2026 NATIONAL INCOME TAX WORKBOOK

CHAPTER 1: ETHICS

Land Grant University
Tax Education Foundation

1

MAJOR TOPICS

- Incompetence & Disreputable Conduct
- Office of Professional Responsibility Disciplinary Cases
- Self-Reporting to the Office of Professional Responsibility
- Reporting another Practitioner's Misconduct to the Office of Professional Responsibility
- I.R.C. §6103 Information Requests

2

LEARNING OBJECTIVES

- ✓ Define what constitutes 'practice before the IRS'
- ✓ Identify which Circular 230 rules apply exclusively to practice before the IRS
- ✓ Identify incompetence and disreputable conduct under Circular 230
- ✓ Describe the Office of Professional Responsibility (OPR) disciplinary process under Circular 230



3

LEARNING OBJECTIVES

- ✓ Explain possible sanctions under Circular 230 and factors considered by OPR in determining the appropriate sanction
- ✓ Assess whether a tax practitioner should self-report misconduct to the OPR
- ✓ Explain when a tax practitioner should report another tax practitioner's misconduct to the OPR
- ✓ Explain how to properly submit a Section 6103 request for information to the OPR



4

P. 20

SELF-REPORTING TO THE OFFICE OF PROFESSIONAL RESPONSIBILITY



5

P. 20

SELF-REPORTING TO THE OPR

- Self-report misconduct instead of waiting until the OPR uncovers the misconduct.
- Self-reporting can avoid violation of mandatory reporting rules.
- Efforts to correct the violation may be a mitigating factor when determining sanctions.



6

P. 20

MANDATORY SELF-REPORTING

- Certain tax professionals are required to report **criminal convictions** and **misconduct** to their respective licensing authorities.
- Requirements vary by credential and governing authority.

7

P. 20

MANDATORY SELF-REPORTING

- **All PTIN holders** must report any **felony conviction** on renewal form.
- **EAs must** report criminal convictions **and** civil discipline on renewal form.
- **Attorneys & CPAs**
  - Generally required to report convictions or misconduct to licensing authority

8

P. 20

MANDATORY SELF-REPORTING

- State Rule for Reporting
- North Carolina Administrative Code for CPA's
  - Criminal Actions
  - Civil Actions – bankruptcy, administrative proceeding or binding arbitrations
  - Settlements – allegations of professional negligence
  - Investigations
  - Liens – IRS or State for failure to file/pay taxes

9

MICHIGAN CPA SELF-REPORTING REQUIREMENTS

- Report to LARA within 30 days: when dishonesty, fraud, or negligence is an element of the determination, judgement, order or conviction
  - Final determination of a Federal or State Administrative Agency
  - Judgement issued by a court
  - Criminal Conviction

10

MICHIGAN CPA SELF-REPORTING REQUIREMENTS

- Conviction of a felony.
- Conviction of crimes involving dishonesty, fraud, or negligence.
- Failure to file a personal federal, state, or local income tax return.
- Revocation, suspension, or refusal to renew the authority to practice as a CPA in another jurisdiction.
- Suspension or revocation of the right to practice before a state or federal agency.

11

P. 22

VOLUNTARY SELF-REPORTING

- **Voluntary Self-Reporting**
  - Practitioners are **not required** to self-report misconduct to OPR.
  - However, self-reporting may be **strategically advantageous.**
- **OPR Becomes Aware of Misconduct**
  - OPR is notified of practitioner misconduct by state bars and boards of accountancy.
  - OPR also learns of misconduct through court judgments, IRS reports, media coverage, and complaints.

12

P. 22

CONCURRENT DISCIPLINE

- Self-reporting may permit a practitioner to serve two suspension periods concurrently.
- **Example 1.10**: If CPA had reported misconduct to OPR, suspension could have been for one 6-month period instead of two 6-month periods served back-to-back.

