A complaint shall give a plain and concise description of the allegations which

constitute the basis for the proceeding. A complaint shall be deemed sufficient if it fairly informs the respondent of the charges against him so that he is able to prepare his defense.

(b) *Demand for answer.* In the complaint, or in a separate paper attached to the complaint, notification shall be given of the place and time within which the respondent shall file his answer, which time shall not be less than 15 days from the date of service of the complaint, and notice shall be given that a decision by default may be rendered against the respondent in the event he fails to file his answer as required.

[31 F.R. 10773, Aug. 13, 1966, as amended at 42 F.R. 38353, July 28, 1977]

**§ 10.57 Service of complaint and other papers.**

(a) *Complaint.* The complaint or a copy thereof may be served upon the respondent by certified mail, or first-class mail as hereinafter provided; by delivering it to the respondent or his attorney or agent of record either in person or by leaving it at the office or place of business of the respondent, attorney or agent; or in any other manner which has been agreed to by the respondent. Where the service is by certified mail, the return post office receipt duly signed by or on behalf of the respondent shall be proof of service. If the certified matter is not claimed or accepted by the respondent and is returned undelivered, complete service may be made upon the respondent by mailing the complaint to him by first-class mail, addressed to him at the address under which he is enrolled or at the last address known to the Director of Practice. If service is made upon the respondent or his attorney or agent of record in person or by leaving the complaint at the office or place of business of the respondent, attorney or agent, the verified return by the person making service, setting forth the manner of service, shall be proof of such service.

(b) *Service of papers other than complaint.* Any paper other than the complaint may be served upon an attorney, certified public accountant, or enrolled agent as provided in paragraph (a) of this section or by mailing the paper by first-class mail to the respondent at the last address known to the Director of Practice, or by mailing the paper by first-class mail to the respondent's attorney or agent of record. Such mailing shall constitute complete service. Notices may be served upon the respondent or his attorney or agent of record by telegraph.

(c) *Filing of papers.* Whenever the filing of a paper is required or permitted in connection with a disbarment or suspension proceeding, and the place of filing is not specified by this subpart or by rule or order of the Administrative Law Judge, the paper shall be filed with the Director of Practice, Treasury Department, Washington, D.C. 20220. All papers shall be filed in duplicate.

[Dept. Circ. 230, Rev., 31 F.R. 10773, Aug. 13, 1966, as amended at 31 F.R. 13992, Nov. 2, 1966; 42 F.R. 38354, July 28, 1977]

**§ 10.58 Answer.**

(a) *Filing.* The respondent's answer shall be

filed in writing within the time specified in the complaint or notice of institution of the proceeding, unless on application the time is extended by the Director of Practice or the Administrative Law Judge. The answer shall be filed in duplicate with the Director of Practice.

(b) *Contents.* The answer shall contain a statement of facts which constitute the grounds of defense, and it shall specifically admit or deny each allegation set forth in the complaint, except that the respondent shall not deny a material allegation in the complaint which he knows to be true, or state that he is without sufficient information to form a belief when in fact he possesses such information. The respondent may also state affirmatively special matters of defense.

(c) *Failure to deny or answer allegations in the complaint.* Every allegation in the complaint which is not denied in the answer shall be deemed to be admitted and may be considered as proved, and no further evidence in respect of such allegation need be adduced at a hearing. Failure to file an answer within the time prescribed in the notice to the respondent, except as the time for answer is extended by the Director of Practice or the Administrative Law Judge, shall constitute an admission of the allegations of the complaint and a waiver of hearing, and the Administrative Law Judge may make his decision by default without a hearing or further procedure.

[31 F.R. 10773, Aug. 13, 1966, as amended at 42 F.R. 38354, July 28, 1977]

#### § 10.59 Supplemental charges.

If it appears that the respondent in his answer, falsely and in bad faith, denies a material allegation of fact in the complaint or states that the respondent has no knowledge sufficient to form a belief, when he in fact possesses such information, or if it appears that the respondent has knowingly introduced false testimony during proceedings for his disbarment or suspension, the Director of Practice may thereupon file supplemental charges against the respondent. Such supplemental charges may be tried with other charges in the case, provided the respondent is given due notice thereof and is afforded an opportunity to prepare a defense thereto.

