



The End of Circular 230 Disclaimers

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This week, the IRS and Treasury issued new regulations under "Circular 230" governing written advice given by tax practitioners. Effective June 12, 2014, these new regulations eliminate the rule that tax practitioners' written advice either satisfy the requirements of a full-blown "covered" opinion or contain a disclaimer warning clients that the written advice could not be used for the purpose of avoiding penalties.

What these changes mean for written advice issued by Ivins, Phillips & Barker:

- Correspondence (including e-mails) will no longer include a Circular 230 disclaimer.
- Detailed correspondence that fall short of the formality of a full-blown opinion can now be relied upon for penalty protection, provided that the rules under the penalty regulations are satisfied (e.g., advice must consider all pertinent facts and circumstances and the law as it relates to those facts and circumstances; the advice is not based on unreasonable factual or legal assumptions).
- Less detailed e-mails and memoranda still cannot be relied upon for penalty protection, despite the absence of a disclaimer.
- If you are seeking penalty protection, we recommend you let us know, rather than assume that any written advice that falls short of a full-blown opinion will provide such protection.

FOR MORE INFORMATION

Contact the Ivins,

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Phillips & Barker

Employee Benefits Practice