13

PP. 22-23

DISCIPLINARY ALTERNATIVES

Self-reporting allows practitioners to:

- Engage early with OPR
- Present mitigating circumstances
- Negotiate outcomes

***Practitioner Note: Professional Advice**

- Self-reporting requires admitting misconduct. Practitioners should consult with their attorney and malpractice insurer.

14

P. 23

MITIGATING FACTORS

- Self-reporting and cooperation with OPR are mitigating factors under Circular 230.
- **Example 1.11:** EA's self-reporting and actions taken to admit and prevent misconduct can be mitigating factors considered by the OPR when determining the severity of discipline.



15

PP. 24-27

REPORTING ANOTHER PRACTITIONER'S MISCONDUCT



16

P. 24

REPORTING ANOTHER PRACTITIONER'S MISCONDUCT

- IRS encourages practitioners to report suspected misconduct under Circular 230.
- **Form 14157** is used to report another practitioner's misconduct.
- Practitioners should consider:
  - any duties of confidentiality or nondisclosure
  - the client's interests and conflicts of interest
  - duties of integrity and objectivity

17

P. 24

CONFIDENTIALITY AND NONDISCLOSURE

- The duty to report is limited when the information is protected by a practitioner's duties of confidentiality or nondisclosure.
- Sources of confidentiality and nondisclosure obligations:
  - Federal Tax Law
  - State Law
  - Professional Organization Standards

18

PP. 24-25

CONFIDENTIALITY AND NONDISCLOSURE

I.R.C. § 7216 – Federal Tax Law Nondisclosure Obligations

- § 7216 prohibits tax return preparers from knowingly or recklessly disclosing a client's tax return information without specific consent.
- Use of client information is limited to **tax preparation purposes**, **unless** an exception applies.

19

PP. 24-25

CONFIDENTIALITY AND NONDISCLOSURE

I.R.C. § 7216 - "Tax Return Information" Defined

- All taxpayer information used or obtained in return preparation, such as:
  - Names, addresses, taxpayer identification numbers
  - Calculations, worksheets, printouts, and software registration data
  - IRS correspondence related to preparation or correction

20

PP. 24-25

REPORTING ANOTHER PRACTITIONER'S MISCONDUCT

I.R.C. § 7216 – Permissible Disclosures

- Certain disclosures are **allowed without client consent**, including:
  - Disclosures to the IRS
  - Disclosures within the same firm or to related taxpayers
  - Disclosures to process or collect payment

21

PP. 24-25

REPORTING ANOTHER PRACTITIONER'S MISCONDUCT

Practitioner Note: Duties to Client

- Disclosure under §7216 does not negate the other Duties:
  - Duty of Confidentiality
  - Duty of Integrity & Objectivity
  - Duty to be free from Conflicts of Interest

22

P. 25

CONFIDENTIALITY AND NONDISCLOSURE

State Confidentiality Laws

- Most states require CPAs to treat client documents and communications as confidential.
- However, disclosure may be permissible in certain situations.
- State laws vary in degree with permissible disclosures (*e.g.* Montana CPA v. Wisconsin CPA).



23

P. 25

CONFIDENTIALITY AND NONDISCLOSURE

Professional Organization Standards

- Confidentiality is a core professional obligation enforced by local, state, national, and international accounting organizations.



24

P. 25

CONFIDENTIALITY AND NONDISCLOSURE

AICPA Standards

- AICPA prohibits disclosure of confidential client information without client's explicit consent.
- **Permitted disclosures** under AICPA:
  - Compliance with professional obligations
  - Response to valid subpoena or summons
  - Review of member's professional practice (PEER REVIEW)
  - Ethics or disciplinary inquiries or proceedings

Valid Order has a Judges Signature.

A request from an Attorney without a Judges Signature is not a valid order



25

P. 25

CONFIDENTIALITY AND NONDISCLOSURE

AICPA Standards

- Knowledge of errors (AICPA SSTS)
  - Practitioner must notify the taxpayer of prior-year errors.
  - Advise of potential consequences and corrective measures to take.
  - Practitioners **may NOT** report prior-year errors to tax authorities without taxpayer permission.

