

Avoiding Potential Discipline Situations

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Topics

- ▶ Introduction
- ▶ Sources of law
- ▶ Hypotheticals

Sources of Law

- ▶ Lawyers
- ▶ Accountants
- ▶ All tax practitioners – incl. enrolled agents and actuaries
- ▶ Return preparers

Sources of Law Applicable to Lawyers

- ▶ ABA Model Rules of Professional Conduct
 - ABA does not possess disciplinary authority
- ▶ State analogues
- ▶ Commentary on Model Rules
- ▶ ABA and state ethics opinions
- ▶ ABA Tax Section Standards of Tax Practice Statements

Sources of Law Applicable to Accountants

- ▶ AICPA Code of Professional Conduct
 - Applies to all members
 - AICPA possesses disciplinary authority
- ▶ AICPA Statements on Standards for Tax Services (SSTS), which have been adopted by some states
- ▶ State Board of Accountancy rules (look to where you are licensed and employed)

Sources of Law Applicable to Tax “Practitioners”

- ▶ “Circular 230,” 31 C.F.R. Part 10
 - Incorporates many rules similar to ABA Model Rules of Professional Conduct and AICPA SSTS
 - BUT, the differences can matter
- ▶ The applicability of Circular 230 is very much in flux as a result of cases questioning IRS’s authority to regulate practice (Loving, Ridgely and Sexton)

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