

Tax Practice Current Developments and Topics

Edward K. Zollars
Phoenix, Arizona
Oklahoma Tax Institute 2010


AICPA Statements on Standards for Tax Services

New standards took effect January 1, 2010


Revisions to all standards

Combined old standards 6 & 7

Withdrew prior interpretations 1-1 and 1-2



SSTS 1 – Tax Return Positions



- Dual Level of Standards
- Conformity to §6694

Summary of Standards For Return Positions


Level of Support	Old §6694	Current §6694	Old SSTS 1	New SSTS 1	Current Circular 230	Proposed Circular 230	FM 48
More Likely Than Not		-					X
Substantial Authority		X		++		X	
Realistic Possibility	X		X	X	X		
Reasonable Basis		With Disclosure		With Disclosure		With Disclosure	
Not Frivolous		With Disclosure		With Disclosure		With Disclosure	

* Required if a tax shelter per §6662(d)(2)(C)(ii)

** Effective federal rule - must follow standard of taxing authority if higher than default SSTS 1 standard.

Authority?

- IRS – Reg. §1.662-4 (d)
- AICPA – Editorial

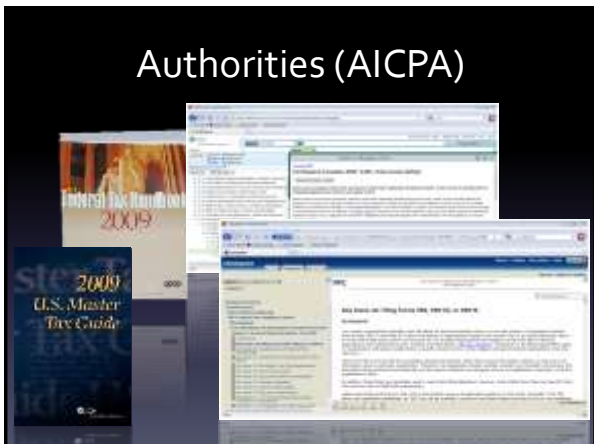


Authorities (IRS)



- Code
- Regulations
- Revenue rulings/procs
- Treaties
- Court cases
- Congressional intent
- Blue Book
- PLRs/TAMs
- AOD/GCM
- IRS information/press releases
- IRS administrative pronouncements

Authorities (AICPA)



Part III Foreign Accounts and Trusts

You must complete this part if you (a) had over \$1,000 of taxable interest or ordinary dividends; (b) had a foreign account; or (c) received a distribution from, or were a grantor of, or a transferee to, a foreign trust.

1. At any time during 2010, did you have an interest in or a signature or other authority over a financial account in a foreign country, such as a bank account, securities account, or other financial account? See instructions on back for exceptions and filing requirements for Form TD F 9022.1.

2. If "Yes," enter the name of the foreign country.

3. During 2010, did you receive a distribution from, or were you the grantor of, or transferee to, a foreign trust? If "Yes," you may have to file Form 9620. See instructions on back.

For Preparation Instructions, see your tax return instructions. © 2010 111446 Schedules B Form 9944 or 9944-SSA

SSTS No. 2 – Questions on the Return

SSTS 3 – Certain Procedural Aspects

- Client Representation
- Ostrich Rule



SSTS 4 – Use of Estimates



- Conditions allowed
- Cohan rule (CA2 39 F.2d 540)

SSTS 5 - Departure

- Prior exam
- Consider SSTS 1
- *Lukovsky v. Commissioner, TC Memo 2010-117*



SSTS 6 - Error



- Combined old SSTS 6 and 7
- Preparation of return
- Administrative proceeding
- Failure to file

SSTS 7 - Advice

- Competence
- Consider position standards
- Written advice



2010 Developments in Regulation of Tax Practice
CURRENT DEVELOPMENTS

Circular 230 Proposed Change

- Registered return preparer
- Prepare return = practice
- Signing standard
- Expansion of §10.36
- Failure to efile = act discreditable



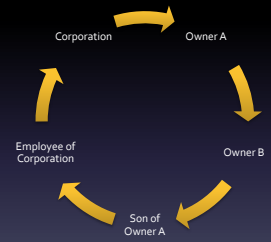
OPR Discipline



- Kaskey case
- OPR emphasis

Conflict of Interest

- Definition of a conflict
- Writing requirements
- Date requirements



Accountant's Liability – How a Situation Turned Very Bad

- New client – gave advice to change
- Failed to note potential complex issue
- Put o on Form 7004 (treated as fraud)
- Tripped treble damages



Paid Preparer Rules



- PTIN Requirement
- Preparer Defined
- Commissioner's comments

Use/Disclosure Consent

- Required consent
- Exceptions

