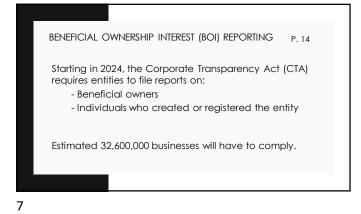


BENEFICIAL OWNERSHIP INFORMATION REPORTING

5

BENEFICIAL OWNERSHIP INTEREST (BOI) REPORTING P. 14 In 2022, Financial Crimes Enforcement Network (FinCEN) issued a final rule implementing BOI reporting. The rule is intended to prevent and combat money laundering, terrorist financing, corruption, tax fraud, and other illicit activity. The regulations went into effect January 1, 2024.



BENEFICIAL OWNERSHIP INTEREST (BOI) REPORTING P. 14

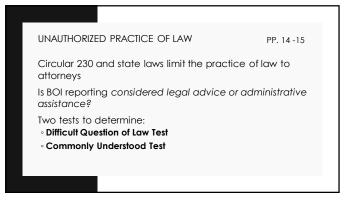
Tax practitioners may be asked to assist with filing the reports.

Practitioners must consider:

To not engage in practice of law

Protect confidential client information
Duty of competence

Practitioners must consider what services they want to provide.

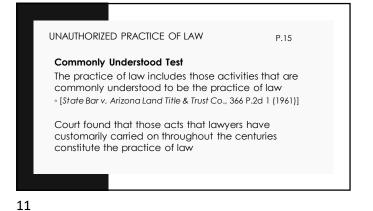


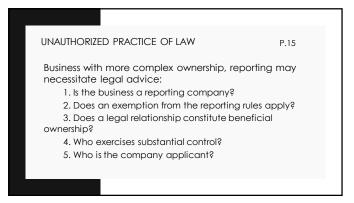


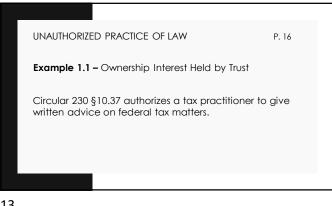
The practice of law involves resolving difficult or doubtful questions that demand applying a trained legal mind

Determining a difficult or complex question of law is the practice of law

[Gardner v. Conway, 234 Minn. 468 (1951)]



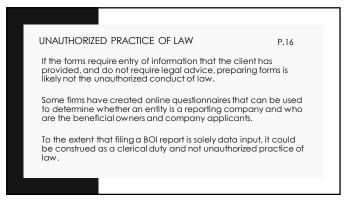




PRACTITIONER NOTE: CIRCULAR 230 AUTHORITY P.16

The Report of Foreign Bank and Financial Accounts (FBAR), and CTA are both administered by FinCEN.

However, the IRS has specific authority to enforce FBAR violations, which makes it a law or regulation administered by the IRS. The IRS DOES NOT have authority to enforce BOI violations.

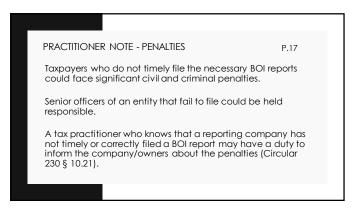




Practitioners must comply with their WISP, federal, state, & professional organization policies to safeguard data (discussed earlier).

16

TIMELY AND CORRECTLY REPORTING	P.17
A tax practitioner that assists with BOI reporting must have knowledge and experience necessary to complete the reports.	
They must familiarize themselves with the Corporate Transparency Act and BOI requirements.	
This includes staying current with other guidance issued FinCEN.	l by



DUE DILIGENCE – MITIGATING THE RISKS

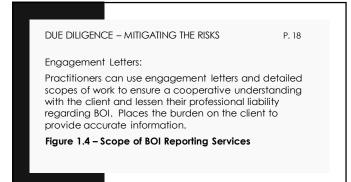
Client Notification:

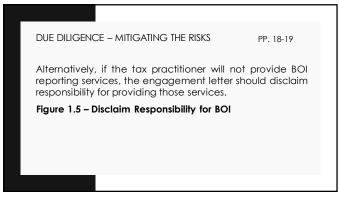
Consider notice to clients of the new reporting requirements, regardless of whether the practitioner plans to assist with the reporting.

