

Accountability

Issue VIII

STOP EVERYTHING! TIME TO REVIEW YOUR TAX EXPOSURE !

It is quite alarming when you consider that in 1990, tax engagements were responsible for 42% of all claims filed against accountants.

The AICPA has compiled a series of Statements of Responsibilities in Tax Practice (SRTPs) to provide guidance to accountants. But with increased frequency, plaintiff attorneys have introduced the SRTPs as evidenced to establish the profession's minimum acceptable standards. Those who are engaged in a heavy tax practice must also be familiar with the Treasury Department Circular Number 230 governing the Practice of CPAs before the IRS. **Willful violation of any of the rules cited, can result in the tax practitioner being suspended or disbarred from practicing before the IRS. The IRS can also impose criminal sanctions of up to 3 years imprisonment and a \$100,000 fine.**

HOW DO YOU REDUCE THE LIABILITY FOR TAX SERVICES?

Frequent causes of Claims:

- 1) Failure to advise
- 2) Filing errors
- 3) Election errors
- 4) Estate Tax errors

A. Engagements involving estate tax returns, Subchapter-S elections and corporate mergers present a much higher level of risk and should be approached with a degree of caution.

B. If the tax engagement is complicated enough to require the involvement of attorneys or

other third parties, you need to spell out their specific duties and obligations.

- C. Prospective clients must understand that they are accountable for the accuracy of the accounting data and supporting documentation. You may also wish to explain that there will be no guarantee the taxing authority will approve a position taken on the return. At this point you may also wish to discuss what, if any, services you will provide if a return is questioned by the taxing authority.
- D. Review prior year's tax return for an idea of the complexity involved. Determine if carryovers or other factors should be considered. More importantly, it is prudent to assess the adequacy of your client's record-keeping system.
- E. At the beginning of the tax season, many of you will be employing per diems, experts in tax law, temporary and support staff. It is imperative that this staff is well aware of current tax laws as well your firm's internal policies.
- F. Federal and State tax laws are constantly changing, not keeping abreast of these changes is a frequent source of malpractice claims. You should:
 - 1) Regularly attend tax refresher courses.
 - 2) Conduct in-house seminars and training sessions to support staff.
 - 3) Subscribe to tax update services and professional tax publications.
 - 4) Periodically review the SRTPs and Treasury Department Circular 230.

TAX RETURN PREPARATION

Generally, you should provide your client with a written questionnaire asking information for items such as:

- a) Marital Status
- b) Independents
- c) Annual Personal Income
- d) Income Producing Property
- e) Tax Deductible Expenses
- f) Missing Returns

Have your client sign the statement attesting to the fact that, to the best of their knowledge, the information provided is accurate. *You're not required to verify this information but you must make reasonable inquiries if the information appears to be incorrect or incomplete.*

POSITIONS

The AICPA states:

"A CPA should not recommend to a client that a position be taken with respect to the tax treatment of any item on a return unless the CPA has a good faith belief that the position has a realistic possibility of being sustained administratively or judicially on its merits if challenged."

To determine whether a realistic possibility exists:

- 1) Establish relevant background facts.
- 2) Distill the appropriate questions from those facts.
- 3) Search for authoritative answers to such questions.

- 4) Resolve questions by weighing the authorities uncovered by a search. This research must be properly documented in the work papers.
- 5) Arrive at a conclusion supported by the authorities.

FILING

Up to the point when you're ready to file a tax return, your clients' file should contain:

- Correspondence
- Forms
- Checklists
- Research
- Logs
- Documentation of phone conversations

Have your work reviewed by an experienced accountant. If you're a sole practitioner you might want to reach an agreement with another practitioner to perform cross reviews. ■