corrected to read ''recognized built-in loss''.

129. On page 75218, in the second column, in paragraph (f)(5)(i);

i. In the eighth line up from the bottom of the paragraph, the language ''an unrealized loss'' is corrected to read ''a built-in loss''.

ii. In the sixth line up from the bottom of the paragraph, the language ''an unrealized gain'' is corrected to read ''a built-in gain''.

§ 1.56A–26 [Corrected]

130. On page 75221, in the third column, in paragraph (d)(1), the fourth and fifth lines up from the bottom of the paragraph are corrected to read, ''CAMT entity must adjust its AFSI with respect to that transaction to reflect''.

§ 1.59–2 [Corrected]

131. On page 75223, in the third column, in paragraph (c)(2)(ii)(B), in the sixth line down from the top of the paragraph, the language ''(c)(2)(i)(C)'' is corrected to read ''(c)(2)(ii)(C)''.

132. On page 75226, in the first and second columns, paragraph (f)(2)(i) is corrected to read as follows:

* * * * *

(f) * * *

(2) * * *

(i) *In general*—(A) *Corporation experiencing ownership change.* For purposes of paragraph (f)(1) of this section, if a corporation experiences a change in ownership during a taxable year that results in the corporation and a person no longer being treated as related under the relevant relationship criteria, then following the change in ownership—

(*1*) The corporation retains its AFSI for any relevant period prior to the change in ownership to determine whether the corporation meets the average annual AFSI test (as described in paragraph (c) of this section) for the taxable year in which the change in ownership occurs or for any subsequent taxable year; but

(*2*) The corporation does not include that person's AFSI in the corporation's AFSI for any period prior to the change in ownership (notwithstanding that the corporation and the person were treated as related under the relevant relationship criteria during some, or all, of that period) to determine whether the corporation meets the average annual AFSI test for the taxable year in which the change in ownership occurs or for any subsequent taxable year in which the corporation and the person are not treated as related under the relevant relationship criteria.

(B) *Person related to corporation following ownership change.* Following a corporation's change in ownership, each person treated as related to the corporation under the relevant relationship criteria determines whether it meets the average annual AFSI test (if applicable) for the taxable year in which the change in ownership occurs or for any subsequent taxable year by separately applying the rules in this paragraph (f). For example, such person does not include the corporation's AFSI in the person's AFSI for any relevant period prior to the corporation's change in ownership if the corporation and the person were never previously related under the relevant relationship criteria. For the avoidance of doubt, such person includes the corporation's AFSI in its AFSI for any relevant period following the change in ownership during which the parties are related under the relevant relationship criteria, unless paragraph (f)(2)(i)(A) of this section applies.

(C) *Change in ownership.* For purposes of paragraphs (f)(2)(i)(A) and (B) of this section, a corporation experiences a change in ownership during a taxable year of the corporation if—

(*1*) The corporation is not a test group parent (as defined in paragraph (b)(7) of this section);

(*2*) The corporation is treated as related to a test group parent under the relevant relationship criteria as of the first day of the taxable year; and

(*3*) As a result of a transaction (or series of related transactions) the corporation and the test group parent no longer satisfy the relevant relationship criteria as of the last day of the taxable year.

* * * * *

133. On page 75227, in the first, second, and third columns, in paragraphs (f)(3)(i)(D) and (E) and (f)(3)(ii)(C), the reference ''(b)(6)'' is corrected to read, ''(b)(7)'', everywhere it appears.

134. On page 75228, in the first column, in paragraph (g)(2)(iii)(B), the second and third lines down from the top of the paragraph are corrected to read, ''than the AFSI adjustments in §§ 1.56A–8(b), 1.56A–14, and, solely for purposes of''.

§ 1.1502–56A [Corrected]

135. On page 75238, in the second column, in paragraph (d)(3)(i):

i. The fifth and sixth lines up from the bottom of the paragraph are corrected to read, ''*beginning after December 31, 2019.* For each share of stock of a''.

ii. The second line up from the bottom of the paragraph is corrected to read ''(shareholder member) on the first day of the first taxable year beginning after December 31, 2019, the CAMT basis of such share equals the sum''.

136. On page 75238, in the second column, in paragraph (d)(3)(ii):

i. In the fifth line up from the bottom of the paragraph, the language ''The CAMT basis in a'' is corrected to read ''For each''.

ii. The last line of the paragraph is corrected to read ''consolidated group after the first day of the first taxable year beginning after December 31, 2019, the CAMT basis of such share equals the sum of:''.

137. On page 75238, in the second column, in paragraph (d)(3)(iii)(A), in the fourth line up from the bottom of the page, the word ''including'' is corrected to read ''incorporating''.

138. On page 75239, in the first column, in paragraph (e)(4)(i)(B), the third line up from the bottom of the paragraph is corrected to read ''elimination)). Accordingly, the P Group's''.

139. On page 75240, in the third column, in paragraph (f)(6)(ii), the sixth and fifth lines up from the bottom of the paragraph are corrected to read ''apportioned to M2 (($20x/($20x + $40x + $5x)) × $55x = $16.9x). *See*''.

140. On page 75243, in the first column, in paragraph (j)(3)(ii), the second to last and last lines of the paragraph are corrected to read ''is apportioned to T (($200x/($200x + $1,000x)) × $165x = $27.5x).''.

Kalle L. Wardlow,

Federal Register Liaison, Publications & Regulations Section, Associate Chief Counsel, (Procedure and Administration).

[FR Doc. 2024–29958 Filed 12–23–24; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of the Secretary

31 CFR Part 10

[REG–116610–20]

RIN 1545–BQ12

Regulations Governing Practice Before the Internal Revenue Service

AGENCY: Office of the Secretary, Treasury.

ACTION: Notice of proposed rulemaking, notice of public hearing, and withdrawal of notice of proposed rulemaking.

