

The University of Texas School of Law
63rd Annual Taxation Conference
Austin, Texas
December 3, 2015

Circular 230 Update
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Circular 230 Developments

- Final regulations published in June 2014
- Recent cases that invalidated portions of Circ. 230 and rationale for decisions

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History and Background

- The Horse Act of 1884 – Really?
 - Regulating representatives of claimants before the Treasury Department
- Authorizing statutory language remains basically unchanged to today (31 U.S.C. § 330)
- Circ. 230 first published in 1921
 - Gradually expanded to cover non-representational activities
- Office of Professional Responsibility (OPR)
 - Administers Circ. 230

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June 2014 Regulations – In General

- Reflect a major shift in attitude underlying Circ. 230
 - Rule-based → principle-based
 - Micro-management → aspirational
 - Inflexible rules → more user friendly; reasonableness standards; more room for judgment and discretion

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June 2014 Regulations – Topics covered today:

- Written tax advice
- Competence
- Circ. 230 compliance by firms
- Other June 2014 revisions discussed in the outline

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June 2014 Regulations – Regulating written tax advice

Prior regulations: the “covered opinion” rules

- Either satisfy a detailed checklist of requirements OR
Add a no-penalty protection disclaimer to any written tax advice
- Intended as an anti-tax shelter measure
- Failed badly; failure acknowledged by the government in preamble

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First appeared as part of the conference materials for the
63rd Annual Taxation Conference session

"Circular 230 Update"