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*Tgx0" :/4233+

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^ (including directing or accepting payment by any means, electronic or otherwise, in an account owned or controlled by the practitioner or any firm or other entity with whom the practitioner is associated)

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(a)

^

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Vcz"tgwtpu

Dguv" rtcevkegu0

10.35 Competence.

(a) A practitioner must possess the necessary competence to engage i33(gage)-0.ssssssssssss

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E q p f k v k q p u " q h " e q p L f g p v k c n k v { 0

e q p f k v k q p u " q h " e q p L f g p v k c n k v {

[the following inserts are for the preceding page]

*

- (iii) Use reasonable efforts to identify and ascertain the facts relevant to written advice on each Federal tax matter;
- (iv) Not rely upon representations, statements, findings, or agreements (including projections, financial forecasts, or appraisals) of the taxpayer or any other person if reliance on them would be unreasonable; and

**

- (3) Reliance on representations, statements, findings, or agreements is unreasonable if the practitioner knows or should know that one or more representations or assumptions on which any representation is based are incorrect or incomplete.

- (b) A practitioner may only rely on the advice of another practitioner if the advice was reasonable and the reliance is in good faith considering all the facts and circumstances. Reliance is not reasonable when --

- (1) The practitioner knows or should know that the opinion of the other practitioner should not be relied on;
- (2) The practitioner knows or should know that the other practitioner is not competent or lacks the necessary qualifications to provide the advice; or
- (3) The practitioner knows or should know that the other practitioner has a conflict of interest as described in this part.

- (c) (1) In evaluating whether a practitioner giving written advice concerning one or more Federal tax matters complied with the requirements of this section, the Commissioner, or delegate, will apply a reasonableness standard, considering all facts and circumstances, including, but not limited to, the scope of the engagement and the type and specificity of the advice sought by the client.

(2) In the case of an opinion the practitioner knows or has reason to know will be used or referred to by a person other than the practitioner (or a person who is a member of, associated with, or employed by the practitioners's firm) in promoting, marketing, or recommending to one or more taxpayers a partnership or other entity, investment plan or arrangement a significant purpose of which is the avoidance or evasion of any tax imposed by the Internal Revenue code, the determination of whether a practitioner has failed to comply with this section will be made on the basis of a heightened standard of review because of the greater risk caused by the practitioner's lack of knowledge of the taxpayer's particular circumstances.

- (d) The rules of this section will apply to written advice88767(p)-0.81 10.268 Tf-0.1659

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(5) Has demonstrated a pattern of willful disreputable conduct by—

(i) Failing to make an annual Federal tax return, in violation of the Federal tax laws, during 4 of the 5 tax years immediately preceding the institution of a proceeding under paragraph (c) of this section and remains noncompliant with any of the practitioner's Federal tax filing obligations at the time the notice of suspension is issued under paragraph (f) of this section; or

