- TAX ETHICS 2024 -

RECENT DEVELOPMENTS *for* COMPLIANCE

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COURSE OBJECTIVES

- Recall the principles of professional conduct included in the AICPA Code of Professional Conduct and how they interact with the requirements of Treasury Department Circular No. 230, the Statements on Standards for Tax Services, and those of state law.
- Understand the changes to the AICPA's Statements on Standards for Tax Services.
- Understand the components of a written information security plan.
- Apply ethical concepts to tax practice.

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A REVIEW OF THE RELEVANT GUIDANCE

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CIRCULAR 230

- Primary source of guidance for tax professionals
- Last updated June 2014
- Status of announced revision

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AICPA CODE OF PROFESSIONAL CONDUCT

- Responsibilities principle
- Public interest principle
- Integrity principle
- Objectivity and independence principle
- Due care principle
- Scope and nature of services principle

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REVISED SSTSs

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REVISED SSTSs

- Goals
  - Ensure better alignment of the standards to reflect the current state of the tax profession
  - Address emerging needs of the tax profession
- Timing
  - Exposure draft released August 2022
  - Comment period ended 12/31/2022
- Effective 1/1/2024
  - Revised SSTSs

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HOW GOALS WERE IMPLEMENTED

Alignment

Standards reorganized by type of work performed

Emerging needs

Three new standards

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REORGANIZATION

Statement on Standards for Tax Services No. 1, *General Standards for Members Providing Tax Services*

- Addresses general matters applicable to all tax services
- Includes guidance from the previous SSTS Nos. 1, 5, and 6
- Adds new standards on data protection and reliance on tools

Statement on Standards for Tax Services No. 2, *Standards for Members Providing Tax Compliance Services, Including Tax Return Positions*

- Addresses tax compliance services (tax return preparation)
- Includes guidance from the previous SSTS Nos. 1-5

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REORGANIZATION

Statement on Standards for Tax Services No. 3, *Standards for Members Providing Tax Consulting Services*

- Addresses the providing of tax advice
- Includes guidance from the previous SSTS No. 7

Statement on Standards for Tax Services No. 4, *Standards for Members Providing Tax Representation Services*

- Addresses the new standard on taxpayer representation
- Focuses on the representation relationship

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NEW STANDARDS

Data protection – SSTS No. 1 Section 1.3	Reliance on tools – SSTS No. 1 Section 1.4	Tax representation – SSTS No. 4
• Practitioner must make reasonable effort to safeguard client data	• Reasonable steps required to ensure results presented by tool are reliable	• Guidance for representation before any taxing authority

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WRITTEN INFORMATION SECURITY PLAN (WISP)

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AUTHORITY

Gramm-Leach-Bliley Act (GLBA) 1999

Federal Trade Commission (FTC)

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FTC'S SAFEGUARDS RULE

Requires written information security plan

- Appropriate to the size and complexity of the firm, nature and scope of its activities, and the sensitivity of the information

Objectives

- Ensure security and confidentiality of client information
- Protect against threats to the security or integrity of client information
- Protect unauthorized access to client information

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FTC'S REQUIRED ISP ELEMENTS

1. Designate qualified individuals
2. Conduct risk assessment
3. Design and implement safeguards
   - Access controls
   - What you have and where you have it
   - Encryption
   - Application security
   - Multi-factor authentication (MFA)
   - Secure disposal of client information
   - Change management
   - Log of user activity

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FTC'S REQUIRED ISP ELEMENTS

1. Designate qualified individuals
2. Conduct risk assessment
3. Design and implement safeguards
4. Monitor and test effectiveness of safeguards
5. Train your staff
6. Monitor service providers
7. Keep the ISP current
8. Establish a written incident response plan
9. Require your Qualified Individual report in writing

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PUBLICATION 5708: CREATING A WISP

BASIC OUTLINE

I. Define plan objectives, purpose, and scope
II. Identify responsible individuals
III. Assess risks
IV. Inventory hardware
V. Document safety measures
VI. Implementation clause
VII. Attachments

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APPLY ETHICAL CONCEPTS TO TAX PRACTICE

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CASE STUDY 1

Licensee failed to provide client with copies of his clients' files. A practitioner must, at the request of a client, promptly return records of the client that are necessary for the client to comply with his or her federal tax obligations (Circular 230, Section 10.28).

Licensee was reprimanded, fined $5,000, required to reimburse the BOA $1,000 for the investigation of the matter, and submit to BOA proof of completion of 20 hours of CPE in Circular 230.

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CASE STUDY 2

Licensee knowingly reported fraudulent information to the IRS on behalf of a client when preparing federal tax returns and reported to financial institutions, on behalf of the client, inflated income and provided other fraudulent information in an effort to assist the client with securing loans. Licensee failed to act in a way that served the public interest, honored the public trust, and demonstrated commitment to professionalism (Code of Conduct §§ 0.300.040, 0.300.060, 1.300.001.01, and 1.400.001.01).

Licensee's CPA license was revoked, and licensee was prohibited from petitioning for reinstatement for five years.

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CASE STUDY 3

Licensee failed to exercise due professional care by failing to review his client's returns for prior years for carryover items and minimum estimated tax payments to avoid underpayment penalties (violation of SSTS No. 3). In addition, licensee failed to inquire of the client the need for tax returns for states other than the residence state (violation of Circular 230 Section 10.22(A)).

Licensee voluntarily surrendered his CPA license. He was also required to complete CPE in SSTSs and Circular 230, was fined $1,000, and had to reimburse BOA $500 for investigation of the matter.

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FINAL THOUGHTS

- A tax professional must be intimately familiar with the ethical concepts included in the guidance. Those outlined in the AICPA Code of Professional Conduct are embedded in Circular 230, the SSTSs, and often in state law.
- Failure to adhere to the guidance may result in penalties imposed by the IRS and state Boards of Accountancy.

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