Circular 230 §10.21 is the counter part to AICPA SSTS



26

AICPA SSTS (Knowledge of Errors)	**Circular 230 Equivalent**
Practitioner must notify the taxpayer of prior-year errors.	A practitioner who knows a client has not complied with the tax laws or has made an error or omission in a return or other tax document must advise the client promptly of the noncompliance, error, or omission.
Advise of potential consequences and corrective measures.	The practitioner must advise the client of the consequences under the Internal Revenue Code and regulations.
Practitioner may not report prior-year errors to taxing authorities without taxpayer permission.	Circular 230 does not require the practitioner to inform the IRS directly. Section 10.21 imposes a duty to advise the client, not a duty to disclose the error to the IRS.

27

P. 26

CONFIDENTIALITY AND NONDISCLOSURE

Practitioner Note: Professional Organization Standards

- Professional standards are binding on members.
- AICPA standards can be used as best-practices for non-members.
- Many state boards of accountancy incorporate AICPA standards in their professional rules of conduct.

28

P. 26

CONFIDENTIALITY AND NONDISCLOSURE

Conflict of Interest

- Practitioners must assess client impact before reporting another practitioner's misconduct, particularly whether reporting would substantially prejudice a client's interests.
- Reporting may fulfill duty to protect the public but may cause conflicts of interest under Circular 230.

29

P. 26

CONFIDENTIALITY AND NONDISCLOSURE

Conflict of Interest arises when:

- Representation of one client is directly adverse to another client; or
- Professional judgment is materially limited by responsibilities to another client, former client, third party, or personal interests.

30

P. 26

CONFIDENTIALITY AND NONDISCLOSURE

Conflict of Interest

- Practitioners must identify and evaluate conflicts, reviewing relevant relationships and circumstances.
- Consider the broader harm:
  - **For individuals:** impact on family, employer, or employees.
  - **For entities:** impact on employees, owners, investors, clients, lenders, suppliers, and vendors.

31

P. 26

CONFIDENTIALITY AND NONDISCLOSURE

Example 1.12: False Tax Opinion

- Bonita – CPA
- Dakota Ag Supplies – Client
- Review of 2025 tax returns
  - Inflated R & D Tax Credit
  - Willfully wrong
- **Should Bonita report prior Practitioner Misconduct?**
  - Adverse consequences
  - Client consent to disclose – required
  - Effect on owners, employees & customers

Rather than reporting the prior Practitioner, what should Bonita do?

AICPA SSTS §1.2.8 – address knowledge of error

Circular 230 §10.21

32

P. 26

CONFIDENTIALITY AND NONDISCLOSURE

Integrity and Objectivity

- Post-*Loving*, duty to avoid conflicts of interest only applies to practice before the IRS.
- However, duty may still apply through professional standards.

33

PP. 26-27

CONFIDENTIALITY AND NONDISCLOSURE

AICPA Code of Professional Conduct imposes:

- Duty to maintain integrity and objectivity.
- Duty to avoid conflicts of interest.
- Duty to not misrepresent facts or subordinate professional judgment to others.

34

P. 27

CONFIDENTIALITY AND NONDISCLOSURE

AICPA Code of Professional Conduct

- Conflict of interest arises when:
  - Internal or external pressures obstruct appropriate action; or
  - Conflicts in applying professional standards or legal standards
- Reporting another practitioner may create a conflict if it:
  - Adversely affects the client; or
  - Violates confidentiality or nondisclosure



35

P. 27

CONFIDENTIALITY AND NONDISCLOSURE

Third Party Information

- Client's written consent to disclose
- **Cross Reference**: *See* page 17 in the 2023 National Income Tax Workbook for a sample consent form.