#### § 10.60 Reply to answer.

No reply to the respondent's answer shall be required, and new matter in the answer shall be deemed to be denied, but the Director of Practice may file a reply in his discretion or at the request of the Administrative Law Judge.

[31 F.R. 10773, Aug. 13, 1966 as amended at 42 F.R. 38354, July 28, 1977]

#### § 10.61 Proof; variance; amendment of pleadings.

In the case of a variance between the allegations in a pleading and the evidence adduced in support of the pleading, the Administrative Law Judge may order or authorize amendment of the pleading to conform to the evidence: *Provided,*

That the party who would otherwise be prejudiced by the amendment is given reasonable opportunity to meet the allegations of the pleading as amended; and the Administrative Law Judge shall make findings on any issue presented by the pleadings as so amended.

[31 F.R. 10773, Aug. 13, 1966, as amended at 42 F.R. 38354, July 28, 1977]

#### § 10.62 Motions and requests.

Motions and requests may be filed with the Director of Practice or with the Administrative Law Judge.

[31 F.R. 10773, Aug. 13, 1966, as amended at 42 F.R. 38354, July 28, 1977]

#### § 10.63 Representation.

A respondent or proposed respondent may appear in person or he may be represented by counsel or other representative who need not be enrolled to practice before the Internal Revenue Service. The Director may be represented by an attorney or other employee of the Internal Revenue Service.

#### § 10.64 Administrative Law Judge.

(a) *Appointment.* An Administrative Law Judge appointed as provided by 5 U.S.C. 3105 (1966), shall conduct proceedings upon complaints for the disbarment or suspension of attorneys, certified public accountants, or enrolled agents.

(b) *Powers of Administrative Law Judge.* Among other powers, the Administrative Law Judge shall have authority, in connection with any disbarment or suspension proceeding assigned or referred to him, to do the following:

- (1) Administer oaths and affirmations;
- (2) Make rulings upon motions and requests, which rulings may not be appealed from prior to the close of a hearing except, at the discretion of the Administrative Law Judge, in extraordinary circumstances;
- (3) Determine the time and place of hearing and regulate its course and conduct;
- (4) Adopt rules of procedure and modify the same from time to time as occasion requires for the orderly disposition of proceedings;
- (5) Rule upon offers of proof, receive relevant evidence, and examine witnesses;
- (6) Take or authorize the taking of depositions;
- (7) Receive and consider oral or written argument on facts or law;
- (8) Hold or provide for the holding of conferences for the settlement or simplification of the issues by consent of the parties;
- (9) Perform such acts and take such measures as are necessary or appropriate to the efficient conduct of any proceeding; and
- (10) Make initial decisions.

[31 F.R. 10773, Aug. 13, 1966, as amended at 42 F.R. 38353, 38354, July 28, 1977]

## § 10.65 Hearings.

(a) *In general.* The Administrative Law Judge shall preside at the hearing on a complaint for the disbarment or suspension of an attorney, certified public accountant, or enrolled agent. Hearings shall be stenographically recorded and transcribed and the testimony of witnesses shall be taken under oath or affirmation. Hearings will be conducted pursuant to 5 U.S.C. 556 (1966).

(b) *Failure to appear.* If either party to the proceeding fails to appear at the hearing, after due notice thereof has been sent to him, he shall be deemed to have waived the right to a hearing and the Administrative Law Judge may make his decision against the absent party by default.

[31 F.R. 10773, Aug. 13, 1966, as amended at 42 F.R. 38354, July 28, 1977]

## § 10.66 Evidence.

(a) *In general.* The rules of evidence prevailing in courts of law and equity are not controlling in hearings on complaints for the disbarment or suspension of attorneys, certified public accountants, and enrolled agents. However, the Administrative Law Judge shall exclude evidence which is irrelevant, immaterial, or unduly repetitious.

(b) *Depositions.* The deposition of any witness taken pursuant to § 10.67 may be admitted.

(c) *Proof of documents.* Official documents, records, and papers of the Internal Revenue Service and the Office of Director of Practice shall be admissible in evidence without the production of an officer or employee to authenticate them. Any such documents, records, and papers may be evidenced by a copy attested or identified by an officer or employee of the Internal Revenue Service or the Treasury Department, as the case may be.