SUMMARY: This document contains proposed amendments to the regulations governing practice before the IRS. These regulations propose to eliminate provisions related to

registered tax return preparers, classify the use of certain contingent fee arrangements by practitioners as disreputable conduct, establish new standards for appraisals and the disqualification of appraisers, and update certain provisions as appropriate. This document also provides notice of a public hearing on the proposed regulations and withdraws the notice of proposed rulemaking published on July 28, 2009. The regulations would affect registered tax return preparers, enrolled agents (EAs), enrolled retirement plan agents, enrolled actuaries, Annual Filing Season Program (AFSP) participants, attorneys, certified public accountants (CPAs), appraisers, and other practitioners.

DATES: Electronic or written comments must be received by February 24, 2025. The public hearing is being held on March 6, 2025, at 10 a.m. Eastern Time (ET). Requests to speak and outlines of topics to be discussed at the public hearing must be submitted as prescribed in the ''Comments and Public Hearing'' section. The IRS must receive speakers' outlines of the topics to be discussed at the public hearing by February 24, 2025. If no outlines are received by February 24, 2025, the public hearing will be cancelled. Requests to attend the public hearing must be received by 5 p.m. ET on March 4, 2025. As of December 26, 2024, the notice of proposed rulemaking (REG–113289–08) published on July 28, 2009 (74 FR 37183), is withdrawn.

ADDRESSES: Commenters are strongly encouraged to submit public comments electronically. Submit electronic submissions via the Federal eRulemaking Portal at *https://www.regulations.gov* (indicate IRS and REG–116610–20) by following the online instructions for submitting comments. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn. The Department of the Treasury (Treasury Department) and the IRS will publish for public availability any comment submitted electronically or on paper to the public docket. *Send paper submissions to:* CC:PA:01:PR (REG–116610–20), room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, William J. Prater at (202) 317–6251; concerning submissions of comments or the public hearing, The Publications and Regulations Section at (202) 317–6901 (not toll-free numbers) or by sending an email to *publichearings@irs.gov* (preferred).

SUPPLEMENTARY INFORMATION:

Authority

This document contains proposed regulations that would amend the regulations under 31 U.S.C. 330 relating to the regulation of practice before the IRS, which are codified at 31 CFR part 10 and reprinted as Treasury Department Circular No. 230 (Circular 230). Since 1884, Federal law (now codified at 31 U.S.C. 330), has expressly authorized the Secretary of the Treasury (Secretary) to regulate practice before the Treasury Department. Specifically, 31 U.S.C. 330(a) provides that subject to section 500 of title 5, the Secretary may ''regulate the practice of representatives of persons before the Department of the Treasury.'' In addition, before admitting a representative to practice, the Secretary may require that the representative demonstrate ''good character,'' ''good reputation,'' the ''necessary qualifications to enable the representative to provide to persons valuable service,'' and ''competency to advise and assist persons in presenting their cases.'' *See* 31 U.S.C. 330(a). The Secretary may delegate these duties and powers to another officer or employee of the Treasury Department under 31 U.S.C. 321(b).

Background

The provisions of 31 CFR part 10 are currently designated as §§ 10.0 through 10.93 and a section of the current regulations is referred to as, as an example, ''current § 10.0'' in this Background and the Explanation of Provisions. Circular 230, which contains current §§ 10.0 through 10.93 related to governing practice before the IRS, has been amended periodically since it was first published in 1921.

A. Tax Return Preparation

Prior to 2011, individual tax return preparers were generally not subject to Circular 230 unless the tax return preparer was an attorney, certified public accountant (CPA), enrolled agent (EA), or other type of practitioner identified in Circular 230. On June 3, 2011, the Treasury Department and the IRS published final regulations (TD 9527) in the **Federal Register** (76 FR 32286) to establish qualifications for tax return preparers, which required them to become registered tax return preparers subject to the requirements under Circular 230 and describing the allowable scope of a registered tax return preparer's practice before the IRS (2011 amendments).

The 2011 amendments were challenged in *Loving* v. *IRS,* 917 F.Supp.2d 67 (D.D.C. 2013), in which case the plaintiffs argued that the Treasury Department and the IRS did not have authority under 31 U.S.C. 330 to regulate tax return preparation because return preparation was not practice before the IRS. The United States District Court for the District of Columbia (District Court for the District of Columbia or district court) concluded that under 31 U.S.C. 330(a), practice before the IRS is limited to representing taxpayers before the IRS by assisting them in presenting their cases. Because the district court considered preparing and filing tax returns as falling short of ''presenting a case,'' it held that the Treasury Department and the IRS lacked statutory authority to regulate tax return preparation as practice before the IRS under 31 U.S.C. 330(a) and enjoined the Treasury Department and the IRS from enforcing the 2011 amendments to Circular 230 related to registered tax return preparers. The United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit or court of appeals) affirmed the district court's opinion and order for injunction. The court of appeals upheld the district court's statutory construction, explaining that, while tax return preparers assist taxpayers, they do not represent taxpayers before the IRS or formally act as their agent. *Loving* v. *IRS,* 742 F.3d 1013 (D.C. Cir. 2014).

B. Contingent Fees

Final regulations (TD 9359) published in the **Federal Register** (72 FR 54540) on September 26, 2007, amended the rules under Circular 230 regarding charging contingent fees in current § 10.27 (2007 amendments). The 2007 amendments amended the exceptions to the general prohibition on contingent fees, which prohibited practitioners from charging contingent fees for original returns, to permit practitioners to charge a contingent fee for services rendered in connection with the IRS's examination of, or challenge to, (i) an original tax return or (ii) an amended return or claim for refund or credit where the amended return or claim for refund or credit was filed within 120 days of the taxpayer receiving a written notice of the examination or a written challenge to the original tax return. The Treasury Department and the IRS subsequently clarified the 2007 amendments in Notice 2008–43, 2008–1 C.B. 748 (March 26, 2008) to provide that a practitioner may charge a contingent fee for services rendered in connection with the IRS's examination of, or challenge to, an amended return or claim for

refund or credit filed (1) before the taxpayer received a written notice of examination of, or a written challenge to, the original tax return or (2) no later than 120 days after the receipt of such written notice or written challenge. Notice 2008–43 also provided an exception that allows practitioners to charge a contingent fee with respect to whistleblower claims under section 7623 of the Internal Revenue Code (Code). Current § 10.27 also permits practitioners to charge contingent fees in connection with the determination of statutory interest and penalties and for services rendered in connection with judicial proceedings arising under the Code. Current § 10.27 prohibits contingent fee arrangements for services rendered in connection with any other matter before the IRS, including the preparation of original returns, amended returns, and claims for refund or credit.