36

PP. 28-30

IRC § 6103 INFORMATION REQUESTS

37

P. 28

IRC § 6103 INFORMATION REQUESTS

- IRC § 6103, which requires confidentiality of tax returns and tax return information.
- **Exception**: OPR can disclose information to a person whose rights may be affected by a disciplinary proceeding.
  - *A practitioner under investigation should consider requesting their case file.*

38

P. 28

IRC § 6103 INFORMATION REQUESTS

Exception to Duty of Nondisclosure

- To access confidential information that OPR is using as evidence, practitioner can submit a **Section 6103 Request**.
- When OPR decides to pursue a case, it provides practitioner with written notice of the right to request information.

39

PP. 28-29

IRC § 6103 INFORMATION REQUESTS

Exception to Duty of Nondisclosure

- Case file may contain federal tax information concerning both the practitioner and third parties (if relevant).
- **Example 1.13**: Access to information is available **only** when an **active or pending action** exists; once case is closed, access is no longer available

40

PP. 29

IRC § 6103 INFORMATION REQUESTS

FIGURE 1.4
Sample Section 6103 Letter

Internal Revenue Service
Director, Office of Professional Responsibility
1111 Constitution Avenue, NW
SE:OPR Room 7238
Washington, DC 20224

Re: Request for records pursuant to 26 U.S.C. 6103

Dear OPR Director:

I hereby request documents under any and all of the authorities described below that apply.

26 U.S.C. 6103 Request
Pursuant to section 6103(e)(1), I request from your files my own return information (including returns) that is, or may be, relevant and material to an administrative action or proceeding under Treasury Department Circular 230 (Circular 230).

Pursuant to 26 U.S.C. 6103(l)(4)(A)(ii), I request from your files return information (including returns) of third parties (e.g., clients or prospective clients) that is, or may be, relevant and material to an administrative action or proceeding under Circular 230.

I understand and hereby affirm that, as provided by section 6103(l)(4)(A)(ii), any return information disclosed to me is confidential and will be used solely in, or in preparation for, an administrative action or proceeding under Circular 230.

I hereby acknowledge that certain criminal penalties and civil liability apply to unauthorized disclosures, specifically: 26 U.S.C. 7213 (defining the unauthorized willful disclosure of returns or return information as a felony punishable by a fine not exceeding $5,000, imprisonment of not more than 5 years, or both, together with the costs of prosecution); and 26 U.S.C. 7431 (authorizing a taxpayer's civil action for damages against any individual who knowingly or negligently inspects or discloses any return or return information in violation of 26 U.S.C. 6103).In order to authenticate my identity, this request includes my signature, my address, and a photocopy of my driver's license bearing my signature. My representative has signed this request also to acknowledge the responsibilities identified above in handling section 6103-protected information.

If you have questions concerning this matter, please contact me at 404.444.1234. Thank you for your attention to the matter.

Sincerely,

Signature
Name

Signature
Name of Representative

Enclosure: a photocopy of a driver's license bearing my signature

41

P. 30

SECTION 6103 REQUEST OR FOIA?

Section 6103 requests:

- Easier and Faster
- No Fees
- Can include third-party tax information

FOIA requests:

- Longer process
- Fees for search and review and photocopying
- No third-party tax information will be provided

42

P. 30

SECTION 6103 REQUEST OR FOIA?

Example 1.14: Request for 3rd Party Information

- Ron assessed preparer penalties
- Aiding & abetting the understatement of tax liability
- Ron suspects client has history of fraud
- In preparation of his defense, he should use a Section 6103 request that may contain the taxpayers tax history

43

P. 30

SECTION 6103 REQUEST OR FOIA?

- IRS employees determine under which process to handle information requests.
- Practitioner misconduct related to client representation → Section 6103
- Practitioner's own tax issues → Section 6103
- Non-taxpayer-specific misconduct (e.g. solicitation) → FOIA

44

PP. 31-46

CASE STUDIES

45

P. 33

CASE STUDY 4: SELF-REPORTING

Olga Kostroff

- CPA
- December 2025: Olga and friends went on a French food and wine cruise
- Olga failed to complete required CPE
- Not eligible for extension because she requested an extension in the prior renewal period
- CPA License lapsed on July 1, 2026