(d) *Exhibits.* If any document, record, or other paper is introduced in evidence as an exhibit, the Administrative Law Judge may authorize the withdrawal of the exhibit subject to any conditions which he deems proper.

(e) *Objections.* Objections to evidence shall be in short form, stating the grounds of objection relied upon, and the record shall not include argument thereon, except as ordered by the Administrative Law Judge. Rulings on such objections shall be a part of the record. No exception to the ruling is necessary to preserve the rights of the parties.

[31 F.R. 10773, Aug. 13, 1966, as amended at 35 F.R. 13206, Aug. 19, 1970; 42 F.R. 38354, July 28, 1977]

## § 10.67 Depositions.

Depositions for use at a hearing may, with the written approval of the Administrative Law Judge be taken by either the Director of Practice or the respondent or their duly authorized representatives. Depositions may be taken upon oral or written interrogatories, upon not less than 10 days' written notice to the other party before any officer duly authorized to administer an oath for general purposes or before an officer or employee of the Internal Revenue Service who is authorized to

administer an oath in internal revenue matters. Such notice shall state the names of the witnesses and the time and place where the depositions are to be taken. The requirement of 10 days' notice may be waived by the parties in writing, and depositions may then be taken from the persons and at the times and places mutually agreed to by the parties. When a deposition is taken upon written interrogatories, any cross-examination shall be upon written interrogatories. Copies of such written interrogatories shall be served upon the other party with the notice, and copies of any written cross-interrogation shall be mailed or delivered to the opposing party at least 5 days before the date of taking the depositions, unless the parties mutually agree otherwise. A party upon whose behalf a deposition is taken must file it with the Administrative Law Judge and serve one copy upon the opposing party. Expenses in the reporting of depositions shall be borne by the party at whose instance the deposition is taken.

[31 F.R. 10773, Aug. 13, 1966, as amended at 42 F.R. 38354, July 28, 1977]

## § 10.68 Transcript.

In cases where the hearing is stenographically reported by a Government contract reporter, copies of the transcript may be obtained from the reporter at rates not to exceed the maximum rates fixed by contract between the Government and the reporter. Where the hearing is stenographically reported by a regular employee of the Internal Revenue Service, a copy thereof will be supplied to the respondent either without charge or upon the payment of a reasonable fee. Copies of exhibits introduced at the hearing or at the taking of depositions will be supplied to the parties upon the payment of a reasonable fee (Sec. 501, Pub. L. 82-137, 65 Stat. 290 (31 U.S.C. 483a)).

[31 F.R. 10773, Aug. 13, 1966, as amended at 42 F.R. 38354, July 28, 1977]

## § 10.69 Proposed findings and conclusions.

Except in cases where the respondent has failed to answer the complaint or where a party has failed to appear at the hearing, the Administrative Law Judge prior to making his decision, shall afford the parties a reasonable opportunity to submit proposed findings and conclusions and supporting reasons therefor.

[31 F.R. 10773, Aug. 13, 1966, as amended at 42 F.R. 38354, July 28, 1977]

## § 10.70 Decision of the Administrative Law Judge.

As soon as practicable after the conclusion of a hearing and the receipt of any proposed findings and conclusions timely submitted by the parties, the Administrative Law Judge shall make the initial decision in the case. The decision shall include (a) a statement of findings and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact, law, or discretion presented on the record, and (b) an order of disbarment, suspension, or reprimand or an order

of dismissal of the complaint. The Administrative Law Judge shall file the decision with the Director of Practice and shall transmit a copy thereof to the respondent or his attorney of record. In the absence of an appeal to the Secretary of the Treasury, or review of the decision upon motion of the Secretary, the decision of the Administrative Law Judge shall without further proceedings become the decision of the Secretary of the Treasury 30 days from the date of the Administrative Law Judge's decision.