On July 28, 2009, the Treasury Department and the IRS published in the **Federal Register** (74 FR 37183) a notice of proposed rulemaking (REG–113289–08) proposing modifications to the rules relating to contingent fees under Circular 230 (2009 proposed regulations). The 2009 proposed regulations have not been finalized.

In 2014, the District Court for the District of Columbia held that preparing and filing ordinary refund claims, like preparing original tax returns, did not involve representing taxpayers or practice before the IRS. *Ridgely* v. *Lew,* 55 F. Supp.3d 89 (D.D.C. 2014). As a result, according to the district court, the IRS lacked authority to treat the preparation of ordinary refund claims as practice before the IRS as described under 31 U.S.C. 330(a). *Id.* Thus, the district court concluded that the IRS cannot prohibit charging contingent fees for ordinary refund claims based on its authority to regulate practice before the IRS under 31 U.S.C. 330(a).

C. Written Tax Advice

Circular 230 was most recently amended in TD 9668, which was published in the **Federal Register** (79 FR 33685) on June 12, 2014, to, among other changes, revise rules relating to written tax advice and eliminate the covered opinion rules (in former § 10.35) that previously governed written tax advice.

Explanation of Provisions

The proposed regulations contained in this notice of proposed rulemaking would amend Circular 230 by eliminating provisions related to registered tax return preparers or that imposed standards on tax return preparation that are unrelated to representation before the Treasury Department and the IRS. The proposed regulations would also amend Circular 230 by eliminating current § 10.27, which, among other things, treats the preparation of tax returns and claims for refund or credit as matters before the IRS for which contingent fees may not be charged, and defining certain contingent fee arrangements as disreputable conduct. Specifically, the proposed regulations would establish that contingent fee arrangements for services in connection with preparing an original tax return, amended tax return, or claim for refund or credit constitute disreputable conduct subject to sanction. Because the proposed regulations would make substantial changes to the regulation of contingent fees under Circular 230, this document also proposes to withdraw the 2009 proposed regulations.

The proposed regulations would also revise or eliminate provisions that are out of date and incorporate new provisions to better align Circular 230 with the modern practice environment. The scope of the proposed regulations is limited to practice before the IRS. Therefore, the proposed regulations would not alter or supplant other ethical standards applicable to practitioners.

A section of the proposed regulations is referred to as, as an example, ''proposed § 10.0'' in this Explanation of Provisions and the Special Analyses.

A. Amendments Regarding Tax Return Preparation

1. Elimination of Regulation of Registered Tax Return Preparers as Practitioners

As a result of the decision and injunction order in *Loving,* the 2011 amendments that relate to registered tax return preparers are no longer enforceable. Therefore, the proposed regulations would eliminate rules regarding registered tax return preparers under current §§ 10.3 through 10.6. The proposed regulations would also remove references to registered tax return preparers under current §§ 10.0, 10.2, 10.30, 10.38, and 10.90 and redesignate current § 10.90 as § 10.110.

2. Revision of Standards Relating to Tax Return Preparation

Circular 230 contains provisions that are unrelated to the registered tax return preparer program but impose specific standards on tax return preparation. Consistent with the holding in *Loving,* the proposed regulations would eliminate or revise these provisions to impose standards related to tax returns prepared, approved, or submitted in connection with representing a client in a matter before the IRS. This distinction would be also incorporated under the amended definition of ''practice before the IRS'' under proposed § 10.2(a)(4), which would clarify that practice before the IRS includes the preparation and submission of tax returns in connection with representing a client in a matter before the IRS.

Current § 10.8 provides rules related to tax return preparation, describes actions that individuals who did not prepare all, or substantially all, of a tax return can take before the IRS, and prohibits non-practitioners from preparing all, or substantially all, of a tax return. The proposed regulations would eliminate the current language under § 10.8 in its entirety. However, guidance regarding what actions non-practitioners may take in response to IRS inquiries is still necessary and authorized under 31 U.S.C. 330. Therefore, the proposed regulations would retitle current § 10.8 as ''Participation in IRS proceedings by non-practitioners'' and would provide that, except for appraisers who have been disqualified pursuant to proposed § 10.61(a), any individual may appear as a witness before the IRS or furnish information at the request of the IRS.

Current § 10.22 imposes standards related to diligence as to accuracy, including standards related to the preparation or approval of tax returns, documents, affidavits, and other papers. The proposed regulations would revise current § 10.22 to specify that the diligence as to the accuracy requirement for tax returns is limited to tax returns prepared, approved, or submitted in connection with representing a client in a matter before the IRS. The proposed regulations would not revise existing diligence standards related to documents, affidavits, and other papers that are not tax returns. The diligence requirements in the proposed regulations would also apply to a practitioner's preparation of a tax return prior to representing a client in a matter before the IRS when the subsequent representation involves the tax return. When the representation involves a tax return prepared by a practitioner, the practitioner's diligence with respect to preparing the tax return would be treated under the proposed regulations as related to the practitioner's practice before the IRS under 31 U.S.C. 330(a).

Current § 10.34 imposes standards with respect to a practitioner's preparation of tax returns and other documents. The current regulations incorporate standards under the Code relating to tax return positions, describe standards for advising clients with

respect to potential penalties, and address the ability of a practitioner to rely on information furnished by a client. The proposed regulations would maintain these standards but clarify that the standards only apply to a tax return either when the tax return is prepared while representing a client before the IRS or when the tax return prepared prior to representation is submitted while representing a client before the IRS, regardless of whether the tax return was filed with the IRS before the representation begins. With respect to tax returns prepared prior to representation, the current standards relate to a practitioner's duty to not further an unreasonable return position taken on a previously prepared return while representing a client in a matter before the IRS. The proposed regulations would not impose the standards on the preparation of a tax return in the absence of a practitioner's representation of a client.

