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Treasury Department interpretation of Section 10.2 of Treasury Department circular 230 (31 C.F.R. 10.2)

American Institute of Accountants

United States. Department of the Treasury

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American Institute of Accountants

INCORPORATED UNDER THE LAWS OF THE DISTRICT OF COLUMBIA

THE NATIONAL ORGANIZATION OF CERTIFIED PUBLIC ACCOUNTANTS

270 MADISON AVENUE, NEW YORK 16, N. Y.

February 6, 1956

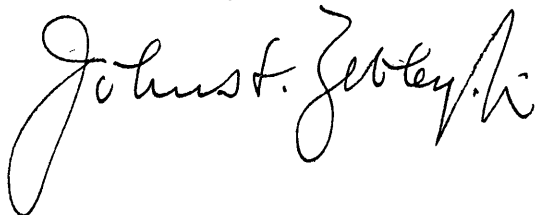
To Members of the
American Institute of Accountants

Gentlemen:

There is enclosed a copy of Treasury Department Interpretation of Section 10.2 of Treasury Department Circular 230 (31 C.F.R. 10.2). This statement, just released, is a clarification of Treasury Department Circular 230, regarding the scope of practice of enrolled agents before the Department. In our opinion, it provides a satisfactory basis for close cooperation between lawyers and certified public accountants in tax practice in the best interests of taxpayers and the government.

The next step is to establish as promptly as possible cooperative machinery by the Institute and the American Bar Association so that future questions regarding the appropriate roles of members of the two professions in tax practice may be dealt with through friendly negotiations, and the solutions may be supported by the internal disciplinary machinery of the two professions.

Yours truly,

A handwritten signature in cursive script, reading "John F. Zebley, Jr." The signature is written in dark ink and is positioned below the typed name "John F. Zebley, Jr.".

President

DEPARTMENT OF THE TREASURY

Treasury Department Interpretation of Section 10.2 of Treasury Department Circular 230 (31 C.F.R. 10.2)

For some months the Treasury Department has had under consideration the revision of Treasury Department Circular 230 relating to practice before the Department.

Congress has given the Treasury Department the responsibility of regulating practice before the Department. It is in the exercise of this responsibility that the Department has issued the rules and regulations set forth in Circular 230, taking into consideration, among other things, the need of taxpayers for tax advice and assistance, the number of tax returns filed each year, the volume and complexity of problems relating thereto, the skills and training required for proper representation of taxpayers' interests and the availability of people who can provide such service.

The Department believes the standards prescribed in Circular 230 have generally operated in a highly satisfactory manner, have made available to taxpayers representatives to assist them in presenting their interests to the Department, and have facilitated fair and orderly administration of the tax laws.

It is the intention of the Department that all persons enrolled to practice before it be permitted to fully represent their clients before the Department, in the manner hereinafter indicated. This is apparent from section 10.2(b), which states that the scope of practice (of agents as well as attorneys) before the Department comprehends "all matters connected with the presentation of a client's interest to the Treasury Department". Enrollees, whether agents or attorneys, have been satisfactorily fully representing clients before the Department for many years. The Department believes this has been beneficial to the taxpayers and to the Government and that there presently appears no reason why the present scope and type of practice should not continue as it has in the past.

The Department's attention has been called to the decisions of certain State courts and to statements which suggest varying interpretations of section 10.2(f) of the Circular. This subsection makes it clear that an enrolled agent shall have the same rights, powers, and privileges and be subject to the same duties as an enrolled attorney, except that an enrolled agent may not prepare and interpret certain written instruments. The second proviso of the subsection states that nothing in the

regulations is to be construed as authorizing persons not members of the bar to practice law. The uniform interpretation and administration of this and other sections of Circular 230 by the Department are essential to the proper discharge of the above responsibility imposed on it by the Congress.

It is not the intention of the Department that this second proviso should be interpreted as an election by the Department not to exercise fully its responsibility to determine the proper scope of practice by enrolled agents and attorneys before the Department. It should be equally clear that the Department does not have the responsibility nor the authority to regulate the professional activities of lawyers and accountants beyond the scope of their practice before the Department as defined in section 10.2(b) and nothing in Circular 230 is so intended.

The Department has properly placed on its enrolled agents and enrolled attorneys the responsibility of determining when the assistance of a member of the other profession is required. This follows from the provisions in section 10.2(z) that enrolled attorneys must observe the canons of ethics of the American Bar Association and enrolled agents must observe the ethical standards of the accounting profession. The Department has been gratified to note the extent to which the two professions over the years have made progress toward mutual understanding of the proper sphere of each, as for example in the Joint Statement of Principles Relating to Practice in the Field of Federal Income Taxation.

The question of Treasury practice will be kept under surveillance so that if at any time the Department finds that the professional responsibilities of its enrolled agents and enrolled attorneys are not being properly carried out or understood, or that enrolled agents and attorneys are not respecting the appropriate fields of each in accordance with that Joint Statement, it can review the matter to determine whether it is necessary to amend these provisions of the Circular or take other appropriate action.

(Signed) G. M. HUMPHREY
Secretary of the Treasury

Dated: January 30, 1956