46

P. 33

CASE STUDY 4: SELF-REPORTING

Olga Kostroff (cont'd)

- Applied for reinstatement and continued to file returns using CPA designation until her reinstatement. (22 returns in total)
- One of those clients received a notice of deficiency
- Client learned that Olga's CPA license was expired when the return was filed
- Client has threatened to report Olga to OPR

47

PP. 40-41

CASE STUDY 4: SELF-REPORTING

1. **Should Olga self-report to the OPR?**
   - Olga's suspended CPA license and continued use of CPA designation constitute disreputable conduct under Circular 230.
   - By self-reporting, accepting responsibility, and demonstrating corrective and preventative measures, Olga may be able to mitigate potential sanctions.

48

P. 41

CASE STUDY 4: SELF-REPORTING

2. **Are there any other steps that Olga should take before she self-reports?**
   - Olga should consult with independent legal counsel and malpractice insurance carrier. Insurer may provide legal representation or other resources to assist with a resolution.



49

PP. 33-34

CASE STUDY 5: ADVERTISING

Top Tier Financial Solutions

- 3 new advertising campaigns (TikTok, internet marketing, internet ads)
- **TikTok**
  - Videos made by Top Tier's very own Lana Walker
  - Suggests improper deductions



50

PP. 33-34

CASE STUDY 5: ADVERTISING

Top Tier Financial Solutions (cont'd):

- **Internet Marketing**
  - Claims of "instant refunds" and "audit-proof tax returns"
- **Internet Ads**
  - Guarantees largest refund possible

51

P. 41

CASE STUDY 5: ADVERTISING

1. **Does Top Tier's TikTok violate any ethical rules? If so, which rules?**
   - Lana improperly suggests turning personal expenses into deductible business costs.
   - By promoting deductions that likely do not qualify, Lana risks engaging in disreputable conduct, including giving false or reckless tax opinions, misleading prospective clients, and encouraging violations of federal tax law, all disreputable conduct under Circular 230 § 10.51.

52

PP. 41-42

CASE STUDY 5: ADVERTISING

2. **Is Top Tier's website marketing language compliant with its ethical duties?**
   - Internet marketing communications are a form of advertising and must comply with ethical duties under Circular 230.
   - The claims of instant refunds and audit-proof returns imply guaranteed outcomes, create unjustified expectations, and may be deceptive to prospective clients in violation of § 10.30.

53

P. 42

CASE STUDY 5: ADVERTISING

3. **Does Top Tier's internet advertising campaign comply with its ethical standards?**
   - Top Tier's internet advertising promises the lowest tax liability and largest refunds, creating false and unjustified expectations.
   - Such guarantees and boastful claims violate professional ethics under the AICPA and many state CPA laws.

54

P. 34

CASE STUDY 6: ERRORS AND OMISSIONS

Craig Godon, CPA

- **Client**: Cherie Rodriguez
- Craig hired to complete Cherie's 2026 tax return
- While reviewing Cherie's 2025 return, Craig noted that Cherie claimed rental expense deductions for her six-bedroom Sun Valley, Idaho home rented to her son at what appeared to be below FMV
- Late 2025: Cherie transferred the home by quitclaim deed to son

55

P. 34

CASE STUDY 6: ERRORS AND OMISSIONS

Craig Godon, CPA (cont'd)

- Dec. 2027: Craig learns about gift tax returns
- Craig realizes he should have advised Cherie to file a gift tax return for 2025
- Jan. 2028: Cheire contacts Craig to prepare 2027 return

56

P. 42

CASE STUDY 6: ERRORS AND OMISSIONS

1. **When preparing the 2026 return, should Craig call the 2025 mistakes to Cherie's attention?**
   - Under Circular 230 § 10.31 Craig has a duty to promptly inform Cherie of the error, explain the potential consequences, and advise her on corrective actions, including filing an amended return.