PP. 17-18

Figure 1.3 – Sample Client BOI Reporting Notice

19





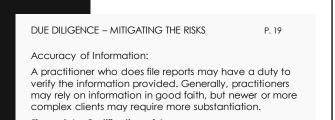
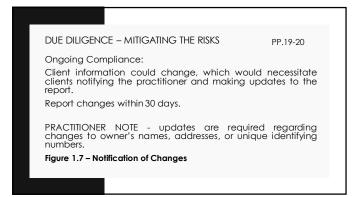
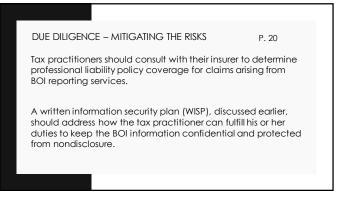


Figure 1.6 – Certification of Accuracy

22

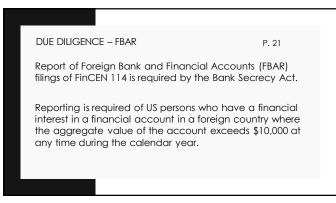




DUE DILIGENCE FBAR

25

DUE DILIGENCE – FBAR P. 21 It's important for practitioners to exercise due diligence regarding foreign account reporting. The IRS has identified hundreds of possible FBAR nonfilers. The IRS plans to audit the most egregious cases in fiscal year 2024.

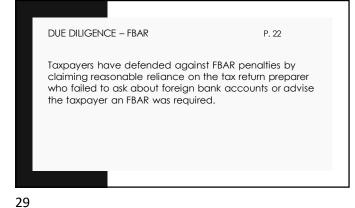


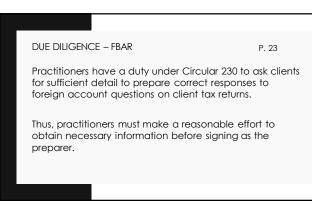


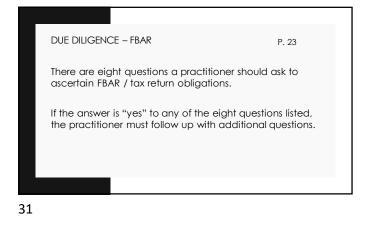
PP. 21 - 22

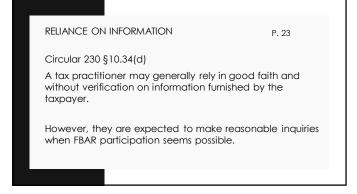
While the FBAR reporting is not a tax return, the information is referenced in tax returns such as Form 1040 Schedule B, Form 1041, Form 1065, and Form 1120.

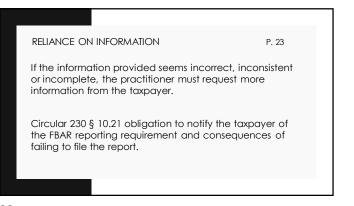
Circular 230 §10.22 due diligence.











DUTY TO ADVISE ABOUT FILING

P. 23

Circular 230 §10.34(c) If the practitioner determines there is foreign bank account information to report, the practitioner is not obligated to prepare the FBAR for the taxpayer but must advise about filing.

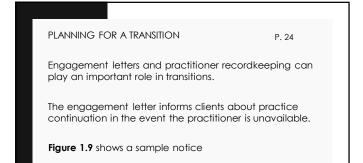
The practitioner may decide to complete the filing if they are competent, and the client agrees to the service.

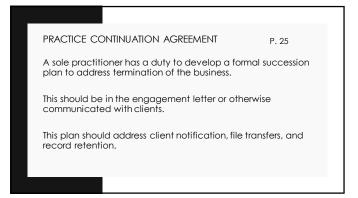
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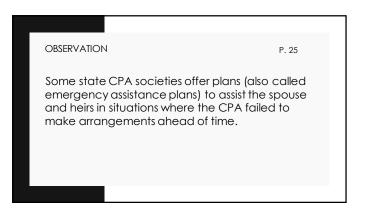
DISCONTINUATION OF A TAX PRACTICE

35

DISCONTINUATION OF A TAX PRACTICE P. 24 Circular 230 §10.33 - A practitioner has a duty to ensure continued provision of services when they retire, become incapacitated, or die and to clearly communicate with clients. Circular 230 §10.23 – requires prompt disposition of pending matters and practitioners have a responsibility to their clients whose business or individual tax matters could be seriously disrupted if the practitioner is suddenly unavailable.









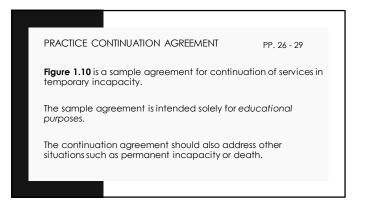
Documents and records must be available to the successor.

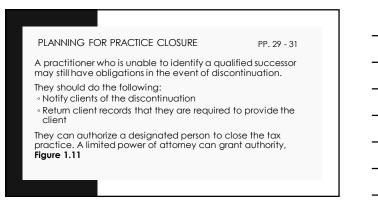
Submit written request to each client requesting consent to transfer files.

Transfer files after client consent or 90 days, whichever is shorter.

Return any client records.

