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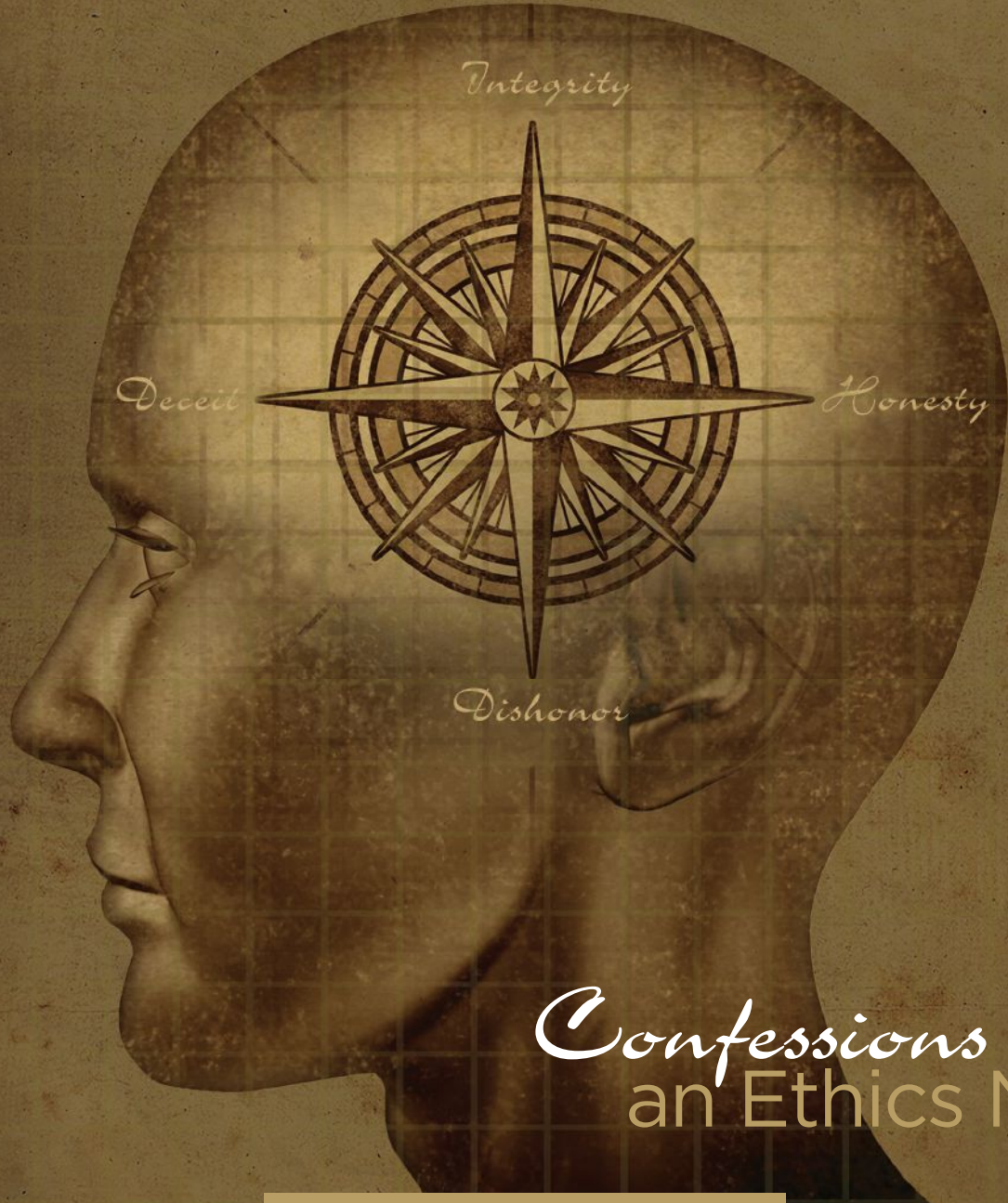
Practicing Before the IRS – Circular 230 A to Z • Moving the Association Forward

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EA JOURNAL

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Confessions of
an Ethics Nerd

Educating America • President's Message • Capitol Corner • Call for BOD Nominations
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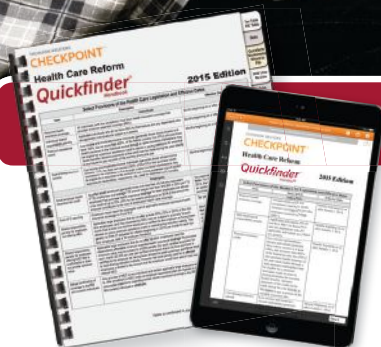
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Tax Topic #137

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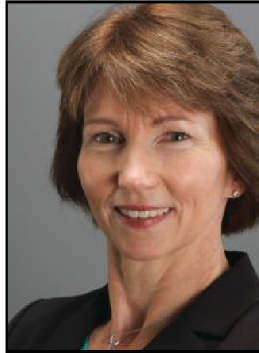
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It's a Great Day to Be an EA!



Terry Durkin, EA

Thank you all for the trust you have placed in me to serve as NAEA president this coming year. I am honored. As I prepared over the last year to assume this role, I gained a renewed appreciation for all the presidents who have come before me. They each had a unique hand in building a strong NAEA, and have positioned us well for continued success.

This past year has also given me time to more fully appreciate the incredible dedication of our membership. The passion and creativity I see in our members is inspiring, and the wealth of tax knowledge that is shared among us is unparalleled.

We have a solid strategic plan, developed by the board last fall, to guide us through the next three years. Our five goals focus on EA recognition, membership, advocacy, education, and a strong NAEA organization. The committee responsibilities are aligned with these goals.

This coming year, we have a great opportunity to increase EA recognition and NAEA membership. We need to:

- **Get them early.** It's vital to our organization to get into the school systems across America and let students know about the EA profession. Our "Educating America" program is poised to increase our EA name recognition and increase membership.
- **Get them all.** Approximately 25 percent of all enrolled agents belong to NAEA. We need to significantly increase this percentage. We need to show all enrolled agents the value of NAEA membership.

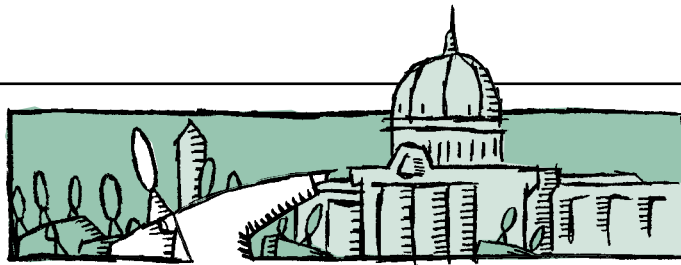
- **Get them now.** There are approximately 350,000 unenrolled tax preparers. We need to show them the value of becoming one of America's tax experts.

The NAEA staff is working hard to implement the action steps necessary to achieve our goals. They will be measuring progress through qualitative and quantitative metrics. Wherever we can, let's help them help us.

I am a second generation enrolled agent. Early on, I learned the value of being an enrolled agent. My mother, Barbara Durkin, EA, was one of the founders of the Massachusetts Society of Enrolled Agents (MaSEA) in the early 1980s. I remember her wearing a t-shirt that read "We SpEAK Taxes," going to monthly MaSEA meetings, and working hard doing what she loved. Coming from this frame of reference, I was disappointed by the study done several years ago that showed only 13 percent of the U.S. public knew what an enrolled agent was. We need to keep finding ways to show the public why enrolled agents are America's tax experts.

I am excited to work with all of you to keep moving NAEA forward. If you are not already on a committee, please get involved at the chapter, affiliate, or national level. NAEA needs you.

It truly is a gREAt day to be an EA! **EA**



Knocking Long Enough and Loud Enough

By Robert Kerr

While you were busy with the filing season and attempting to apply both the new repair regulations and a flotilla of Affordable Care Act-related tax provisions, we were working with the new Congress on a piece of legislation important to enrolled agents.

Sen. Rob Portman (R-OH) and Congressman Charles Boustany (R-LA) introduced the Enrolled Agent Credential Act, which will ensure that individuals, families, and businesses across the country are able to identify and access trained tax experts who may assist them in filing their income tax returns.

The companion bills (Boustany's bill is H.R. 828 and Portman's bill is S. 422), which are identical, would amend Title 31 at Sec. 330 and allow enrolled agents properly licensed to practice to hold themselves forth as an "enrolled agent," "EA," or "E.A." If you're interested in the full text of the bills, please go to www.thomas.gov and use the search term "enrolled agent."

Some readers might be saying to themselves that we've rolled this rock up the

proverbial hill already—more than once, even. And those readers would be correct. But that's the nature of the beast.

What matters—other than our bill becoming law, which matters a lot—is the fact that we will continue to ask our friends in Congress to support common sense tax bills like this one. What also matters is that our friends are willing to come back and reintroduce bills. Both Portman and Boustany were lead sponsors in the 113th Congress, and we're pleased to see them pick up the EA flag once again.

Enrolled agents are precise people, and some of you will notice that this bill is modestly different from the bills in the 113th Congress, which, at least initially in the Senate, were Title 26 bills. There are

lots of reasons to shift from Title 26 (the Internal Revenue Code) to Title 31 (the title governing the Treasury Department). One reason is that enrolled agents are in reality creatures of Circular 230, which itself hangs off Title 31, Sec. 330.

Further, a senior OPR official suggested that Title 31 is much sexier than Title 26 (and yes, at that point in a conversation you have no doubt you're talking with someone who has thought a lot more about taxes than you have). At the end of the day, though, we are concerned that the bill protects enrolled agents and, not coincidentally, shows congressional support for your hard-earned credential.

What happens next?

Well, by the time you read this the NAEA GR team will have reached out to those who co-sponsored the bill in the 113th Congress. We are optimistic that we'll pick up those members fairly easily.

Otherwise, NAEA's annual Fly-In Day is scheduled for May 13. We are expecting more than 100 EA advocates to show up in D.C., sit through NAEA-provided training, and hoof all over Capitol Hill with the enrolled agent agenda. While that agenda is not yet finalized, rest assured it will include the EA Credential Act.

What can you do?

I'm glad you asked! If you're at your desk, put down the magazine right now and send a quick e-mail to your legisla-

About the Author

Robert Kerr has served as NAEA's senior director, Government Relations since 2004. Prior to joining NAEA, Kerr worked on the Senate Finance Committee Oversight and Investigation staff, where he assisted the committee chairman in providing oversight to, among others, IRS, U.S. Postal Service Office of Inspector General, and General Services Administration. He also spent a dozen years in a variety of positions at IRS and is well-versed in a variety of tax administration issues. Kerr holds an MBA from Case Western Reserve University and a BA from Mount Union College.

tors (both senators and your representative). State that you're a constituent and an enrolled agent—one of America's tax experts—and let her or him know you support H.R. 828 (or S. 422, if you're writing your senator). E-mail is generally better than a letter, and it certainly gets to the congressional office much quicker, and it needn't be flowery, fancy, or lengthy. Short and to the point is good.

