



January 8, 2013

Mr. Steven T. Miller
Acting Commissioner
Internal Revenue Service
Room 3000 IR
1111 Constitution Avenue, N.W.
Washington, DC 20224

Re: Comments on Proposed Circular 230 Regulations

Dear Acting Commissioner Miller:

These comments are submitted on behalf of the American College of Tax Counsel (“ACTC”) regarding the proposed Circular 230 regulations issued on September 14, 2012 (the “Proposed Regulations”). ACTC is a nonprofit professional association of tax lawyers in private practice, law school teaching positions, and government service who have been licensed for at least 15 years at the time of their admission and who are recognized for their excellence in tax practice and for their substantial contributions and commitment to the profession. This letter was prepared by the Board of Regents of ACTC and does not necessarily reflect the views of all members of ACTC, including those who are government employees. None of the members of the Board of Regents who participated in the drafting of this letter has been retained by a client to lobby the Treasury Department or the IRS regarding the Proposed Regulations.

The Proposed Regulations provide for a number of significant changes to Circular 230. They would eliminate the covered opinion standards in current Section 10.35 and expand and enhance the facts and circumstances principles of Section 10.37, making them applicable to all written tax advice. The Proposed Regulations also would add a new section 10.35 providing practitioner competence standards.

ACTC commends the IRS for issuing the Proposed Regulations and in particular for removing the covered opinion standards in current section 10.35 and replacing them with a more robust set of facts and circumstances principles in proposed section 10.37. We also welcome the addition of a section governing practitioner competence. Circular 230 plays a critical role in regulating practice before the IRS in general and the provision of federal income tax advice in particular. However, it is important that Circular 230 perform that function without imposing unnecessarily burdensome rules that may inhibit legitimate and appropriate forms of tax advice. We believe that the Proposed Regulations strike an appropriate regulatory balance and properly recognize that written tax advice should be governed by a principles-based approach, rather than by formulaic rules.

Although we strongly support both the Proposed Regulations and the rationale for their issuance as set forth in the regulatory preamble, we believe that a few clarifying revisions should be made to the Proposed Regulations before they are finalized. In particular, we concur with the revisions and clarifications recommended in the comments submitted by the American Bar Association Section of Taxation on November 27, 2012.

AMERICAN
COLLEGE OF
TAX
COUNSEL

We appreciate your consideration of our comments. If you have any questions or would like to discuss our comments, please feel free to contact me at (804) 788-8793 or ghowell@hunton.com.

Sincerely,



George C. Howell, III
Chair

cc: The Honorable William J. Wilkins
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