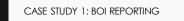
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ETHICS CASE STUDIES

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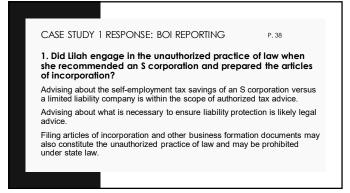


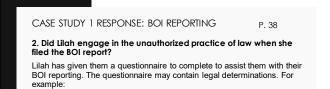
P. 32

Casey and Jeff start a business Lilah, the tax preparer, recommends an S corp. to "save money on taxes". Lilah prepared the articles of incorporation, files with the secretary of state, applies for an EIN, and files the S corp. election.

Lilah tells Casey and Jeff about the BOI reporting requirement.

Casey and Jeff ask, "can't you do it for us?"





Do the crowdfunding contributors have any equity ownership or voting rights?

Is the loan from Vivian convertible into equity?

What control or influence does Vivian have over important company decisions such as investors, issuance of shares, or financing?

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CASE STUDY 1 RESPONSE: BOI REPORTING

3. What advice should Lilah have given Casey and Jeff about the business structure?

Lilah may want to consider how additional investors may impact the S corporation eligibility requirements and how the loan from a third party will not increase debt basis for the loss limitation rules. Bylaws, shareholder's agreements, operating agreements, and other entity governance documents can prevent disputes between the owners and protect against personal liability for claims against the corporation or company. Lilah should advise Casey and Jeff to consult with their attorney and insurance agent to discuss how best to protect the limited liability status of the business.

P. 38

P. 38

48

CASE STUDY 1 RESPONSE: BOI REPORTING

4. What other due diligence steps could Lilah have taken to reduce her liability for the BOI reporting?

A detailed engagement letter should place the burden on the client to consult with an attorney regarding the determination of beneficial ownership and other information provided. It should include a statement that Lilah can rely on the information provided without additional investigation, and that the clients have a duty to inform Lilah about any changes in ownership or other information that would require an updated report. Lilah should consult with her own attorney and insurer about compliance with her professional and legal obligations.

CASE STUDY 4: CONTINUATION OF A TAX PRACTICE P. 34

Allison has been a sole practitioner CPA for over 40 years. She has tried to find associates to take over the practice, but they have left for other opportunities.

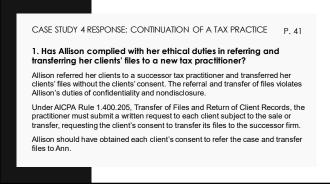
She wants to make sure her clients are taken care of and has prepared a notification letter, Figure 1.13.

50

CASE STUDY 4: CONTINUATION OF A TAX PRACTICE P. 34

The letter states there is another firm that can continue service and that files have already been delivered to the other firm.

Allison states she has disposed of all records and the new practitioner, Ann, can handle further concerns or questions.





2. Did Allison have any legal or ethical duty to retain copies of the files?

Tax return preparers must comply with the record retention requirements of Treas. Reg. § 1.6107-1(b). Thus, tax return preparers are required to retain clients' records for a period of at least 3 years.

Circular 230 §10.28 states that, in general, a practitioner must, at the request of a client, promptly return any and all records of the client that are necessary for the client to comply with his or her federal tax obligations. The practitioner may retain copies of the records returned to a client.

Allison should have retained copies of client records in accordance with the regulations and her own record retention policy.

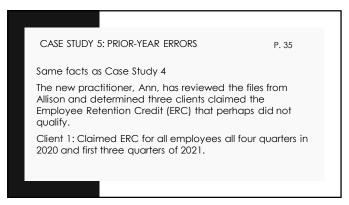
54

CASE STUDY 4 RESPONSE: CONTINUATION OF A TAX PRACTICE PP. 41 - 42

3. What could Allison have done differently?

Allison should have given her clients the option to choose a successor tax practitioner. She could have recommended a few practitioners and encouraged each client to conduct his or her own due diligence.

Allison should also obtain the client's written consent to transfer the files. Allison should have maintained copies of the files for at least 3 years or contracted with Ann to store a copy of the files and make it available to Allison, if necessary. **Figure 1.18 (p. 42)** shows a sample client notification.



CASE STUDY 5: PRIOR-YEAR ERRORS

Client 2: Claimed ERC in the first and second quarters of 2021 citing supply chain issues, but the client was able to continue operating its retail business.

P. 35

P. 42

Client 3: Claimed ERC second and third quarter of 2021 based on client operations being suspended by government order - local health dept. memo stating to wear masks and practice hygienic practices. Due to the IRS moratorium, client 3 has not yet received her refund.