Back to the Hill. I've heard a lot of chatter about tax reform. I am not, however, optimistic about tax reform in any way, shape, or form. And Members of Congress with whom I have the opportunity to chat in private (generally at events I attend on behalf of NAEA PAC) are not optimistic either. The headwinds are too strong and the window of

opportunity is too narrow. Ways and Means Chairman Paul Ryan has stated publicly that anything that looks like tax reform would need to be done before fall. Additionally, the Administration is not deeply invested, and even though the Republicans control both chambers of Congress, they will not be able to agree amongst themselves on the fundamental contours of tax reform.

I raise the issue of tax reform because it is important for NAEA members and for their clients, and because I believe the Association's GR shop should convey an opinion on its likelihood and most of the politics that surround the issue. That said, during the Fly-In Day we will raise our concerns about tax code stability and the terrible circumstances that come from perpetually

punting on the temporary tax provisions we all know as extenders.

Yes, we've raised the extenders issue before. And yes, I continually raise the issue to Members of Congress, to the extent that I sometimes feel like the proverbial skunk at the garden party. Still, voices matter. Opinions matter. And sharing what matters with our representatives is important.

Longfellow once said: "Perseverance is a great element of success. If you only knock long enough and loud enough at the gate, you are sure to wake up somebody." NAEA is committed to knocking however long it takes to raise the issues of most importance to its members. We look forward to joining the battle on your behalf and side-by-side with you. **EA**

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Confessions of an Ethics Nerd

Starting with my own conscience, I must confess that I have surreptitiously procured invitations to all sorts of practitioner gatherings to spread the word about CSEA and NAEA membership and programs. In leadership roles over the years, I have discovered that offering continuing education programs is a clever way of getting practitioners' undivided attention. Knowing that ethics is a mandatory topic and having sat through excruciatingly boring ethics courses myself, I developed an ethics course to pry many doors open.

Little did I know that ethics would become a mainstay as my forays into teaching increased. I never would have guessed that, all these years later, I could enjoy delving deeply into Circular 230¹ to assist my professional brethren almost as much I love analyzing tax law for tidbits that help my clients. Which leads me to my second confession: *I am* an ethics nerd.

Now, with many years of studying, interpreting, and teaching every aspect of Circular 230, I have become a resource for many who know me through speaking and writing on the subject, and I get phone calls, *lots* of phone calls. Most EAs confess their 'sins' in the secret hope that I have a better answer than their tortured conscience is giving them. I certainly have not heard it all (yet), but have amassed a number of cautionary tales summarized herein.

What Do I Have To Do?

One of the most common queries I encounter is, "My client hasn't paid me and wants

his files back. Can I withhold records until he pays me?" The simple answer is found in Sec. 10.28,² Return of Client Records. One of my favorite frantic phone calls on the subject came from a member of NAEA. I call her Wendy Whatoodew:

Wendy (WW): My client (who has always been a hot-head) got irate and has now engaged a new bookkeeper and tax preparer. I returned his documents as submitted, but now he's demanding that I give him my QuickBooks data files for his new preparer to use. I had to make significant adjustments after he gave me his original and messy data backup. He hasn't paid me for any of the revisions I made to the QuickBooks, but he is threatening to sue me if I don't hand them over! I don't have to give him the data file, do I?

Ethics Nerd (EN): Do you have E&O insurance?

WW: Would that help?

EN: Not at *this* late date! Sec. 10.28 points out that state law governs which client documents must be returned when a fee dispute exists; but generally, you should return whatever the client originally gave you. You are not obligated to give the client any files, work papers, spreadsheets, or other documents that you created as long as they are contractually obligated to pay for the work but have failed to do so. In this

BY JENNIFER MACMILLAN, EA



Integrity

Deceit

Honesty

Dishonor

Confessions of an Ethics Nerd

case, if you don't have the original version of the backup the client submitted, it's not likely worth a lawsuit (lawsuits are extremely stressful and time-consuming, even over a minor fee dispute). If it were me, I would give the client the cleaned-up QuickBooks data along with a final invoice (which he will likely ignore), and be grateful he will never set foot in my office again.

Help! I Really Messed Up!

Another common scenario I hear regularly is this confession from Phyllis Phrightened, EA:

Phyllis (PP): When I looked at the return I prepared last year for a client, I was horrified to see that my software had doubled up some deductions, giving her a hefty refund when she should have owed money to the IRS. I just *can't* tell her about it or she'll pitch a fit and probably fire me! Is there any way I can just ignore the whole thing?

EN: Unfortunately, this happens to all of us at one time or another, and you do not have a choice about how to handle it. You have knowledge of a client's omission from a return that was submitted to the IRS, and even though it was your fault, Sec. 10.21 requires that you tell the client about it.

PP: Well, can I just casually mention it and tell her not to worry about it, or do I have to amend the return and make her file it?

EN: Circular 230 says you must advise the client promptly of the error and in addition, you have to advise her of the consequences of her noncompliance (the applicable penalties under the Internal Revenue Code).³ You are not obligated to force her to submit it, but if none of the errors are the client's fault, you should prepare an amended return for her without charge. You also must make any necessary adjustments to correct amounts you carry forward into the current year.

What Do You Mean I Can't Use My Own Client List?

I cannot even guess how many times I have been asked this question. Sometimes incensed and sometimes quite sheepish, enrolled agents are often unaware of the scope of the disclosure and use rules under IRC Sec. 7216. The reason this matters in the context of Circular 230 is found under the heading, Incompetence and Disreputable Conduct, in Sec. 10.51 (a)(15). Beatrice Bewildered approached the podium at the end of an ethics seminar to admit:

Beatrice (BB): Every year I send postcards to a select group of my clients who I think would be interested in sponsoring me in a walk for charity. So are you telling me I can't print labels for clients I select from my tax software?

EN: That's exactly what I'm telling you. Circular 230 prohibits using or disclosing any tax return information in a manner not authorized by the Internal Revenue Code. So, in addition to the penalties (and potential jail time) for using client information without following IRC Sec. 7216 to the letter, you are also jeopardizing your license to practice.

BB: Isn't there some way to get around that rule?

EN: Yes. It can be burdensome and awkward, but there is a simple way around the prohibited use of your clients' non-public data. Since you participate in this walk for charity each year, you can have every affected client sign a "Consent to Use" letter when you see them during tax season, allowing you to use the information in their tax files, such as their address. The format and language of the consent is quite specific, requiring the exact language in Rev. Proc. 2013-14.⁴

It's Not My Fault!

Another ethics nerd confession: I take great pleasure in dispelling righteous indignation and defiant ignorance when it comes to rules of ethical behavior. Occasionally, I come across a colleague who has a twisted sense of his or her

obligations under Circular 230, and I do get a sick sense of satisfaction in correcting his or her misperceptions. Last year, I had just such an encounter with Stan Stubborn, EA.

Stan had continued preparing tax returns for his ex-wife Sally although they divorced five years ago. Sally became my client after they had a falling out and she no longer trusted him to prepare her taxes. There were a number of dubious (some might call them fraudulent) areas in Sally's prior returns, and I called Stan to ask how he had arrived at some of his conclusions.

EN: So Stan, I'm preparing Sally's return this year, and I'm a bit concerned with the new rules in Sec. 10.37 of Circular 230 about reliance on another practitioner who has a conflict of interest.⁵

Stan (SS): Well, that's why I'm not doing it this year, because now we have a conflict!

EN: Hmm. Well, I think you probably had a conflict all along, but I could use a little help with the history on Sally's return. What's this Schedule E about and where did the depreciation values come from?

SS: *Obviously*, you've seen how *demanding* Sally can be! She insisted that I treat her investment property as a rental and depreciate the entire cost of the property so that she could take a loss on it. It's just like how you—and how everyone else in our industry—do taxes. We have to do what's required to make the client happy. I always do what my clients want me to do, even if it's something I don't think is completely correct.

EN: Whoa there, Stan (I resisted the urge to say, "Speak for yourself."). I think you had better check Circular 230 on that approach. Due diligence dictates that you cannot merely do whatever your client tells you to do. Sec. 10.22 requires that you determine the accuracy and correctness of representations made to the IRS. The standards outlined in Sec. 10.34 prohibit



intentional disregard of a rule or regulation, and they require that you have a reasonable basis for positions taken on tax returns.

Unfortunately for Stan, I don't think he ever comprehended that he was making a confession, so this ethics nerd only hopes he educates himself. As a follow-up to the conflicting interests aspect, Stan had a self-conflict with his ex-wife/client ever since they were divorced, and he should have known his personal interests were adverse to Sally's. Even if Stan had prepared Sally's returns correctly in the past, I would not be able to blindly rely on any of Stan's representations.

I Think I've Made a Terrible Mistake and Now I'm Stuck!

It is all too easy to stumble unwittingly into a conflict-of-interest scenario. Once the situation turns ugly, it is often too late to fix it without harming one or more clients. This is my own such confession, a foible from many years ago.

Molly had been divorced for many years, and I had been preparing her tax return for the past two years. She asked if I could help her ex-husband Mark with his taxes, as he had always done his own return by hand and decided it was time for professional assistance. Molly assured me they were on very good terms and there were no problems or disputes between the two of them. When I spoke with Mark over the phone, he told me the same.

Molly's organizer indicated she was taking her son and daughter as dependents, as she always had in the past. The instant I started work on Mark's return, however, I found myself in one of those surreal, slow-motion movie moments, when the background rushes away and the person onscreen is thrust forward into the spotlight. While I had not yet seen his prior-year tax return, there was a note on Mark's paperwork saying he was claiming their son as a dependent, as he always had in the past.

In that moment, thinking that this couple only had two children, my heart stopped and my mind raced: How do I get out of this without disclosing anything inappropriately? I

could not say anything to either of them about the other's return, and I certainly didn't want to be in the middle of what could have turned into a real mess. I suddenly remembered Circular 230 Sec. 10.29 about conflicting interests and presumed my career was over.

Thankfully, the crisis was soon averted. I saw Mark's prior tax return and discovered the couple actually had three children. Once I started breathing again, I called Mark to say I would be happy to pass him along to a terrific colleague who would be able to better assist him. The fiasco was so unnerving it taught me the virtues of proactively identifying potential conflicts of interest.