B. Amendments Regarding the Regulation of Contingent Fees

Current § 10.27 prohibits practitioners from entering into contingent fee arrangements for services rendered in connection with a ''matter before the IRS,'' which § 10.27(c)(2) defines to include assisting with filing tax returns or claims for refund or credit and ''all matters connected with a presentation to the [IRS] . . . relating to a taxpayer's rights, privileges, or liabilities under the laws and regulations administered by the [IRS].'' Current § 10.27 was intended to restrict contingent fee arrangements based on their potential to encourage practitioners and their clients to take aggressive positions with the hope that they will not be audited.

As described in the Background, the District Court for the District of Columbia held in *Ridgely* that practitioners do not act in a representative capacity when they assist clients with ''ordinary refund claims,'' which are defined as refund claims, including amended returns, filed prior to the examination of a tax return for that taxable year or period. The district court also concluded that preparing an ordinary refund claim is not an activity that constitutes practice before the IRS under 31 U.S.C. 330(a). Thus, the court concluded that the IRS cannot prohibit charging contingent fees for ordinary refund claims based on its authority to regulate practice before the IRS under 31 U.S.C. 330(a). The court did not otherwise address the propriety of contingent fees.

The proposed regulations would remove current § 10.27 and, under subpart C, define disreputable conduct under proposed § 10.51 to include both charging contingent fees in connection with the preparation of an original or amended tax return or claim for refund or credit, and charging fees that, under the facts and circumstances, are unconscionable fees.

Charging a contingent fee for the preparation of an original return, amended return, or claim for refund or credit prepared prior to the examination of a tax return is disreputable conduct because these circumstances encourage evasion or abuse of Federal tax laws by incentivizing practitioners to take unduly aggressive tax positions for their clients, which would increase their clients' reported tax benefits, thus resulting in personal gain for the practitioner. A practitioner with a direct, financial interest in the tax benefits of a client may be incentivized to increase such tax benefits. Therefore, these contingent fee arrangements reflect conduct that is incompatible with ethical practice before the Treasury Department or the IRS under Circular 230.

Under 31 U.S.C. 330(c), the Treasury Department and the IRS have the authority to censure or suspend or disbar from practice before the Treasury Department or the IRS practitioners who engage in disreputable conduct whether or not the conduct constitutes representation of a client. Unlike the contingent fee standards under current § 10.27, proposed § 10.51 is not dependent upon the preparation of a tax return or claim for refund or credit constituting practice before the IRS. Charging contingent fees for preparing tax returns, amended returns, and claims for refund or credit is prohibited under the rules of professional conduct applicable to many accountants. The American Institute for Certified Public Accountants (AICPA) Code of Professional Conduct, for example, acknowledges the disreputable nature of contingent fees and prohibits CPAs from charging contingent fees for the preparation of original returns, amended returns, and ordinary refund claims because of the risk that these contingent fee arrangements would allow a CPA to benefit improperly from an interest in, or relationship with, a client. *See* AICPA Code of Professional Conduct 1.000.010.14(c); 1.510.001.01(b). Many state accountancy board rules also prohibit contingent fee arrangements for preparing an original or amended return or claim for refund or credit. *See, e.g.,* N.J. Admin. Code section 13:29–3.8(e) (2019); Tenn. Code Ann. section 62–1–123(b)(1)(B) (2016) (prohibiting contingent fees for preparation of an original return); Cal. Code Regs. Tit. 16 section 62(a)(2) & (3) (2021); *cf.* New York Society of Certified Public Accountants Code of Professional Conduct Rule 302 (March 2013).

C. Enrolled Retirement Plan Agent and Enrolled Agent Procedures

Current § 10.3(e)(1) provides that enrolled retirement plan agents (ERPAs) may practice before the IRS. Current § 10.4(b) authorizes the IRS to grant status as ERPAs to individuals who demonstrate special competence in qualified retirement plan matters by passing a written examination and who have not engaged in any conduct that would justify suspension or disbarment under Circular 230. The IRS stopped offering the Enrolled Retirement Plan Agent Special Enrollment Examination (ERPA–SEE) on February 12, 2016, and no longer accepts applications for new enrollment as an ERPA. Because of a steady decline in ERPA–SEE test-takers, the cost to administer the ERPA–SEE no longer warranted offering the test. *See* 83 FR 58202, published in the **Federal Register** on November 19, 2018. Individuals who had passed the ERPA–SEE before February 12, 2016, and are currently enrolled as ERPAs can maintain their status. Therefore, the proposed regulations would clarify that ERPAs who passed the ERPA–SEE prior to February 12, 2016, remain authorized to practice before the IRS if they continue to pay the annual user fee described under 26 CFR 300.10(b) and complete the continuing education described in § 10.6(e). The proposed regulations would also remove current § 10.4(b), which describes the process to become an ERPA by special examination.

Current § 10.4(d) provides that a former IRS employee, based on past service and technical experience in the IRS, may be granted enrollment as an EA or ERPA without testing if certain criteria are met. There is no statutory requirement that the IRS provide this exemption to former employees and administering requests for this waiver has consumed substantial IRS resources. Accordingly, the proposed regulations would eliminate the opportunity for former IRS employees to apply for a waiver of enrollment requirements as of 30 days after the date these regulations are published in the **Federal Register** as final regulations. Applications from former IRS employees submitted on or before that date would be processed according to the procedures under current § 10.4(d).

Current § 10.5 includes ERPAs in the description of application procedures to become a practitioner under Circular 230. Because the IRS no longer offers

the special enrollment examination to become an ERPA and no longer accepts applications for new enrollment as an ERPA, these procedures are no longer relevant and references to ERPAs would be removed under proposed § 10.5. The renewal period and procedures for existing ERPAs remains unchanged under current § 10.6.

Current § 10.6(b) states that the IRS will provide confirmation of enrollment to EAs and ERPAs by issuing a registration card or certificate. Instead of specifying the form of confirmation, proposed § 10.6(b) would provide that the IRS will issue a document, which may be an enrollment card or other document. This revision would give the IRS flexibility as to the form of enrollment confirmation provided to practitioners in the future without requiring an amendment to the regulations.

Current § 10.6(d)(2) provides an explanation of the renewal period for EAs. Proposed § 10.6(d)(2) would make minor revisions to this description but makes no substantive changes to the renewal period or renewal process for EAs.