57

P. 43

CASE STUDY 6: ERRORS AND OMISSIONS

2. **Is Cherie required to file an amended 2025 return?**
   - When discovering an error or omission, a taxpayer **should** file an amended return but is not legally required to do so.
   - Regardless, Craig should explain that if Cherie fails to file amended return, she could incur more interest and a larger penalty.

58

P. 43

CASE STUDY 6: ERRORS AND OMISSIONS

3. **What if she refuses to file an amended return?**
   - Proposed Circular 230 would instruct practitioners to evaluate whether continued representation is consistent with their duty of due diligence.
   - Criag must balance his obligation to provide accurate information to the IRS and duty to protect confidentiality.
   - Craig must assess whether the error affects the current-year return and whether continued representation is appropriate.

59

P. 43

CASE STUDY 6: ERRORS AND OMISSIONS

4. **When preparing the 2027 return, should Craig tell Cherie about the failure to file a gift tax return?**
   - Helping Cherie submit a gift tax return before any harm occurs could remedy the issue and mitigate Craig's liability exposure.
   - Because the gift likely falls within the lifetime exclusion, no gift tax or penalty is expected.
   - Filing the return would start the statute of limitations for valuation challenges.

60

P. 35

CASE STUDY 7: REPORTING ANOTHER PRACTITIONER

Lisa Yen, CPA:

- After leaving a large accounting firm (HDT) to start her own practice, Lisa is contacted by several former HDT clients who want her to take over their tax and accounting work.
- The clients complain about high fees, lack of engagement letters, unclear billing practices, and questionable tax positions, including Schedule C losses for activities that may be hobbies.

61

P. 35

CASE STUDY 7: REPORTING ANOTHER PRACTITIONER

Lisa Yen, CPA (cont'd):

- Lisa agrees to representation and obtains proper authorization for HDT to release client records.
- HDT refuses to release the clients' records due to fee disputes.

62

PP. 42-43

CASE STUDY 7: REPORTING ANOTHER PRACTITIONER

1. **Can Lisa threaten to report HDT to the OPR if they do not turn over the clients' records?**
   - Circular 230 and AICPA require a practitioner to comply with the rules governing return of client records, even when trying to collect unpaid fees.
   - Generally, fee disputes do not justify withholding client records (unless a specific state law applies).

63

PP. 42-43

CASE STUDY 7: REPORTING ANOTHER PRACTITIONER

1. **Can Lisa threaten to report HDT to the OPR if they do not turn over the clients' records? (Cont'd)**
   - Here, HDT's refusal to release records may be a violation of its duties and obligations.
   - While a practitioner should avoid empty threats, if Lisa has a good-faith belief that HDT is violating ethical rules, it may be appropriate to suggest to HDT of the reportable violation to induce HDT to remedy the harm.

64

P. 44

CASE STUDY 7: REPORTING ANOTHER PRACTITIONER

2. **Does Lisa have a duty to report HDT and can or should she report them?**
   - Lisa is not required to report HDT.
   - She must balance her desire to uphold professional integrity with her ethical duties of confidentiality, objectivity, and avoiding conflicts of interest.
   - Here, it may be appropriate for Lisa to educate HDT and allow them to remedy before filing a complaint.



65

P. 35

CASE STUDY 8: NEGOTIATION OF CHECKS

Clara Sims, CPA:

- **Client**: Phillipe Bertrand
- Phillipe is a Canadian citizen and does not have a U.S. bank account.
- Phillipe had amounts withheld from his gambling winnings at a Las Vegas casino.
- Phillipe filed an income tax return and is entitled to a refund.
- Phillipe asked Clara if she could direct deposit the refund into her business bank account and give him cash.



66

P. 44

CASE STUDY 8: NEGOTIATION OF CHECKS

1. **Can Clara direct deposit Phillipe's refund and give him cash?**
   - I.R.C. § 6695(f) imposes a strict penalty on tax return preparers who negotiate or direct a taxpayer's refund into an account owned or controlled by the preparer.
   - Even if the taxpayer requests such an arrangement, the preparer remains subject to the penalty.