I learned a very important lesson that day: The key to avoiding these unexpected nightmare situations is simply to stay alert and regularly assess client relationships that are, or could lead to, conflicting interests.

I'm Too Exhausted ... I Give Up!

While on the topic of lessons learned, I must confess to a universally recognized and tacit predicament I have encountered in my own practice. The nearer it is to April 15 and October 15, the stronger the desire to "let things go" out of sheer overload and exhaustion. Yes, there are times when even an ethics nerd is tempted to give up the good fight, but the need to muster the strength and resist that temptation is paramount.

When that I-give-up feeling begins to take over, I've amassed a few tricks to consider for your own exhaustion arsenal:

- Remind yourself that your license is more important than any client's whining, pouting, or other general unhappiness. Clients do not have any business showering you with their own deceitful tendencies, and they do not own your professional standards.
- Take note of clients who come rushing in at the last minute. Some of them are taking advantage of your exhaustion to "slide things through" without much scrutiny.
- Listen to your gut, even when your hair is on fire. That little voice, telling you something is amiss, can make you even more stressed during those last few days of tax season, but heed its warning.

- Be prepared for those clients who know they can wear you down. You do not need to allow a client to debate with you until you give in. Decide in advance that you will stand firm ... and remember, no means no.

In Conclusion

It may be helpful to note the way the Office of Professional Responsibility (OPR) views and enforces the numerous sections of Circular 230 referenced in this article.

An occasional misstep or lapse in judgment, while still improper, will not likely lead to a serious sanction of an enrolled agent. Karen Hawkins, director of OPR, has often conveyed that a practitioner who is making every effort to follow the rules, but makes a mistake, is not the type of investigation OPR is interested in pursuing.

Conversely, a pattern of careless or reckless behavior has consistently been cited as a very serious concern, given OPR's primary focus on a practitioner's fitness to practice. If ever OPR does come knocking at your door (or mailbox, as the case may be), the best way to keep damage to a minimum is to confess your transgressions against Circular 230. Take it from an ethics nerd: Nothing feels better than a clear conscience! **EA**

About the Author:

Jennifer MacMillan has been an enrolled agent since 1994. She owns a practice in Santa Barbara, California, specializing in income tax preparation and tax representation services. She is an instructor and author for NAEA, CSEA, and Spidell Publishing, and has also provided tax expertise as a panelist on NBC's *Today Show* and IRS's *Tax Talk Today*.

To learn more about this topic, visit the NAEA Forums.

ENDNOTES

1. 31 CFR Part 10.
2. All section references are to Circular 230 unless otherwise stated.
3. Secs. 10.22 and 10.34.
4. Visit www.irs.gov/pub/irs-drop/rp-13-14.pdf (See Sec. 5.04)
5. Sec. 10.37(b)(3) Reliance on advice of others who have a conflict of interest in violation of Circular 230.





PRACTICING BEFORE THE IRS CIRCULAR 230 A TO Z

A Review of OPR Director's Observations

By Paul Roberts, EA

Since the IRS Office of Professional Responsibility (OPR) is the agency charged with enforcing tax practitioners to adhere to professional standards, it is important for enrolled agents to understand how the agency interprets the regulations so that they can steer clear of sanctions that could affect their ability to practice. On January 14, 2015, OPR Director Karen Hawkins presented the webinar, “Regulations Governing Practice before the Internal Revenue Service,” during which she discussed Treasury Department Circular 230.

Hawkins presents a “soup-to-nuts” explanation of how OPR applies the rules of professional conduct to tax practitioners and representatives. The webinar provides a historical overview of the origins of Circular 230, along with a description of how the regulations evolved over the years. Hawkins explains OPR’s procedures and administrative processes from referral to final resolution, with an emphasis on recent regulatory changes and areas where practitioners tend to “get sideways” on rules of professional conduct.

Practitioners should take care to reference the most recent version of Circular 230, published June 12, 2014.

HISTORY OF CIRCULAR 230

In 1884, after the Civil War, Congress enacted a law known as the Horse Act, which allowed citizens to make claims with the Treasury Department for the value of personal property lost as a result of the war. Carpetbaggers and scam artists appeared soon after, turning junk into treasure for purposes of valuation, and making claims for property that were fabricated or inflated. In particular, it became apparent that claims for lost horses far exceeded the number of horses actually lost. As a result, Congress amended the Horse Act, giving the Treasury Department the authority to regulate representatives of the claimants.



The Treasury Department applied the following requirements in determining an individual's fitness to practice:

- good character
- good reputation
- necessary qualifications
- competence to advise citizens of their legal rights and responsibilities when making claims to the federal government

This was the origin of the enrolled agent.

In her webinar, Hawkins states that upon referral of a practitioner issue to OPR, the department will assess the practitioner's integrity (character and reputation) and competence (qualifications to advise).

Note that in 1884 there was no IRS or income tax as we know it. The statute allowing regulation of representatives before the Treasury Department was, and still is, contained in Title 31 of the U.S. Code, rather than Title 26 of the Internal Revenue Code.

In the early 1900s, Congress enacted an income tax and created the department that would become the IRS. Although taxpayer representatives were familiar with the tax laws in place at the time, there were no stated ethical duties in the tax code. In order to help practitioners "find" the rules of professional conduct with regard to representing taxpayers, Treasury Circular 230 was issued, which contained a verbatim reproduction of the regulations under Title 31.

HAWKINS' RECOMMENDED APPROACH TO CIRCULAR 230

The following is a summary of OPR's viewpoints on the subparts, as well as Hawkins' general recommendations for how the practitioner should approach a review of Circular 230.

Subpart A – Rules Governing Authority to Practice

Subpart A of Circular 230 sets forth rules

regarding an individual's authority to practice before the IRS. Hawkins notes that allowing enrolled agents to represent taxpayers before the IRS is a unique credential, with representation open only to attorneys and, in some cases, CPAs in most other departments within the federal government.

Details of rules of practice in Subpart A are administered by the IRS Return Preparer Office, and were not addressed in detail in the webinar.

Subpart B – Duties and Restrictions Relating to Practice before the Internal Revenue Service

Director Hawkins referred to Subpart B as the "bread and butter" of Circular 230 for tax practitioners, addressing duties and restrictions and outlining ethical behavior. She recommends that practitioners read through the table of contents of Subpart B and study only issues that are of current interest to the practitioner. The reason is that the information is complicated and convoluted, and the details provided will probably not make sense to a practitioner unless it is a topic that he or she is currently interested in. More information about specific topics in Subpart B are presented later in this article.

Subpart C – Sanctions for Violations of the Regulations

Although the title for Subpart C indicates information about sanctions, there is also information defining incompetence and disreputable conduct in Sec. 10.51. Hawkins refers to Sec. 10.51 as the "agency's rules of engagement," and recommends all practitioners read the complete section. More information about specific topics in Subpart C are presented later in this article.

Subpart D – Rules Applicable to Disciplinary Proceedings

In the webinar, Director Hawkins refers to

Subpart D as "a section I hope you never have to read." Clearly, with the intent to help practitioners avoid any actions that could lead to disciplinary proceedings, the director does not encourage reading this subpart unless the practitioner has to.

One point that was stressed in the webinar was that OPR does not impose any discipline on a practitioner. The role of OPR is to evaluate a practitioner's fitness to practice, and if a violation of regulations is found, to propose and negotiate with the practitioner in an effort to gain a consent from him or her. If OPR and the practitioner cannot agree on a sanction, OPR refers the case to an administrative law judge (ALJ) for adjudication. OPR has no authority to arbitrarily impose discipline.

Referrals for violations. Most of OPR's involvement with practitioners comes from the field, taking the form of referrals by IRS personnel in the divisions of Examinations, Collections, Settlements, Appeals and the Criminal Investigation Division (CID), as well as the Department of Justice and the Treasury Inspector General for Tax Administration. Note that IRS personnel are obligated to refer a case to OPR if there is any suspicion of violations by the practitioner. The IRS employee is not authorized to use any discretion in deciding whether to make a referral to OPR.

Of the 700–800 referrals to OPR each year, approximately 75 percent are closed without disciplinary action being taken. In cases where a violation may be less egregious or does not indicate a pattern of noncompliance, the department may issue a "soft letter" that notifies the practitioner of the referral, potential violation, and explanation of the relevant law and regulations.

Pre-allegation letter. In the case of a referral where OPR believes a serious violation has occurred, OPR will send the practitioner a



pre-allegation letter, notifying the practitioner of the investigation and inviting the practitioner to submit any relevant information. It is important that the practitioner respond to the pre-allegation letter because OPR can close a case if a sufficient response is received, but it must move forward with an allegation letter if there is no response.

Allegation letter. If a practitioner's response does not resolve the matter, or the practitioner does not respond, OPR will send an allegation letter identifying specific violations of Circular 230. At this time the practitioner may submit an additional response or request a conference to be conducted in Washington, D.C., or by telephone.

Although OPR is not authorized to impose sanctions against a practitioner, and the effort is to come to an agreement with the practitioner, in the webinar Hawkins stated, "By the time you get to conference, thinking you can propose a private reprimand is not realistic." She also indicated that from her experience, it is dangerous for a practitioner to represent him/herself. She strongly recommends a practitioner obtain competent representation if the matter progresses to a conference.

Administrative law judge (ALJ). If there is an allegation against a practitioner of violations of Circular 230, and the case has not been settled or sanctions have not been agreed to by OPR and the practitioner, OPR will refer the case to the Office of the Associate Chief Counsel, which will represent OPR in formal disciplinary proceedings. At this point the ALJ will respond in one of three ways:

1. complete rejection of OPR's complaint (note that this has never happened under Hawkins' tenure as director)
2. complete acceptance of OPR's complaint in its entirety
3. modification of the complaint

If a practitioner's response does not resolve the matter, or the practitioner does not respond, OPR will send an allegation letter identifying specific violations of Circular 230.

After consideration of the evidence and testimony, the ALJ will issue a decision. An appeal by either OPR or by the practitioner may be made within thirty days. If there is no appeal within that time frame, the ALJ's decision becomes the final agency decision.

PRACTITIONER NONCOMPLIANCE

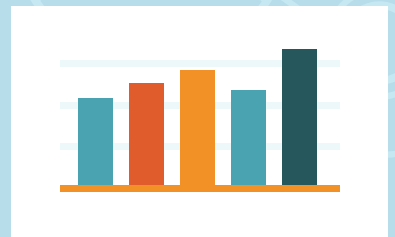
Noncompliance with tax laws by practitioners represents one of the most common reasons for OPR to recommend sanctions. Director Hawkins emphasized that a large number of referrals could have been closed except for noncompliance by the practitioner. Noncompliance frequently takes the form of failure to file tax returns.