D. Limited Practice and Annual Filing Season Program (AFSP) Participants

Proposed § 10.7(c)(1)(viii) would provide that individuals who possess a current Annual Filing Season Program (AFSP) Record of Completion may engage in limited practice, by representing taxpayers before the IRS with respect to tax returns or claims for refund or credit the individuals prepared and signed during a calendar year for which a Record of Completion was issued. The individual must have a valid Record of Completion for the calendar year in which the tax return or claim for refund or credit was prepared and signed and a valid Record of Completion for the year or years in which the representation occurs. AFSP participants generally are otherwise unenrolled preparers who, pursuant to Rev. Proc. 2014–42, 2014–29 I.R.B. 192 (July 14, 2014), voluntarily consent to be subject to Circular 230 duties and restrictions to participate in the AFSP, including prohibitions on incompetence or disreputable conduct, and must comply with the duties and restrictions to the extent they represent taxpayers before the IRS under the AFSP. The authority for the Treasury Department and the IRS to implement the AFSP was upheld by the D.C. Circuit, in *AICPA* v. *IRS,* 746 Fed. Appx. 1 (D.C. Cir. 2018).

E. Continuing Education Provider Fees

Under current § 10.9(a)(2), continuing education providers that provide education to practitioners on subject matters described under current § 10.6(f) must be approved by the IRS, obtain a continuing education number, and pay any applicable user fee. Continuing education providers must follow the procedures outlined under Rev. Proc. 2012–12, 2012–2 I.R.B. 275 (January 9, 2012) to become an accredited provider and obtain a continuing education provider number. Continuing education providers must renew their status annually by renewing their provider number and paying a user fee. Under current § 10.9(a)(4), continuing education providers must seek approval for individual continuing education programs and obtain a program number.

The continuing education program is administered by a third-party vendor through a five-year contract with the IRS. The vendor will charge continuing education providers a $650 application and renewal fee through 2025. Continuing education providers must renew for the upcoming calendar year before midnight on December 31 or incur late fees ranging between $100 and $200. Under the vendor's contract with the IRS, the vendor's fee is reviewed and approved by the IRS.

Because the IRS does not incur any direct costs to administer the continuing education program, it does not currently charge a separate user fee to recover costs. In the future, however, the IRS may charge a user fee if circumstances change. Any future user fee will be calculated pursuant to the Independent Offices Appropriation Act of 1952 (31 U.S.C. 9701) and OMB Circular A–25, *User Charges.* New proposed § 10.9(c) explains that a potential user fee may be charged in addition to the current vendor fee for approval of continuing education providers and their programs.

F. Knowledge of Error or Omission

Current § 10.21 requires practitioners to advise a client of any noncompliance with internal revenue laws or any error or omission on a tax return or other document submitted to the IRS and the consequences under the Code and regulations of the noncompliance, error, or omission. Proposed § 10.21 would clarify that the noncompliance, error, or omission may have been made by either the client or the practitioner or a prior practitioner, such as if the practitioner or prior practitioner made an inadvertent mistake on a tax return prepared and filed for the client that the practitioner later discovers.

Proposed § 10.21 would expand the current guidance by requiring practitioners to explain actions the client should take to correct the noncompliance, error, or omission. Knowingly failing to inform a client of the noncompliance, error, or omission is disreputable conduct under 31 U.S.C. 330(c) because it causes practitioners to perpetuate false or misleading information to the IRS and potentially exposes the client to penalties and other adverse consequences. Proposed § 10.21 would also instruct practitioners to consider whether they can continue to meet their obligation to exercise diligence under proposed § 10.22(a) as to the accuracy of tax returns and other documents if the client refuses to take corrective action during the course of the practitioner's representation. A practitioner's obligation under proposed § 10.22(a) applies only to tax returns that are prepared, approved, or submitted in connection with representing a client in a matter before the IRS. Under those circumstances, the failure to correct inaccurate or unsupportable return positions would result in their perpetuation in submissions to the IRS during the course of the practitioner's representation. These changes would align Circular 230 with similar professional standards relating to knowledge of a client's error. *See* AICPA Statement on Standards for Tax Services No. 6 (Knowledge of Error: Return Preparation and Administrative Proceedings) (Rev. April 30, 2018); *see also Schmitz* v. *Crotty,* 528 NW 112 (Iowa 1995) (holding that in a civil malpractice action, an attorney was negligent for, in part, failing to correct an error on tax returns that he was aware of).

G. Negotiation of Payments to Clients

Current § 10.31 provides that a practitioner may not endorse or otherwise negotiate any check issued to a client by the Government in respect of a Federal tax liability, including directing or accepting payment by any means, electronic or otherwise, into an account owned or controlled by the practitioner or any firm or other entity with which the practitioner is associated. When it was last amended in 2014, this regulation was revised to clarify that the prohibition on practitioner negotiation of taxpayer tax refunds applied to the electronic environment in which both the IRS and practitioners operated. Proposed § 10.31 would maintain this prohibition and broaden it to apply to all electronic payments to clients with respect to a Federal tax liability, including prepaid debit cards, phone or mobile payments, or other forms of electronic payments, even if that payment method is not currently used by the Treasury Department. These changes

acknowledge the evolving electronic environment in which tax refunds and other payments to taxpayers are processed through a variety of means.

H. Best Practices for Tax Practitioners

Current § 10.33 provides best practices for practitioners related to client representation. Proposed § 10.33 would replace references to ''tax advisors'' with ''tax practitioners'' to better align § 10.33 with descriptions used elsewhere in Circular 230.