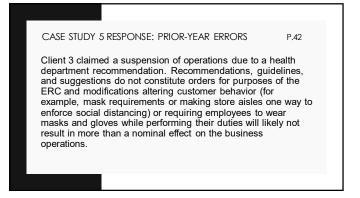
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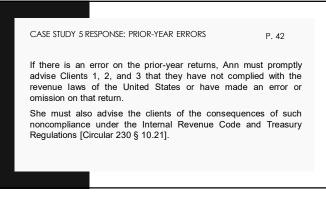
CASE STUDY 5 RESPONSE: PRIOR-YEAR ERRORS

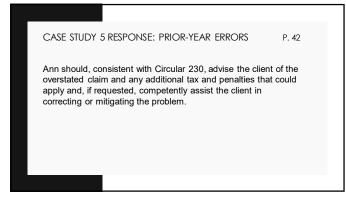
1. Can Ann file the 2024 returns for clients 1, 2, and 3?

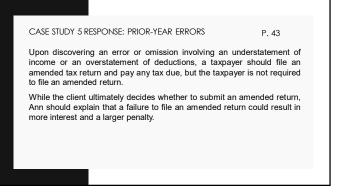
Client 1 claimed the ERC for all quarters that the credit was available. Qualifying for all quarters is uncommon, and this could be a sign of an incorrect claim.

Client 2 claimed a suspension of operations by supply chain disruption. While a limited number of products were not available, Client 2 was still able to offer a wide variety of products to its customers and Client 2 was not forced to suspend operations.









CASE STUDY 5 RESPONSE: PRIOR-YEAR ERRORS P. 43

AICPA SSTS No. 6, Knowledge of Error: Return Preparation and Administrative Proceedings, states that if the member does prepare such current-year return, the member should take reasonable steps to ensure that the error is not repeated. Unless Ann can convince the clients to disclose the errors, she must consider whether to withdraw from representing them. If the subsequent year's tax return cannot be prepared without perpetuating the error, Ann should decline to prepare the return.

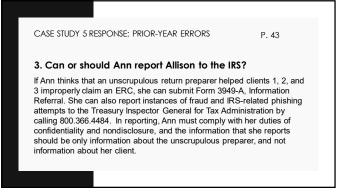
64

CASE STUDY 5 RESPONSE: PRIOR-YEAR ERRORS

2. Does Ann have a duty to advise client 3 to withdraw her claim?

P. 43

The ERC voluntary disclosure program ended November 22, 2024, but the IRS continues to accept and process requests to withdraw an employer's full ERC claim under the special withdrawal process. Employers that submitted an ERC claim that has not yet been paid can withdraw their claim and avoid the possibility of getting a refund for which they are ineligible. Ann should inform client 3 about the error in determining eligibility for the ERC and encourage client 3 to take advantage of the withdrawal process to avoid interest and penalties.



CASE STUDY 8: DUE DILIGENCE

Darcy started a nonprofit to introduce disc golf in the community.

Darcy receives a \$175,000 annual salary from the organization.

A board member helped incorporate the entity. John is a CPA with experience in nonprofits.

67

CASE STUDY 8: DUE DILIGENCE

PP. 36-37

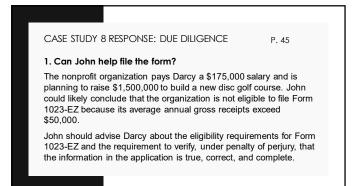
PP. 36-37

Darcy wanted to discuss the application for tax-exempt status.

She gave John a completed 1023-EZ, the streamlined application for exemption under 501(c)(3).

She asked John to review and help file the form.

She also asked John if he would serve on the board.



CASE STUDY 8 RESPONSE: DUE DILIGENCE

John should advise Darcy about the I.R.C. § 7206 penalties for a willful false declaration under perjury and how those penalties could be assessed against Darcy and also against John for assisting Darcy to file a false declaration.

P. 45

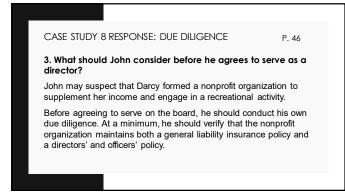
John should also advise Darcy that the IRS could retroactively revoke the organization's tax-exempt status if there is a misstatement of material information, including an incorrect attestation regarding the organization's eligibility to file Form 1023-EZ.

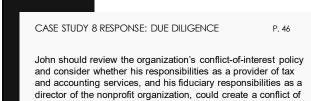
71

CASE STUDY 8 RESPONSE: DUE DILIGENCE PP. 45 - 46

2. If John determines that the organization is not eligible for the EZ form, can he review the form and have Darcy file it?

Under Circular 230 § 10.34, a tax practitioner cannot advise a client to submit a document to the IRS that contains or omits information in a manner that demonstrates an intentional disregard of a rule or regulation. John cannot advise Darcy to file Form 1023-EZ if the organization is ineligible to do so.





interest under the policy or Circular 230 § 10.29(a).

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