Expedited Suspension

The sanctioning process in an expedited suspension follows normal steps, but the process is completed more quickly. One important new provision in Circular 230 allows expedited suspension procedures in cases of noncompliance by a practitioner. Upon referral, if a practitioner has failed to file annual federal returns during four of the five tax years preceding the implementation of proceedings, or failed to file returns required more frequently than annually, such as payroll tax returns, during five of the seven periods preceding implementation of the proceedings, expedited suspension procedures may apply.

RESPONSIBILITY FOR COMPLIANCE WITHIN A FIRM

Sec. 10.36 of Circular 230, Procedures to Ensure Compliance, addresses rules for accountability for individuals within a firm who are conducting activities subject to Circular 230. Director Hawkins refers to this concept as *respondeat superior*, which translates in Latin to, "Let the master answer." *Respondeat superior* is a legal doctrine that sets forth the conditions for which an employer is responsible for the actions of employees while performing services during the course of their employment.



PRACTICING BEFORE THE IRS CIRCULAR 230 A TO Z



Of particular importance in Sec. 10.36 is that in the absence of a person or persons identified by the firm as being responsible for compliance by members, associates, or employees, the IRS has the explicit authority to identify the person responsible. The responsible person is potentially subject to discipline for compliance failures of other members of the firm.

Tax offices should identify the person or persons responsible for compliance by all individuals potentially subject to Circular 230, and reasonable steps should be taken to ensure the firm has adequate procedures in place to communicate rules of compliance and to take prompt action to correct any episodes of noncompliance.

DUE DILIGENCE

Under Circular 230, a practitioner is required to exercise due diligence in determining the correctness of documents submitted to the IRS. The webinar has several examples of situations where the practitioner can rely on information submitted by the client without further inquiry, as well as situations where steps should be taken to assure accuracy.

The example of a client submitting Schedule K-1 from a partnership or S corporation is presented, and the question of whether the practitioner can rely on the information without further inquiry is addressed. According to Hawkins, the practitioner can rely on the K-1 at face value unless the practitioner has a reason to question the information presented. However, Hawkins also stressed that the practitioner cannot ignore facts, and is required to make reasonable inquiries if information appears inconsistent or incomplete. Intentionally ignoring facts or willful blindness will not protect a practitioner from sanctions for misconduct.

Typically, there are two primary issues related to information submitted by a client and included on a tax return: the amount and the matter of law. The practitioner can

rely on an amount submitted by a client, but the practitioner cannot rely on a client's determination as a matter of law.

For example, if a practitioner receives an organizer stating the client paid \$100,000 for alimony, the practitioner can rely on the amount, but must make reasonable inquiries to determine whether the amounts paid met all the conditions necessary to be deductible by the payer. Likewise, if a client states that he or she has \$50,000 in capital gains, the practitioner can rely on the \$50,000 amount, but must make the determination under law of whether the gain is eligible for capital gain tax rates.

Hawkins went on to define the process of due diligence as adhering to three issues:

- relevant facts (ask questions)
- know the law (ask or research if you don't know the relevant law)
- match the facts to the law

Hawkins used the analogy that if a practitioner has a client with round facts and the law is a square hole, you're not going to make them fit no matter how hard you try.

Practitioners wanting to help clients out of tax trouble was a recurring theme in the discussion of trouble areas for practitioners. There is nothing wrong with a practitioner doing the best job possible to help the client pay the least amount of tax under the law. If the law means the client is in a tough spot from a tax standpoint, the practitioner must explain this to the client to be in compliance with due diligence requirements. Being overly influenced by a desire to help clients can, and often will, result in a violation for willfully assisting a client in a plan to evade taxes.

CONFLICTS OF INTEREST

Dealing with conflicts of interest is one of the most difficult and confusing for tax practitioners. Even attorneys, who have extensive training in conflict of interest issues, can get tripped up in the details.

A conflict of interest exists when one client's interest is directly adverse to another client's interest, or when there is a risk of material limitation in the practitioner's ability to advocate for the client's best interest.

Common situations where adverse interests can arise are with partnerships or spouses. Material limitations in the ability to advocate for a client can arise with a client with related financial activity, fiduciary, beneficiary, or the personal interest of the practitioner.

An example given in the webinar was a practitioner who was feeling the heat during an audit for questionable items and then going into self-preservation mode and being less supportive of the client. The point was stressed that, often, an engagement is clear to begin with, but conflicts can arise at any time.

If a conflict is identified, the practitioner can proceed with the engagement only if three conditions are met:

1. The practitioner believes he or she can continue to advocate for the client's best interest.
2. The practitioner is not legally prohibited from continuing with the engagement.
3. Each affected person is notified of the conflict in writing and gives informed consent to allow the practitioner to continue with the engagement.

Copies of written consents must be retained by the practitioner for at least thirty-six months from the date of the conclusion of the representation.

CIRCULAR 230 DISCLAIMERS

One significant change to Circular 230 was the removal of the old covered opinion rules, also known as the "Circular 230 disclaimer." The old rules provided a long written disclaimer designed to help a practitioner avoid a penalty in certain specific circumstances relating to reliance on covered opinions. Soon



after implementation of the Circular 230 disclaimer, almost everyone was using it for all written communications, not limited to the specific situations set forth in regulations. The regulation was deemed to not be serving the purpose for which it was intended.

The June 12, 2014, revision of Circular 230 rescinded the Sec. 10.35 language containing the disclaimer and replaced it with Section 10.37. The new Sec. 10.37 addresses requirements for written advice, applying a new standard of “reasonableness,” instead of requiring a long-winded written disclaimer.

Director Hawkins stressed that under the new regulations, practitioners are welcome to continue to use disclaimers on written communications. However, the use of language such as “As required by Circular 230” or “As required by the IRS” is not acceptable. Hawkins has indicated that a practitioner who continues to use a disclaimer indicating it is required by the IRS is likely to receive a communication from OPR instructing the practitioner to stop using the language.

Summary

The rules governing practice by enrolled agents are extensive and have changed several times in recent years. In order to remain compliant and stay off OPR’s radar in terms of potential violations of rules of practice, enrolled agents should not only study the current version of Circular 230, but should also study how OPR views and applies the regulations. It is highly recommended that practitioners view the “Circular 230 – A to Z” webinar, as well as study the many OPR resources available at irs.gov. **EA**

Additional Resources

The webinar “Circular 230 – A to Z” can be viewed at: <http://www.irsvideos.gov/Circular230toZ/>

Additional information about OPR can be obtained on the IRS website at irs.gov. Enter “OPR” in the search box, and a listing of links to resources will appear, including the current Circular 230, news and updates from OPR, rights and responsibilities in Circular 230 cases, and guidance on restrictions for suspension or disbarment.

About the Author:

Paul Roberts, EA, is co-author for TheTaxBook™ line of publications, published by Tax Materials, Inc. Paul is currently in his twenty-ninth year as a practicing tax preparer in Minneapolis, Minnesota, preparing individual and small business tax returns. Paul is a member of NAEA and MnSEA. E-mail him at paul@thetaxbook.com.

To learn more about this topic, visit the NAEA Forums.

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ETHICS NERD

1. Generally, what client records must be returned when a valid fee dispute exists?

- A. Only Form W-2
- B. All documents the client originally submitted
- C. All documents, including the practitioner's own work papers
- D. None of the above

2. What are the obligations when a tax professional discovers an error he or she made in a prior year's tax return?

- A. Advise the client of the error
- B. Require the client to file an amended return
- C. Advise the client of the consequences of noncompliance
- D. Both A and C

3. What client information can be used for non-tax related communications?

- A. Name and address only
- B. Any information that does not disclose the client's income
- C. Only information that is specifically allowed by consent under IRC Sec. 7216
- D. None, unless it is for charitable purposes

4. A conflict of interest exists:

- A. If divorced spouses both claim the same dependent
- B. When two clients' interests are directly adverse to one another
- C. Only if there is a lawsuit involved
- D. When married couples file separate tax returns

5. Due diligence requires that a tax professional:

- A. Determine the accuracy and correctness of items on a tax return
- B. Audit all documents the client provides
- C. Report clients who make false claims
- D. All of the above

6. Reliance on others is unreasonable if:

- A. The practitioner has a fee dispute with a client
- B. The practitioner does not follow the disclosure rules under IRC Sec. 7216
- C. The practitioner has a conflict of interest in violation of Circular 230
- D. The practitioner is an unlicensed preparer

7. Circular 230 requires practitioners to:

- A. Have a reasonable basis for positions taken on tax returns
- B. Determine the accuracy and correctness of representations made to the IRS
- C. Safeguard information as required by IRC Sec. 7216
- D. All of the above

8. A conflict of interest includes self-interests, when a practitioner's interests are directly adverse to a client's interests.

- A. True
- B. False

9. OPR will sanction every practitioner who is referred, even if he or she has made a one-time mistake.

- A. True
- B. False

10. Circular 230 Sec. 10.34 allows a practitioner to disregard the reasonable basis standard if the client insists on taking a particular deduction.

- A. True
- B. False

CIRCULAR 230 A TO Z

11. Under the most recent revisions to Circular 230, what changes were made to provisions for written disclaimers relating to covered opinions?

- A. "As required by the IRS" was added
- B. The written disclaimers are now also required for verbal advice
- C. The provisions for written disclaimers related to covered opinions were eliminated
- D. The penalty for failure to use the disclaimer increased

12. What is one of the steps a practitioner must take to represent both parties if a conflict of interest exists?

- A. The practitioner must obtain verbal agreement from the parties to represent both
- B. The practitioner must obtain written agreement from the parties to represent both
- C. The practitioner cannot represent both parties under any circumstances
- D. The practitioner must hire an attorney to draft the agreement

13. Bob's client fills out an organizer and submits it to Bob along with his other tax documents. The organizer indicates that Bob paid \$36,000 in alimony during the tax year. What part of this information can Bob rely on without further inquiry?

- A. Bob must make further inquiries to verify both the amount and the characterization as deductible alimony
- B. If clearly stated on the organizer, Bob can rely on both the amount and the characterization as deductible alimony without further inquiry
- C. Bob must obtain documentation of the amount, but further verification is not required to characterize the amount as deductible alimony
- D. Bob can rely on the amount without further inquiry, but must make reasonable inquiries to confirm the amount is deductible as alimony

14. Ajax Tax Services has twelve preparers subject to regulations set forth in Circular 230. One of the preparers is under investigation by OPR for violations of professional conduct. The firm has not identified any individual as being responsible for compliance by members of the firm. Besides the individual under investigation, who within the firm is potentially subject to discipline for the violations?