Proposed § 10.33(a)(4) would provide that it is a best practice for practitioners to create a data security policy to maintain safeguards with respect to client information and establish a plan and procedures for responding to data breaches. Practitioners who also prepare returns have a legal obligation to comply with the Federal Trade Commission's Safeguards Rule under the Gramm-Leach Bliley Act, which requires businesses to implement safeguards, including a written information security plan, to protect the security, confidentiality and integrity of customer information. 16 CFR part 314 (2002). This proposed change acknowledges this duty and complements the newly proposed duty to maintain technological competence under proposed § 10.35 and better aligns Circular 230 with other professional standards. *See* American Bar Association Formal Ethics Opinion 18–483; IRS Publication 4557, *Safeguarding Taxpayer Data;* IRS Publication 5708, *Creating a Written Information Security Plan for Your Tax & Accounting Practice.*

Proposed § 10.33(a)(5) would provide that it is a best practice for practitioners to identify, evaluate, and address a mental impairment arising out of, or related to, age, substance abuse, a physical or mental health condition, or some other circumstance that could adversely impact a practitioner's ability to effectively represent a client before the IRS. An impairment, left untreated, can have adverse consequences on a client's representation and to the health and well-being of a practitioner. The purpose of proposed § 10.33(a)(5) is to encourage practitioners who are suffering from a mental impairment to seek and obtain assistance or treatment. *See, e.g.,* DC Legal Ethics Opinion 377.

Proposed § 10.33(a)(6) would provide that it is a best practice for practitioners to establish a business continuity and succession plan that includes procedures and safeguards related to both the cessation of a practitioner's practice or the occurrence of an outside event, such as a natural disaster or cyberattack. Business continuity and succession planning are essential because they proactively protect clients in the event of a practitioner's death or disability or from the occurrence of an unforeseen event.

Finally, proposed § 10.33 would eliminate current § 10.33(b), which provides steps to ensure that a firm's procedures are consistent with best practices. Current § 10.33(b) would be duplicative of procedures under proposed § 10.36 to ensure compliance with subparts A, B, and C of part 10, which instructs practitioners to take reasonable steps to ensure that the firm's procedures are consistent with the best practices under proposed § 10.33(a).

I. Duty To Maintain Technological Competence

Current § 10.35 provides that a practitioner must be competent when engaged in practice before the IRS. Specifically, practitioners are required to have the appropriate level of knowledge, skill, thoroughness, and preparation necessary for the matter in which the practitioner is engaged. Increasingly, competence also includes maintaining familiarity with technological tools used to represent a client. A similar standard for technological competency is included in the American Bar Association (ABA) Model Rules of Professional Conduct. Proposed § 10.35 is based on Comment 8 to ABA Model Rule 1.1 and would define competency to include understanding the benefits and risks associated with relevant technology used by the practitioner to provide services to clients or to store or transmit confidential information, including tax return information.

J. Regulation of Written Tax Advice

Current § 10.37 provides basic principles to which all practitioners must adhere when giving written tax advice. Circular 230 was amended in 2014 to eliminate the covered opinion rules (in former § 10.35) and replace them with broad standards for written tax advice under a current § 10.37. *See* TD 9668. Proposed § 10.37 would maintain these principles-based standards and make minor wording changes. Current § 10.37(d) defines a ''Federal tax matter,'' for purposes of that section, as the application or interpretation of a revenue provision defined under section 6110(i)(1)(B) of the Code, any provision of law impacting a person's obligations under the internal revenue laws and regulations, and any other law or regulation administered by the IRS. Proposed § 10.37 would amend this definition of a Federal tax matter under proposed § 10.37(d) to clarify that it encompasses any transaction, plan, arrangement, or other matter (whether prospective or completed), which is of the type that the IRS determines has the potential for tax avoidance or evasion.

This proposed change aligns standards for written tax advice under proposed § 10.37 more closely with the statutory language of 31 U.S.C. 330(e), which acknowledges that the Treasury Department may ''impose standards applicable to the rendering of written advice with respect to any entity, transaction plan or arrangement, or other plan or arrangement, which is of a type which the Secretary determines as having a potential for tax avoidance or evasion.''

Current § 10.37(c)(1) imposes a reasonable practitioner standard, considering all of the facts and circumstances, to determine whether a practitioner has complied with the written advice standards under this section. Current § 10.37(c)(2) imposes the same reasonable practitioner standard in the case of an opinion the practitioner knows or has reason to know will be used by another person to promote, market, or recommend 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 (Significant Purpose Transactions). Current § 10.37(c)(2) adds that, under the facts-and-circumstances analysis for Significant Purpose Transactions, emphasis will be ''given to the additional risk caused by the practitioner's lack of knowledge of the taxpayer's particular circumstances.'' Considering a practitioner's knowledge of the taxpayer's circumstances is generally relevant to whether a practitioner has satisfied written tax advice standards. Therefore, the proposed regulations would remove paragraph (c)(2) in current § 10.37 and proposed § 10.37(c) would include consideration of the practitioner's knowledge of the client's particular circumstances under the reasonable practitioner standard.

K. Incompetence or Disreputable Conduct

Current § 10.51 defines disreputable conduct for which a practitioner may be sanctioned. Incompetence or disreputable conduct under current § 10.51 is a basis for imposing sanctions against practitioners that is separate from a failure to meet the duties and abide by the restrictions relating to practice before the IRS under subpart B. Subpart C, retitled to relate to

incompetence and disreputable conduct, would redesignate current § 10.51 as proposed § 10.50 and, as described in part B of this Explanation of Provisions, proposed § 10.51 would define certain fee arrangements that constitute disreputable conduct.

Proposed § 10.50(a) would explain that a practitioner can be sanctioned for conduct that relates to the practitioner's overall fitness to practice and is not limited to actions taken while representing clients in a matter before the IRS. Proposed § 10.50(a)(12) would clarify that contemptuous conduct subject to sanction includes conduct in connection with practice before the IRS, any proceeding pursuant to redesignated proposed § 10.80 or any investigation by the Treasury Inspector General for Tax Administration. New proposed § 10.50(a)(19) would provide that the willful failure to follow any Federal tax law is disreputable conduct because knowingly violating a Federal tax law reflects a lack of due regard for the tax laws.

New proposed § 10.50(b) would provide that any assessment against a practitioner of penalties relating to a willful attempt to understate tax liabilities under section 6694(b); aiding or abetting in the understatement of tax liabilities under section 6701; careless, reckless, or intentional disregard for the rules or regulations (within the meaning of 26 CFR 1.6662–3(b)(2) and 1.6694–3(c)) under section 6662(b)(1); or promotion of abusive tax shelters under section 6700 will be considered a violation of proposed § 10.50(a)(7). The assessment of any of these penalties, however, would not be required to show a violation of proposed § 10.50(a)(7).