[31 F.R. 10773, Aug. 13, 1966, as amended at 42 F.R. 38354, July 28, 1977]

#### § 10.71 Appeal to the Secretary.

Within 30 days from the date of the Administrative Law Judge's decision, either party may appeal to the Secretary of the Treasury. The appeal shall be filed with the Director of Practice in duplicate and shall include exceptions to the decision of the Administrative Law Judge and supporting reasons for such exceptions. If an appeal is filed by the Director of Practice, he shall transmit a copy thereof to the respondent. Within 30 days after receipt of an appeal or copy thereof, the other party may file a reply brief in duplicate with the Director of Practice. If the reply brief is filed by the Director, he shall transmit a copy of it to the respondent. Upon the filing of an appeal and a reply brief, if any, the Director of Practice shall transmit the entire record to the Secretary of the Treasury.

[31 F.R. 10773, Aug. 13, 1966, as amended at 42 F.R. 38354, July 28, 1977]

#### § 10.72 Decision of the Secretary.

On appeal from or review of the initial decision of the Administrative Law Judge, the Secretary of the Treasury will make the agency decision. In making his decision the Secretary of the Treasury will review the record or such portions thereof as may be cited by the parties to permit limiting of the issues. A copy of the Secretary's decision shall be transmitted to the respondent by the Director of Practice.

[31 F.R. 10773, Aug. 13, 1966, as amended at 42 F.R. 38354, July 28, 1977]

#### § 10.73 Effect of disbarment or suspension; surrender of card.

In case the final order against the respondent is for disbarment, the respondent shall not thereafter be permitted to practice before the Internal Revenue Service unless and until authorized to do so by the Director of Practice pursuant to § 10.75. In case the final order against the respondent is for suspension, the respondent shall not thereafter be permitted to practice before the Internal Revenue Service during the period of suspension. If an enrolled agent is disbarred or suspended, he shall surrender his enrollment card to the Director of Practice for cancellation, in the case of disbarment, or for retention during the period of suspension.

#### § 10.74 Notice of disbarment or suspension.

Upon the issuance of a final order disbaring or suspending an attorney, certified public accountant, or enrolled agent, the Director of Practice shall give notice thereof to appropriate officers and employees of the Internal Revenue Service and to interested departments and agencies of the Federal Government. Notice in such manner as the Director of Practice may determine may be given to the proper authorities of the State by which the disbarred or suspended person was licensed to practice as an attorney or accountant.

#### § 10.75 Petition for reinstatement.

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

[31 F.R. 10773, Aug. 13, 1966, as amended at 35 F.R. 13206, Aug. 19, 1970]

### Subpart D—General Provisions

#### § 10.90 Records.

(a) *Availability.* There are made available to public inspection at the Office of the Commissioner of Internal Revenue the roster of all persons enrolled to practice and the roster of all persons disbarred or suspended from practice. Other records may be disclosed upon specific request, in accordance with the disclosure regulations of the Internal Revenue Service and the Office of the Secretary.

(b) *Disciplinary procedures.* A request by a practitioner that a hearing in a disciplinary proceeding concerning him be public, and that the record thereof be made available for inspection by interested persons may be granted if agreement is reached by stipulation in advance to protect from disclosure tax information which is confidential, in accordance with the applicable statutes and regulations.

#### § 10.91 Effective date of regulations.

The regulations on this part shall become effective on August 29, 1977, and shall supersede all prior regulations related to practice before the Internal Revenue Service except to the extent and subject to the conditions set forth in § 10.26(d).

[42 F.R. 38354, July 28, 1977]

#### § 10.92 Saving clause.

Any proceeding for the disbarment or suspension of an attorney, certified public accountant, or enrolled agent, instituted but not closed prior to the effective date of these revised regulations, shall not be affected by such regulations, except that any such proceeding based solely on conduct

which would not justify disbarment or suspension under the provisions of the part as revised shall be dismissed. Any proceeding for disbarment or suspension based on conduct engaged in prior to the effective date of these regulations may be instituted subsequent to such effective date, provided that such conduct would continue to justify disbarment or suspension under the provisions of this part as revised.

**§ 10.93 Special orders.**

The Secretary of the Treasury reserves the power to issue such special orders as he may deem proper in any cases within the purview of this part.

[SEAL]

**ROBERT H. MUNDHEIM**  
*General Counsel*

March 6, 1979