- A. The IRS can identify a responsible person, who would then be subject to discipline
- B. The person with the highest ownership percentage is considered the responsible person
- C. Sanctions apply only to the individual(s) under investigation. No other individual would be subject to sanctions
- D. Since no individual has been identified as being a responsible person, potential discipline would be limited to the individual under investigation

15. A tax practitioner can be subject to expedited suspension if he or she has not filed his or her individual Forms 1040 for the following amount of time:

- A. Four of the five tax years preceding implementation of the proceedings
- B. Five of the seven tax years preceding implementation of the proceedings
- C. Seven of ten tax years preceding implementation of the proceedings
- D. Expedited suspension does not apply for failure to file tax returns

16. If OPR determines a serious violation of Circular 230 has occurred, what steps must OPR take to impose sanctions on the practitioner?

- A. OPR must obtain a warrant from an administrative law judge
- B. After notifying the practitioner of the violation, OPR must impose sanctions within 45 days of the notification
- C. OPR must allow the practitioner to respond before imposing sanctions
- D. OPR is not authorized to impose sanctions against a practitioner

17. How many days does a practitioner have to appeal a decision made by an administrative law judge?

- A. 14
- B. 30
- C. 45
- D. 90

18. If a practitioner does not respond to a pre-allegation letter from OPR, what is OPR's next step?

- A. OPR will issue an allegation letter identifying specific violations
- B. OPR will refer the case to an administrative law judge
- C. OPR will propose a sanction and begin negotiations with the practitioner
- D. A pre-allegation letter is a "soft letter" and does not carry any authority

19. When a referral is made to OPR regarding possible practitioner violation of Circ. 230 provisions:

- A. Referrals from the Criminal Investigation Division are automatically sent to an administrative law judge
- B. No discretion is allowed to the IRS employee in evaluating the worthiness of the referral
- C. The IRS employee should check the practitioner's own tax compliance as part of the referral
- D. Each Treasury Department division has a target quota for referrals to prevent OPR from case overload

20. Circular 230 is:

- A. Included in Title 26 (Internal Revenue Code) of the United States Code
- B. The IRS's regulatory interpretation of the statute
- C. Both A and B
- D. Neither A nor B



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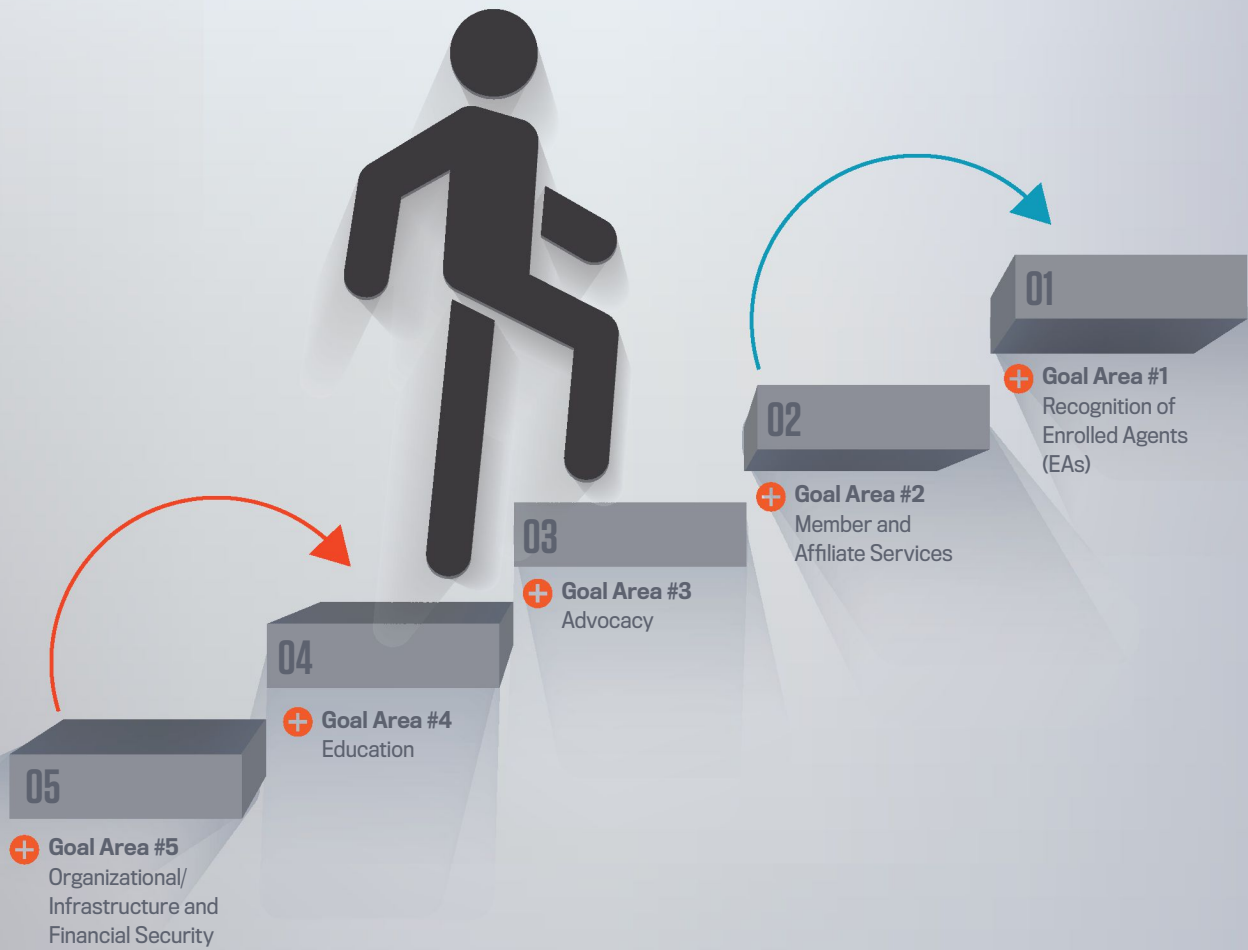


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THE 2015-2018

NAEA STRATEGIC PLAN

MOVING THE ASSOCIATION
FORWARD

By Lonnie Gary, EA, USTCP

A major characteristic of successful organizations is the development and implementation of a strategic plan. This is an invaluable tool to ensure that an organization remains focused on its mission, and it provides a guide for budgetary purposes. The NAEA Board of Directors has been faithful stewards of this process, as they have consistently used the strategic plan as a guide when evaluating organizational efficiency. I am pleased to let you know that we achieved many of our major strategic goals over the past three years.

With the future in mind, this past fall the board developed the strategic plan for the 2015–2018 period. An invaluable tool that the board consistently references is the member needs survey that was completed in October. We appreciate your participation in this effort, and the unusually high number of respondents ensured that the information gleaned from the survey was statistically accurate. The board then devoted a day for a facilitated planning session led by John Curtis, Ph.D., an expert in strategic planning. In late November and December, the board refined the plan during a series of conference calls, and the 2015–2018 NAEA Strategic Plan was finalized in mid-January of this year.

The specifics of the 2015–2018 Strategic Plan are:

Goal Area #1 – Recognition of Enrolled Agents (EAs)

- A. Expand public recognition of enrolled agents (EAs) as America's tax experts
- B. Empower members to promote themselves to the public as America's tax experts

Not surprising, continuing NAEA's efforts to elevate the public profile of EAs remains the ultimate goal for the next three years. The need to make more of the tax-paying public aware of the qualities of enrolled agents was the overwhelming priority in survey responses from our members. In addition to continuing the public relations efforts coming from NAEA headquarters, plans are under way to initiate public relations training at the state and local levels.

Goal Area #2 – Member and Affiliate Services

- A. Increase the value of membership by providing and promoting benefits for members and affiliates
- B. Provide exceptional customer service to members and affiliates
- C. Increase the number of members

The lifeblood of NAEA is its constituency. Without an engaged and growing membership base, NAEA's ability to protect members' rights to practice unlimited representation is compromised. Despite a relatively modest membership of approximately 12,000 members, NAEA has earned a reputation as an advocate for sound tax policy on Capitol Hill. Additionally, a growing and vibrant membership provides a stronger base of support to pursue new initiatives. Accordingly, the board has elevated membership to the second highest initiative for this strategic plan cycle.

Goal Area #3 – Advocacy

- A. Promote NAEA as the voice of enrolled agents and advocate for the profession
- B. Increase NAEA's influence in tax administration and tax policy
- C. Influence federal oversight of paid return preparers
- D. Advocate for codification of the enrolled agent credential

A hallmark of NAEA's beltway presence is our vibrant advocacy programming. In the next three years, NAEA will continue aggressive efforts to increase support for the EA Credential Act. This important effort will provide ironclad legislative protection to the EA credential. We will expand our footprint in Washington by growing participation in the annual NAEA Fly-In Day, as well as increase support for the PAC. Our stalwart efforts to advocate for EAs at the IRS will expand. Additionally, plans are in motion to develop a series of training tools to expand advocacy efforts at the state or local level.

Goal Area #4 – Education

- A. Expand opportunities for education in

- representation, tax preparation, and practice management
- B. Promote programs to help tax professionals become enrolled agents
- C. Increase educational resources for state affiliates

NAEA's commitment to continuing education is evident by the fact that its membership is required to attain 25 percent more continuing education than the IRS requires. For the past few years, NAEA has focused its education efforts primarily on the representation audience. Our members have requested that NAEA offer more instruction in tax preparation, and that will be a major strategic shift for the Association. We will be expanding education programming for our affiliate partners, and we will develop a pilot program to make the Special Enrollment Examination (SEE) Boot Camp more accessible to those seeking the EA credential.

Goal Area #5 – Organizational/ Infrastructure and Financial Security

- A. Ensure NAEA continues to be organizationally stable and financially sound
- B. Improve, expand, and promote NAEA's technological competency

Without a strong organizational foundation, it would not be possible to achieve these strategic efforts. In light of this, the board has identified specific criteria to ensure that the organization's infrastructure remains strong. You can expect a greater emphasis on technology which will enable NAEA to remain engaged with its diverse membership. NAEA will continue to operate on a sound fiscal basis, and the board has adopted strategies to build operational reserves, which will also provide strength to the Association. **EA**

About the Author:

Lonnice Gary, EA, USTCP, is a partner with Young, Craig & Co., LLP, a CPA firm in Mountain View, California, specializing in representation and tax planning for high net worth individuals. He has been an enrolled agent and member of NAEA since 1992, and was admitted to practice before the U.S. Tax Court in 2007.