L. Appraiser Standards

The proposed regulations would incorporate new subpart D, which provides definitions related to appraisers and standards for the disqualification of appraisers. Current § 10.50(b) references the authority of the Secretary, or her delegate, and the IRS to disqualify appraisers from presenting evidence or testimony in any administrative proceeding before the Treasury Department or the IRS. Current Circular 230, however, does not provide a separate definition of appraisers or what constitutes an administrative proceeding for purposes of disqualification. The proposed regulations would provide separate definitions for both appraisers and administrative proceedings and explain how they would relate to the new appraiser standards. Current § 10.60(b) provides that proceedings to disqualify appraisers can be instituted whenever a penalty has been assessed against an appraiser under the Code and the IRS determines that the appraiser acted willfully, recklessly, or through gross incompetence with respect to the conduct at issue.

This penalty prerequisite limits the IRS's ability to respond to misconduct under Circular 230 when the misconduct is not covered by a specific penalty, an applicable penalty is not imposed, or a proposed penalty assessment has not yet been made. There is no penalty prerequisite for appraiser disqualification under 31 U.S.C. 330, and the only procedural requirement for the disqualification of appraisers under 31 U.S.C. 330(d) is notice and an opportunity for a hearing. An appraiser's conduct may be disreputable or fail to conform to appraisal standards even when the IRS has not assessed a penalty or when no penalty under the Code is applicable. Therefore, the proposed regulations would eliminate the penalty prerequisite under current § 10.60(b) because it provides an unnecessary barrier to address misconduct.

Proposed § 10.61, under new subpart D, would require appraisals submitted in an administrative proceeding before the IRS to conform to the substance and principles of the Uniform Standards of Professional Appraisal Practice (USPAP) promulgated by the Appraisal Standards Board of the Appraisal Foundation or the International Valuation Standards (IVS) promulgated by the International Valuation Standards Council. Proposed § 10.61 would thus ensure that appraisals submitted in an administrative proceeding generally conform to broadly applicable standards without requiring strict compliance with such standards. Appraisers who willfully fail to meet these standards may be subject to disqualification under Circular 230. A failure to conform to the substance and principles of either USPAP or IVS standards that is not the result of willful, reckless, or grossly incompetent conduct is not sanctionable. In contrast, appraisers who recklessly or through gross incompetence engage in a pattern of submitting appraisals that do not conform to the substance and principles of USPAP or IVS standards may be subject to disqualification under the proposed regulations. The IRS's Office of Professional Responsibility (OPR) would determine whether an appraisal conforms to the substance and principles of these general appraisal guidelines during the Circular 230 investigatory and disciplinary process, prior to instituting any formal disciplinary proceeding under subpart F of 31 CFR part 10. An opinion by a court, such as the United States Tax Court (Tax Court), finding that an appraiser failed to comply with the substance and principles of USPAP (or otherwise violated the standards for appraisers) may be considered when making that determination. *See, e.g., Oconee Landing Property, LLC* v. *Commissioner,* T.C. Memo. 2024–25 (finding that the appraisers had reached an advance agreement with the donors to appraise the subject property ''in the neighborhood of'' a pre-determined overvalued price).

Using the substance and principles of the USPAP or IVS appraisal standards as a basis for disqualification would enable the IRS to proactively address inadequate appraisals submitted in administrative proceedings. Both USPAP and IVS provide broad standards for general appraisal methodology. USPAP and IVS appraisal standards also provide a generally accepted standard of care that is widely followed in U.S. and international valuation matters for real property, personal property, and businesses. As such, they form a ''floor'' for appraiser competency, similar to how the ABA's Model Rules of Professional Conduct provide general standards for attorneys. Like state bars, other professional appraiser organizations and state licensing boards elaborate on and are free to impose stricter standards on appraisers. Further, USPAP is required for state-licensed and state-certified real property appraisers and has been widely adopted by professional appraisal societies. Internal Revenue Service Advisory Council Annual Report at 118–28 (November 2017). Under Notice 2006–96, 2006–46 I.R.B. 902 (November 13, 2006), the IRS already recognizes USPAP as generally accepted appraisal standards relating to charitable contribution deductions under section 170(f)(11)(E)(i) of the Code. The Tax Court has also looked to adherence to USPAP as a measure of the credibility of an appraisal. *See, e.g., Estate of Cecil* v. *Commissioner,* T.C. Memo. 2023–24 (giving no weight to a valuation that was inconsistent with USPAP). Therefore, the proposed regulations would provide additional clarity to appraisers with respect to the standard for appraisals submitted in an IRS administrative proceeding.

Proposed § 10.61(b)(2) would also provide that appraisers who know or reasonably should know that an appraisal will be used in an administrative proceeding by taxpayers to support a substantial valuation misstatement under section 6662(e), a substantial estate or gift tax valuation

understatement within the meaning of section 6662(g), or a gross valuation misstatement pursuant to section 6662(h), would be subject to disqualification if they act willfully, recklessly, or through gross incompetence. This standard would allow the IRS to address common appraiser misconduct related to tax return positions.

Consistent with current § 10.60(b), new proposed § 10.61(c) would provide that an appraiser who has been assessed a penalty under section 6694, 6695A, 6700, or 6701 of the Code, for which it is determined that the appraiser acted willfully, recklessly, or through gross incompetence with respect to the proscribed conduct may be disqualified for engaging in disreputable conduct, although this assessment is not a prerequisite to disqualification. Appraisers who have been assessed penalties as a result of their willful, reckless, or grossly incompetent conduct have engaged in disreputable conduct that should disqualify them from presenting evidence or testimony in an administrative proceeding before the Treasury Department or the IRS and should result in the appraiser's appraisals having no probative effect in an administrative proceeding. If the penalty is later abated, an appraiser can petition for reinstatement under redesignated proposed § 10.101.

The proposed regulations also provide that an appraiser may show adherence to USPAP standards when issuing the relevant appraisal, which will be taken into account as a defense in determining whether an appraiser acted willfully, recklessly, or through gross incompetence with respect to potential disqualification under proposed § 10.61(b)(2) or (c).