67

P. 44

CASE STUDY 8: NEGOTIATION OF CHECKS

2. **Could Phillipe sign a Form 2848 Power of Attorney authorizing Clara to direct deposit his refund?**
   - Form 2848 does not allow Clara to receive Phillipe's refund on his behalf.
   - For direct deposit, Phillipe will need a U.S. bank account or an account at a foreign correspondent bank with an account at the Federal Reserve. If no direct deposit information is provided, IRS will issue a check.
   - IRS is looking into secure options for overseas payments.

68

PP. 35-36

CASE STUDY 9: TAX OPINIONS

Tony Armano, Tax Preparer:

- **Client**: Greg
- Greg's mother Mabel purchased a vacation home for $40,000 in 1978.
- Mabel added Greg as a joint tenant on the highly appreciated vacation home in 2023 in hopes of avoiding probate. (FMV ~$1 million)
- Mabel did not file a gift tax return.

69

PP. 35-36

CASE STUDY 9: TAX OPINIONS

Tony Armano, Tax Preparer (cont'd):

- Greg was unaware of the transfer and never lived in or paid expenses for the property.
- 2026: Mabel died and Greg sold the home for $1.25 million and now claims a full step-up in basis, asserting that no gift occurred.
- Greg asked Tony to report a stepped-up basis of $1.25 million on Schedule D. Greg has also asked Tony to prepare a Tax opinion in support.

70

P. 45

CASE STUDY 9: TAX OPINIONS

1. **Can Tony prepare a tax opinion for Greg?**
   - Under Circular 230 § 10.34, the tax opinion must have a reasonable basis.
   - If Greg wants to rely on Tony's opinion for penalty defense, the position must be reasonably based on applicable law and guidance.

71

P. 45

CASE STUDY 9: TAX OPINIONS

2. **If Tony prepares the opinion, what due diligence duties does he have?**
   - Issuing a false or misleading tax opinion constitutes disreputable conduct under Circular 230.
   - Tony must fully analyze whether a completed or incomplete gift occurred.
   - If Tony concludes there is a reasonable basis for an incomplete gift position, he must clearly explain the conclusion and its implications to Greg.

72

P. 36

CASE STUDY 10: UNAUTHORIZED PRACTICE OF LAW

Anna Christiansen, CPA:

- **Client**: Laila Kumar
- Laila purchased five residential lots in 2019 intending to build and sell single-family homes but only constructed and sold one.
- Laila is now selling the four remaining lots, one of which may involve owner financing.

73

P. 36

CASE STUDY 10: UNAUTHORIZED PRACTICE OF LAW

Anna Christiansen, CPA:

- Laila seeks guidance from Anna on how to structure the sales, so they qualify for capital gains treatment.
- Laila asked Anna to help with adding owner financing terms to a real estate buy sell agreement that Laila found online.

74

P. 46

CASE STUDY 10: UNAUTHORIZED PRACTICE OF LAW

1. **Can Anna advise Laila on how to structure the sale for capital gains?**
   - Determining investor versus dealer sales under I.R.C. §§ 1221 and 1231 is a fact-driven tax analysis that falls within Anna's authorized role as a CPA and does not require resolving complex or uncertain legal questions.
   - Circular 230 also allows Anna to provide written tax advice by applying applicable tax authorities to the facts.

75

P. 46

CASE STUDY 10: UNAUTHORIZED PRACTICE OF LAW

2. **Will Anna be engaging in the unauthorized practice of law if she assists Laila with the owner financing terms?**
   - Drafting or interpreting owner-financing terms that require legal judgment crosses into legal advice.
   - Anna may advise Laila on a reasonable interest rate, prepare an amortization schedule, and explain the tax consequences of owner financing.

76

P. 46

CASE STUDY 10: UNAUTHORIZED PRACTICE OF LAW

3. **What advice should Anna give Laila?**
   - To see her attorney for help with drafting the contract language for the owner financing terms and assistance with a promissory note and security agreement.

77

QUESTIONS ?????

78

TAKE THE SURVEY





79