Educating AMERICA

JEAN NELSEN, EA

Two years ago, the NAEA Board of Directors began meeting to develop an innovative strategy that would bring awareness of the EA credential to new audiences. We spent many hours discussing what to do, and we eventually determined that we would target the community college system. Why community colleges? The main reason was that this venue would provide the opportunity to promote EA training to students, as well as grow the next generation of EAs.

Initially, the board established the Implementation Task Force, which has now evolved into the Educating America Task Force, which launched in May 2014. I serve as chair and am assisted by Raven Deerwater, EA; Mike Fioritto, EA, CPA; Gary LaRoy, EA; Marie Poole, EA; Jeffery Schneider, EA; Janet Sienicki, EA; and Andy Stadler, EA.

Making It Happen

We created a comprehensive “how-to” toolkit for affiliates, as well as a series of presentation materials that members can use when they meet with education decision-makers about the benefits of bringing EA training to college campuses, the important role that enrolled agents play in high-quality tax preparation

and representation, and the career benefits of becoming an enrolled agent.

In addition, we developed a three-phase program. Phase I targets workforce development/noncredit programs that are geared toward students on nonacademic tracks, the underemployed workforce, or veterans. Phase II will seek to have Parts 1–3 of the EA examination accredited, and those programs will focus on associates seeking accounting or general business AS and AA degree tracks. Phase III will continue the academic track to develop an associate degree in taxation.

On the Ground

If administrators at a community college are interested in the tax-related curriculum, we’ll set up a conference call between them and scholastic experts from Gleim Publishing to discuss specifics of a program. Gleim’s diverse array of education products will enable college instructors to create a program that best meets the needs of the college and its students. Those affiliates that create local programs can also generate much-needed non-dues revenue with an escalating royalty program from Gleim. More students participating means greater income for the state affiliate.

Once the college begins to promote the program, then the benefits of multiple promotion efforts kick in. For example, a college may have an audience of approximately 10,000, and promotes programs through printed catalogues, websites, and other means. The college will typically publish class schedules several times a year, and these systemic outreach efforts to faculty, students, and the surrounding community consistently reinforce the EA brand. This effort is expected to supplement NAEA and its affiliate promotional efforts to build “top-of-mind” awareness that EAs are the preferred tax practitioners.

In addition to spreading awareness through catalogues, websites, etc., we’ve created a number of booths that are stocked with collateral materials to enable NAEA volunteers to participate in college career/job fairs.

Seeing Success

At the outset, it was difficult to project what would be successful benchmarks for the campaign. Our hope was to have nine affiliates use the toolkit to introduce the EA profession to colleges. In addition, we planned on

Educating AMERICA

making ten presentations (either at career/job fairs or presentations to classes). At the start of the campaign a year ago, we had a few preliminary meetings scheduled with educators, but we were unsure how successful those meetings would be. Basically, we just didn't know what to expect.

Thus far, however, the program has been very successful! Thirty percent of the NAEA affiliates have established an Educating America Committee or have initiated successful meetings with community college educators. Affiliate members have made presentations at colleges in Florida, New York, Louisiana, Oklahoma, California, Ohio, and Kentucky. Community colleges in Florida, California, Louisiana, New York, Indiana, and Oklahoma currently have programs in place or ones that are being planned. In many cases, there are several community colleges in each state that are interested in the program.

The program has created a great deal of momentum in its inaugural year. We have identified many new opportunities to expand our outreach into the local college



Steve Mead, EA, chair of the FSEA PR Committee, talks with students about the benefits of a career as an enrolled agent at the Broward State College Career Fair.

environment. To maximize the chances of increasing EA visibility, we need even more of you to contact your state affiliate or the national office so that we can reach more colleges. If you have contacts or a relationship with educators at a local educational institution, find out how to get involved today!

Please join the growing ranks of NAEA members who are working to promote the EA profession to community colleges

throughout the country. It is a fun way to engage the next generation and encourage them to consider a tax career. **EA**

About the Author:

Jean Nelsen, EA, is the owner of Jean Nelson, Enrolled Agent, a tax preparation, bookkeeping, audit representation and tax problems services firm in the San Francisco Bay area. She is a past president of CSEA, and currently serves on NAEA's board of directors.



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2015

NAEA ELECTION RESULTS

THE VOTES ARE IN!

Congratulations to the new officers and directors elected to the NAEA Board for the 2015–2016 governance year. The new officers and directors will be installed on May 15, 2015, in Crystal City, Virginia.

PRESIDENT..... Terry Durkin, EA
PRESIDENT-ELECT..... Richard Reedman, EA, USTCP
SECRETARY/TREASURER..... Laurie Ziegler, EA
IMMEDIATE PAST PRESIDENT Lonnie Gary, EA, USTCP

NEWLY ELECTED DIRECTORS

Nancy Lyman, EA
Joyce Mohr, EA
Angela Radic, EA
Don Rosenberg, EA
Andy Stadler, EA

CONTINUING TO SERVE AS DIRECTORS

James Adelman, EA
Michael Fioritto, EA, CPA
Jerry Gaddis, EA
Jean Nelsen, EA
Jeffrey Schneider, EA
Craig Smith, EA, USTCP



CE on Demand

Meeting your IRS and NAEA CE requirements doesn't need to be expensive or inconvenient. NAEA offers two popular methods of earning CE from the comfort of your home or office.

The National Tax Practice Institute™ (NTPI®) Level 1 Online Webinars

Learn and earn CE with the hands-down best representation education available—NTPI. Level 1 is available in its entirety on the NAEA website for members and non-members, but members receive a discounted price. Get started on the path to becoming an NTPI Fellow®, the most prestigious designation in representation and earn up to 24 CE credit hours.

EA Journal CE

Enjoying reading your EA Journal? Once you've finished, flip to the test form included in each issue, take the test, and fax or mail it to NAEA. By passing the test, you can earn up to 18 CE credit hours a year. Even better—for immediate results, take the online test on www.naea.org.

Need Ethics CE? Both NTPI Level 1 and the May/June issue of EA Journal offer enough Ethics CE to fulfill your annual requirement!

Take advantage of this high-quality, convenient CE, brought to you by the only association dedicated solely to the interests of enrolled agents!

THE NAEA BOARD OF DIRECTORS 2016-2017 GOVERNANCE YEAR

MAKE A DIFFERENCE IN YOUR ASSOCIATION!

NAEA is accepting nominations for its 2016–2017 Board of Directors. By serving in a leadership capacity in the one professional association dedicated solely to enrolled agents, you can make a positive impact on your profession.

NAEA board members are responsible for strategic thinking, planning, and evaluation. They set the direction of the Association. Previous board members report significant professional and personal

growth from the board. Serving on the board is interesting, sometimes challenging, and often fun—it can change you for the better!

If you are willing and able to contribute your time, energy, and good ideas to help NAEA advance the enrolled agent profession, or if you know someone who would be an asset to NAEA in a leadership position, please fill out the form below and return it to NAEA by **June 12, 2015**. Take this opportunity to give back to the profession you love!

I WOULD LIKE TO NOMINATE

Nominee's Name: _____

For the office of:

President-Elect Secretary/Treasurer Director

Nominator's Name: _____

Please note: Nominees for an officer position must have previously served at least one year on the Board.

Mail, fax, or e-mail this form to:

NAEA Nominating Committee
1730 Rhode Island Ave, NW, Ste 400
Washington, DC 20036
E-mail: tboutcher@naea.org
Fax: 202.822.6270 Attn: T. Boutcher

NAEA | POWERING AMERICA'S TAX EXPERTS®
NATIONAL ASSOCIATION OF ENROLLED AGENTS

SHARPEN YOUR SKILLS AT THE NATION'S PREMIER TAX EDUCATION EVENT!

2015 NAEA NATIONAL CONFERENCE

AUGUST 2-4, 2015 | *The Cosmopolitan, Las Vegas, NV*

Join us at the luxurious Cosmopolitan of Las Vegas for the most important tax education event of the year and NTPI's 30th anniversary at the 2015 NAEA National Conference! You can earn up to 24 CE credits and fulfill your ethics requirement while networking with intelligent and dedicated tax professionals. If you're interested in the lucrative, year-round practice of representation of clients before the IRS, the tax education program you don't want to miss is the National Tax Practice Institute™ (NTPI®). Nationally recognized instructors lead four levels that suit every level of expertise. If representation isn't your thing, come for the Tax Preparation Issues track, which will keep you right where you want to be—on the cutting edge. Stay up-to-date on the changes to the tax code and leave with a full understanding of some of this year's most thorny issues.

THIS EVENT OFFERS

- Tax Preparation Issues
- NTPI, Levels 1, 2, 3 and Graduate Level in Representation
- Bonus Practice Management Session
- The NAEA Expo

EARLY BIRD RATE

Register before 7/2



REGISTER ONLINE AT WWW.NAEA.ORG

2015 CALLE AWARDS

DEADLINE FOR NOMINATIONS: JUNE 5, 2015

WHAT WOULD WE DO WITHOUT wonderful volunteers who give so generously of their time? Do you know someone who is active in the EA community and should be recognized for their outstanding contributions? How about someone who tirelessly sacrifices their time to enhance the enrolled agent profession?

Each year, NAEA recognizes the achievements of its members and volunteers through its awards program. The Awards Committee needs you to nominate individuals who have demonstrated their commitment to improving our profession. The process to nominate someone is simple! Fill out the form on p. 32, or visit www.naea.org/awards to download a form. We will honor the award winners on August 4, during the National Conference in Las Vegas. The deadline to submit nominations is June 5, so do not delay!

The following awards highlight the commitment of those who generously give their time through public awareness, education, and advocacy.

NAEA FOUNDERS AWARD

PURPOSE The Founders Award is the Association's highest recognition bestowed on a member. This once-in-a-lifetime achievement award recognizes significant leadership and contributions of an enrolled agent who contributes to the growth and progress of the Association.

ELIGIBILITY NAEA member of at least three years and in good standing—except for a posthumous nomination in which the requirements would have been met at the time of the nominee's demise. Member should be someone who contributed significantly to the development and growth of NAEA, must be or have been active on the national level, and should have been active on the state affiliate or chapter level. All nominations are for the current year only. Whether or not a person is compensated for the activity to be recognized will not be a consideration.

NAEA EXCELLENCE IN EDUCATION AWARD

PURPOSE The Excellence in Education Award recognizes those who demonstrate significant leadership ability and contributions having immediate or long-term impact on the NAEA education program.

ELIGIBILITY Current NAEA member in good standing within the Association or any non-EA who meets the criteria as follows: The immediate or long-term contributions could be made through, but not limited to, teaching, writing, development, service for an NAEA education program, or other activity. Whether or not a person is compensated for the activity will not be a consideration. Posthumous nominations are permissible.

EXCELLENCE IN PUBLIC AWARENESS AWARD

PURPOSE The Excellence in Public Awareness Award is given to members who make "enrolled agent" and "EA" more readily recognized nationally, regionally, or locally as America's tax experts.

ELIGIBILITY NAEA member in good standing within the Association or any non-EA who meets the criteria as follows: The immediate or long-term contributions could be made through, but not limited to, teaching, writing, development, service for an NAEA education program, or other activity. Whether or not a person is compensated for the activity will not be a consideration. Posthumous nominations are permissible.

EA MENTOR AWARD

PURPOSE To recognize significant contributions having immediate and/or long-term impact on the growth of the enrolled agent profession in general and the growth of the membership of NAEA in particular.

ELIGIBILITY Limited to an individual who is a current member in good standing with the Association. Posthumous nominations are permissible. The nominee is an individual who has contributed significantly to the promotion of the enrolled agent profession and to the increase in the membership of NAEA. The contribution will be made by an individual dedicated to the causes of enrolled agents, and who instills excitement for those causes by leading, encouraging, and nurturing those who follow. Whether or not a person is compensated for the activity to be recognized will not be a consideration.

OUTSTANDING VOLUNTEER AWARD

PURPOSE The Outstanding Volunteer Award recognizes enrolled agents who tirelessly assist at the chapter, affiliate, or national level.

ELIGIBILITY Nominee is limited to a member who either at the local, state, or national level has made an outstanding contribution to the chapter, affiliate, or NAEA during the year, or who has made significant contributions over a lifetime of service. The individual must be a current member in good standing with the Association and must have, through his or her volunteer efforts, demonstrated the value of their volunteer efforts at any or all levels of participation, be it local, state, or national. A person compensated for his or her efforts, such as a paid speaker, paid staff, or paid volunteer, would not be eligible. Posthumous nominations are permissible.

OUTSTANDING SUPPORTER OF EAs AWARD

PURPOSE The Outstanding Supporter of EAs Award recognizes non-NAEA organizations and those individuals who are not enrolled agents who make "enrolled agent" and "EA" more readily recognized nationally, regionally, or locally as the tax professional of choice.

ELIGIBILITY Nominations are limited to non-NAEA organizations and to those individuals who are not enrolled agents. Posthumous nominations are permissible. Nominee should be an organization or individual who has contributed significantly in the area of public awareness, having immediate or long-term impact on the heightened public recognition of enrolled agents, or NAEA, its affiliates, chapters of its affiliates, or an NAEA education program. The contribution could be made through, but not limited to, public or media appearances, public awareness administration, serving on an NAEA committee, teaching, writing, development, service with a public agency, or other activity. Whether or not a person is compensated for the activity to be recognized will not be a consideration. Employees of NAEA or any state affiliate are ineligible to receive the Outstanding Supporter of EAs Award.

NAEA 2015 AWARD NOMINATION FORM

The NAEA Awards Program is a great way to recognize fellow enrolled agents. If there is somebody you know who deserves to be honored, be sure to submit your nomination by filling out the following form or visiting us online at www.naea.org/awards.

NOMINEE'S NAME: _____

PERSON SUBMITTING NOMINATION: _____

DATE: _____

NOMINATION FOR:

- Founders Award
- Excellence in Public Awareness Award
- EA Mentor Award
- Outstanding Volunteer Award
- Bill Payne Advocacy Award
- Excellence in Education Award
- Outstanding Supporter of EAs Award

In 500 words or less on a separate page, state how the nominee exemplifies the award category for which he/she is nominated. Identify and be specific about the short- and long-term impact of the nominee's contributions.

Submit your nomination no later than 5 p.m. ET June 5, 2015, to Tina Boutcher at tboutcher@naea.org or fax to 202-822-6270 Attn: T. Boutcher.

Only one nomination per form please. Awardees are eligible to win one award per year, and nominations are accepted from members and associates.

BILL PAYNE ADVOCACY AWARD

PURPOSE In July 2010, William D. "Bill" Payne, EA, passed away. The Bill Payne Advocacy Award was created in recognition of Bill's generous donation of his time and effort to the Association throughout the years and his unwavering dedication to protecting the rights of EAs before Congress. This annual award recognizes an NAEA member who best exemplifies Mr. Payne's commitment to advocacy on behalf of enrolled agents.

ELIGIBILITY Nominee is limited to an NAEA member who best exemplifies Mr. Payne's commitment to advocacy on behalf of enrolled agents, whether at the local, state, or national level. Posthumous nominations are permissible.



PRESIDENTIAL CALL TO ANNUAL MEETING

*To Members of the
National Association of Enrolled Agents*

This is your official invitation to the 2015 Annual Meeting, scheduled for 5:15 p.m. on Monday, August 3, 2015, at The Cosmopolitan of Las Vegas. The NAEA Annual Meeting gives all members the opportunity to participate in the discussion about the strategic direction of the Association and the future priorities for NAEA. All members are encouraged to attend the meeting and share their ideas, concerns, and experiences with the leaders of NAEA and fellow members.

If you believe there is an issue that should be discussed during the meeting, please contact me or Executive Vice President Michael S. Nelson, CAE. The agenda for the meeting is in the right-hand column of this page.

Members are also invited to attend the NTPI graduation and NAEA awards ceremonies that will be held on Tuesday evening, August 4, 2015, and the NAEA Board of Directors meeting held on Wednesday, August 5, 2015. I hope you are able to attend and I look forward to seeing you there.



Terry Durkin, EA
NAEA President

43RD ANNUAL MEETING AGENDA

Monday, August 3, 2015
5:15 PM-7:00 PM

Call to Order

Pledge of Allegiance

Approval of the 2014
Annual Meeting Minutes

President's Remarks

New Business

Good of the Order

AUGUST 2-4

2015 NAEA National Conference

Taking Your Career to the Next Level

The Cosmopolitan of Las Vegas

By Sally Brassé

The National Tax Practice Institute™ includes a graduate level track in representation, a Tax Preparation Issues track, tons of networking opportunities and plenty of good times. You don't want to miss it!

If you're serious about your career—and anyone who has earned the EA credential must be—your next step is attending the 2015 NAEA National Conference. Every year, tax professionals from across the country earn up to 24 CE credits while learning what they need to know to take their careers to the next level.

In 2009, NAEA expanded the education offerings at its national conference beyond representation to include a Tax Preparation Issues track. While the National Tax Practice Institute (NTPI®) remains extremely popular, members who are interested in learning how to handle thorny tax issues not related to representation have flocked to the new track. Attendees learn about Schedule C audits, foreclo-

tures, updates on the tax ramifications of the Affordable Care Act, and other current legislation, and much more. This three-day course will cover the tax updates you need to know about, and it will put you on the cutting edge in the competitive world of tax prep.

NTPI, which has long been the jewel in the crown of NAEA's education program, is celebrating its thirtieth anniversary—the pearl anniversary! This is one program you will not want to miss! Only EAs, CPAs, and tax attorneys may participate in this program, and all who represent clients before the IRS could benefit from the in-depth courses at NTPI. Everything you need to know about going up against the IRS is in this nationally acclaimed three-level program. Level 1 gives you the basics of representation. In Level 1, you'll get an introduction to non-filers, communications with the IRS, engagement letters, collections, audits and appeals, and dealing with crimi-

nal investigations. It's the first step on your path to the prestigious NTPI Fellow™ designation.

NTPI Level 2 has been described by many attendees as their favorite level. The lively, interactive case study approach keeps attendees thinking fast as they work through real-life proceedings.

NTPI Level 3 is the final level required to become an NTPI Fellow. The top tax professionals in the country have achieved this designation; seeing "NTPI Fellow" after your name will increase your clients' confidence in your tax ability. In Level 3, you'll move into the advanced study of examinations, appeals, and criminal investigation; learn about bankruptcy and statutes of limitation; and take part in an offer in compromise workshop. When you've completed all three levels in order, you'll be awarded your certificate of fellowship at the graduation ceremony held at the close of the conference. This is one of the many opportunities to network with other tax professionals who may send you referrals in the future or answer your questions on the NTPI Fellows web forum on the NAEA website.

Because the top tax professionals never want to stop learning, NAEA offers a Graduate Level in Representation track for Fellows and other advanced Circular 230 practitioners. The graduate level offers a new curriculum of topical and highly complex representation courses annually, and this year is no exception. Many firm friendships and professional relationships have formed among

the dedicated tax professionals attending NTPI.

NTPI graduates have the confidence and knowledge to expand their careers into the lucrative field of representation.

Each level of NTPI and the Tax Preparation Issues track includes 2 CE units of ethics, enabling you to satisfy your annual requirement.

More on NTPI Fellows

Enrolled agents, CPAs, and tax attorneys who have successfully completed Levels 1, 2, and 3 (in order) earn the designation of NTPI Fellow, which denotes the highest educational achievement in representation, and stands as a testament to the dedication of the practitioner. Fellows are highly qualified to represent their clients. The distinction is displayed on the member's NAEA online profile page, and all NTPI Fellows are listed on the NAEA website under the "Education" tab. Taxpayers looking for experts in representation can also search for NTPI Fellows using NAEA's "Find an EA" directory. There is an NTPI Fellows Web forum on the NAEA website to help Fellows stay in touch. Most who have achieved Fellow status advertise the fact in their marketing materials.

Lunch & Learn: What's Your Exit Strategy?

Join us Monday August 3 from 12 pm-1 pm with Margy Dunn for an informative and dynamic lunch & learn on planning your exit strategy. The cost is \$45 and the session comes with lunch. Are you prepared to answer the following questions: When do you

What are attendees saying about the NAEA National Conference?

"I've been to many, many professional conferences, both military and civilian. This is by far the best from A-Z. The instructors were all great and dynamic and knowledgeable. The networking opportunities are priceless. My Level 1 and 2 training has already paid for itself several times over."

"Wow! What a great program—only sorry I didn't know about this sooner."

"I was able to put the lessons learned in each level into practice immediately upon completing the training, and have doubled my number of representation cases in the last year. Worth every penny and has already paid for itself."

plan to retire? Will you be selling your tax practice? Do you have an emergency exit strategy in case of sudden illness or death? Other highlights of this session include: how a tax practice is valued at the time of sale and things to consider now to maximize your sale price down the road.

Special Events

The networking and the good times get started with the opening plenary on Sunday at 5 pm, where you can expect a top-notch keynote speaker, followed by the opening reception at 6 pm. Please join us at 7 pm for our premier event, "Sharing Pearls of Wisdom," which is an auction to benefit the NAEA Education Foundation. Tickets for this event are \$125 and include dinner and cocktails.

Monday evening is an opportunity to participate in the future of NAEA. Let your voice be heard by attending the NAEA Annual Meeting. Tuesday evening, celebrate with the new contacts you've made at the graduation ceremony and awards presentation. The newest group of NTPI Fellows will cross the stage for their certificates, and deserving individuals who have helped to improve the association and the EA profession will be recognized with NAEA's national awards. On Wednesday, NAEA holds its board of directors meeting. All members are invited and encouraged to attend and participate in the governance of the Association.

Scholarships

NAEA's Education Foundation offers scholarships for the National Conference. Scholarship applications are due by **Wednesday, May 27, 2015**. Please note: Late applications will not be accepted.

Questions regarding the National Conference may be directed to Alex Rosen (arosen@naea.org) or Sally Brassé (sbrasse@naea.org).

Hotel and Registration Information

All events take place at The Cosmopolitan, one of the most lavish hotels in Las Vegas, conveniently located center-strip. If you make your reservation online through www.naea.org, your rate will show up automatically. If you would like to make your reservation via phone, please call 855-435-0005. Be sure to mention "NAEA" or the "2015 NAEA National Conference." Room rates are \$164 for the evenings of Friday, July 31 and Saturday, August 1, and \$144 between August 2 and August 6 (single or double plus tax per night) for program participants. Reservations must be made by **Friday, July 3, 2015**. After July 4, reservations will be accepted on a space-available basis only, and the rate is no longer guaranteed.

All information regarding the National Conference can be found on www.naea.org, including links to the hotel reservation system and online registration. The early bird registration deadline is **July 2**. Don't put registration off and miss out on your *hefty registration discount!* Please remember that Level 2 tends to fill up quickly, so early registration is suggested.

Can't make it to Vegas? Mark your calendar for NTPI ORL at the Rosen Centre Hotel, Orlando, Florida, on November 4–6.

About the Author

Sally Brassé is the NAEA director of education. She holds a BA in Communications from the George Washington University and a graduate certificate in organization management from Stanford University. Sally has extensive experience in education and professional development.

COMMITTEE MEMBERS RESPONSIBLE FOR NAEA'S 2015 NATIONAL CONFERENCE

While NAEA's board of directors has oversight over all NAEA activities and programs, the following committees have worked tirelessly to ensure that NAEA's educational programming meets the needs of members. Education is more than simply meeting a number of CE hours—it is the groundwork necessary for enrolled agents to excel and maintain their tax expertise.

EDUCATION COMMITTEE

Alan Pinck, EA (Chair)
Catherine A. Clow, EA
David Miles, EA
Aaron Whitaker, EA

TAX PREP/ PRACTICE MANAGEMENT PLANNING COMMITTEE

Victoria McGinn, EA, CPA (Chair)
David Mellem, EA
Linda Ward, EA

NTPI 2015

PLANNING COMMITTEE

Geri Bowman, EA, CPA, USTCP (Chair)
Melissa Bossard, EA, USTCP
Ann Kummer, EA, CPA
Craig Smith, EA, USTCP
Karen Summerhays, EA, USTCP

NATIONAL CONFERENCE SPEAKERS

NAEA is extremely fortunate to have top-notch speakers participating in the National Conference. The following is an alphabetical listing of instructors and discussion leaders as of March 1, 2015.

Aaron Blau, EA, CPA
Melinda M. Bossard, EA, USTCP
C. Dale Boushley, EA
Geri Bowman, EA, CPA, USTCP
L.G. Brooks, EA
Clarice A. Landreth, EA
Salvatore P. Candela, EA
Catherine A. Clow, EA
Frank Degen, EA, USTCP
Marc Dombrowski, EA
Margy Dunn, EA
David E. Du Val, EA
Lonnie L. Gary, EA, USTCP
Robert Hartmann, EA
Monica Haven, EA, JD, LLM
Claudia A. Hill, EA
Amy King, EA

Ann Kummer, EA, CPA
Howard Levy, JD
Robert E. McKenzie, EA, JD
David Miles, EA
Vicki Mulak, EA
Bill Nemeth, EA
Alan Pinck, EA
Ricardo V. Rivas, EA
Donald Rosenberg, EA
Jeffrey A. Schneider, EA
Theodore A. Sinars, JD
Craig C. Smith, EA, USTCP
Nadine M. Smith, EA
Sherrill Trovato, EA, USTCP
Jennifer Verhey, CPA, EA
Aaron B. Whitaker Jr., EA

2015 NAEA NATIONAL CONFERENCE

SCHEDULE AT A GLANCE

Sunday, August 2		
All	7-8:00	Breakfast
1	8-8:50	Overview of Representation
2	8-10:50	Non-Filers and SFRs
3	8-9:40	Correcting Bad Actions
G	8-9:40	2015 Representation Update
TP	8-9:40	Foreign Earned Income: Form 2555
1	9-11:40	Introduction to Collections
2	10:50-11:40	FOIA
3	10-11:40	Statute of Limitations
G	10-11:40	Advanced IRS Summons Authority & Defenses
TP	10-11:40	Ethics
1	1-2:40	Communicating with IRS & Notices
2	1-4:40	Form 1040 Audits
3	1-2:40	Advanced Criminal Tax Issues
G	1-2:40	Aggressive Strategies for Clients w/Income & Assets
TP	1-2:40	Death & Retirement Issues
1	3-4:40	Tax Research & Resources
3	3-4:40	Representation Ethics
G	3-4:40	Hobby Loss Rules
TP	3-4:40	Death & Taxes: Allocation of Income/Expenses, Final Form 1040
All	5-6:00	Opening Plenary
All	6-7:00	Welcome Reception
•	7-9:00	Sharing Pearls of Wisdom: Evening Auction to Benefit NAEA EF

Monday, August 3		
All	7-8:00	Breakfast
1	8-9:40	Introduction to Criminal Investigation
2	8-9:40	Examination Appeals
3	8-9:40	Bankruptcy & Advanced Collections
G	8-11:40	Tax Court Trial
TP	8-9:40	Employee vs. Independent Contractor
1	10-11:40	Introduction to Examination
2	10-11:40	Trust Fund Recovery Penalties
TP	10-11:40	Death & Taxes: Form 1041
3	10:50-11:40	Advanced Appeals
•	12-1:00	Lunch & Learn: What's Your Exit Strategy?
1	1-2:40	Introduction to Examination cont.
2	1-1:50	Audit Reconsideration
3	1-1:40	Advanced Appeals cont.
G	1-2:40	Everything You Need to Know About FBAR Clients
TP	1-2:40	Automobiles: Buying vs. Leasing
2	1:50-2:40	Collection Appeals
3	1:50-4:40	Advanced Trust Fund Recovery
1	1:50-4:40	Innocent Spouse
G	3-4:40	Putting the Audit Technique Guides to Work for You
TP	3-4:40	Basis: Partnerships & S Corporations
1	3:50-4:40	Engagement Letters
All	5:15-7:00	NAEA Annual Meeting
†	7-8:00	NAEA PAC Reception

Tuesday, August 4		
All	7:00-8:00	Breakfast
1	8-9:40	Introduction to Appeals
2	8-4:40	Enforced Collections
3	8-11:40	Adv. Examinations
G	8-9:40	Real Estate Professionals; Do They Really Exist?
TP	8-11:40	Mid-Year Tax Update
1	10:00-11:40	Non-Filers
2	10:50-11:40	Collection Resolutions & Form 433
G	10-11:40	I Have a Client Who... Cases Submitted by Attendees
1	1-2:40 AM	Ethics for Tax Practitioner
2	1-1:50	Collection Resolutions & Form 433 cont.
3	1-4:40	Preparing Form 656 & 433-A OIC
G	1-2:40	Appeals Mock Conference
TP	1-2:40	Taxes and Divorces
2	1:50-3:50	Ethics
1	3-4:40	Transcripts and CSED Extenders
G	3-4:40	Ethics for Tax Practitioner
TP	3-4:40	What is my Basis in...?
2	3:50-4:40	Representation Wrap-Up
All	5:30-7	NTPI Graduation & NAEA Awards Ceremony

KEY	
1	NTPI Level 1
2	NTPI Level 2
3	NTPI Level 3
G	Graduate Level in Representation
TP	Tax Preparation Issues
All	All Participants

Registration Note: You may register for a complete, pre-set track. Only enrolled agents, CPAs and tax attorneys may register for National Tax Practice Institute™ (NTPI®) Levels 1, 2, 3, or the Graduate Level in Representation track. If your interest is to become an NTPI Fellow™, taking the three levels in order is imperative. Registration for Levels 2 and 3 requires the successful completion of the prior level.

***Daily Schedule Note:** Classes will be held daily from 8:00am-4:40pm. A morning and afternoon break will be provided from 9:40 am - 10:00 am and 2:40 pm - 3:00 pm. In addition, the conference will break for lunch (on your own) from 11:40 am - 1:00 pm daily.

•Ticket Required

† NAEA PAC Club Level Contributors Only

2015 EDUCATION ADVANCEMENT RETREAT

JUNE 28-30, 2015 *at the breathtaking*
INN AT MILL FALLS RESORT
LAKE WINNIPESAUKEE, MEREDITH, NH

**4TH
ANNUAL**



Education to include
tax topics, ethics, &
representation.

**Attendees
Earn 14-16
Hours of CPE**

CPE schedule to allow time to enjoy
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**FEATURING nationally
recognized tax expert and
speaker**

Robert E. McKenzie, Esq.

*Partner of the law firm of
Arnstein & Lehr LLP of Chicago, Illinois*



For complete event
details, and to
register online
www.nnesea.org

Cost: \$395 for
NAEA members
\$435 non members.
Open to all tax professionals!

presented by

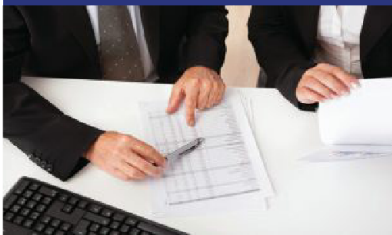
NNESEA

Northern New England Society of Enrolled Agents

Questions? Call 603-432-8291 or email nancy@stevenswilcox.com

KEEP YOUR BUSINESS PROTECTED

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NAEA

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OF ENROLLED AGENTS

POWERING AMERICA'S TAX EXPERTS®

Take advantage of a professional liability insurance program created exclusively
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- Bookkeeping Services
- Notary Public
- Endorsements Available for Life Agent and Registered Representative Coverage

Program Advantages:

- Competitive Rates
- Online Rate & Bind
- Immediate Certificate Delivery upon Approval
- Coverage for Individuals or Firms
- Multiple Payment Plan Options
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