Because appraisers are not practitioners under Circular 230, it is appropriate to include standards relating to their disqualification under a separate subpart from standards relating to practitioners. However, because appraisers are subject to the same notice and opportunity for a hearing as practitioners under Circular 230, disqualification procedures for appraisers would remain the same as those for practitioners under new subpart F (Rules Applicable to Disciplinary Proceedings).

M. Effect of Disbarment, Suspension, or Censure

In 2017, the United States District Court for the District of Nevada held in *Sexton* v. *Hawkins,* 119 A.F.T.R. 2d 2017–1187 (D. Nev. 2017), that the Treasury Department and the IRS did not have jurisdiction to investigate whether suspended practitioners have violated the terms of their suspension because suspended individuals were not considered practitioners under Circular 230. The Treasury Department and the IRS disagree with this holding. The IRS has continuing jurisdiction to investigate suspended practitioners under 31 U.S.C. 330(c), which provides authority to suspend, disbar, or censure practitioners under Circular 230. The ability to investigate compliance by practitioners with the terms of their censure or suspension is critical to ensure compliance and maintain the integrity of practitioner discipline under Circular 230. Practitioners who do not comply with requests for information from OPR or who violate the terms of their suspension may face further sanctions, such as monetary penalties or disbarment.

Proposed § 10.99(e) would clarify that suspended practitioners remain practitioners under Circular 230 for the purposes of investigating and acting on any violation of a suspension or any violation of the law or regulations governing practice before the IRS while suspended. It is also important to the enforcement of 31 U.S.C. 330 and the integrity of Circular 230 for the IRS to ensure that individuals who are not authorized to practice before the IRS, either because they have been disbarred or because they do not have the required credentials, do not claim authority to practice. Proposed § 10.99(f), therefore, would clarify that the IRS has jurisdiction to make inquiries to determine whether an individual has wrongly held themselves out as a practitioner.

N. Expedited Suspension

Current § 10.81 provides guidance on how practitioners can petition OPR for reinstatement, but it does not address practitioners or appraisers who have been suspended or disqualified through the expedited procedures under current § 10.82. Moreover, while current § 10.82 authorizes the immediate suspension of a practitioner who has engaged in certain conduct, it does not include expedited procedures for appraisers or address the voluntary forfeiture of a license or certification by practitioners or appraisers. Current § 10.81, which is proposed to be redesignated as § 10.101, would allow practitioners or appraisers who have received an expedited suspension or disqualification to petition for reinstatement at any time upon a showing of good cause.

The proposed changes to current § 10.82, which is proposed to be redesignated as § 10.102, explain that practitioners can establish good cause by showing that the conditions giving rise to their expedited suspension or disqualification no longer apply. For example, the restoration of a suspended license, the reversal of a conviction, or the removal of a sanction may be sufficient to show good cause. Proposed § 10.102 would also extend expedited disciplinary proceedings to appraisers who have had a license or certification revoked or suspended by a state licensing or certification board or who have voluntarily forfeited their license or certification. Finally, proposed § 10.102(e)(1)(iii) would clarify that, when a practitioner or appraiser responds to a show cause order but does not request a conference, the IRS will issue a written notice of expedited suspension immediately following consideration of a practitioner or appraiser's response.

Proposed § 10.102(a)(7)(i) and (ii), redesignated from § 10.82(b)(5)(i) and (ii), would only update the cross-references in those provisions. They are otherwise not proposed to be revised, though they are set out in their entirety below for the convenience of the reader. The Treasury Department and IRS do not seek comments on the substance of these provisions, and any such comments would be outside the scope of the proposed regulations.

O. Comments Requested

The Treasury Department and the IRS request comments on all aspects of the proposed regulations. Comments are also specifically requested on whether, in a future regulation, the definition of practitioners eligible to practice before the IRS should be proposed to be expanded to include individuals admitted to practice law in a Tribal court.

Proposed Applicability Date

The proposed regulations are proposed to apply 30 days after date of publication of final regulations in the **Federal Register**.

Special Analyses

I. Regulatory Planning and Review

The Office of Information and Regulatory Affairs has determined that this regulation is not significant and not subject to review under Executive Order 12866 (June 9, 2023). Therefore, a regulatory impact assessment is not required.

II. Initial Regulatory Flexibility Analysis

When the IRS issues a general notice of proposed rulemaking, the Regulatory Flexibility Act (RFA) requires the agency to ''prepare and make available

for public comment an initial regulatory flexibility analysis,'' which will ''describe the impact of the proposed rule on small entities.'' 5 U.S.C. 603(a). Unless an agency determines that a proposal is not likely to have a significant economic impact on a substantial number of small entities, section 603 of the RFA requires the agency to present an initial regulatory flexibility analysis (IRFA) of the proposed rule. The proposed regulations will affect a substantial number of small entities. Because the proposed regulations do not impose new requirements on practitioners or appraisers, the Treasury Department and the IRS do not anticipate that the proposed regulations, if promulgated, would have a significant economic impact on any of the regulated entities. The Treasury Department and the IRS, however, request comments on the potential economic impact of the proposed regulations and include an IRFA.

Description of the reasons why action by the agency is being considered and succinct statement of the objectives of, and the legal basis for, the proposed rule.

As discussed in this preamble, current Circular 230 has not been amended since 2014 and many of its provisions have been made obsolete by current law or need to be updated to reflect the current practice environment. Accordingly, the proposed regulations would eliminate provisions related to tax return preparation outside of practice before the IRS, revise contingent fee rules, and update various standards and procedures. In addition, the definition of appraiser and the procedures for disqualifying appraisers from submitting appraisals in an administrative proceeding before the Treasury Department or the IRS are being amended and updated. Thus, the general objective of the proposed regulations is to align Circular 230 with current law and to clarify or update its standards. None of the revisions, however, propose to impose new standards or burdens on practitioners or appraisers. The proposed regulations would either update long-standing Circular 230 standards or incorporate standards that practitioners or appraisers comply with outside of practice before the IRS. For example, the proposed contingent fee restrictions are also incorporated in other widely applicable rules of professional conduct. Likewise, appraisers are generally already required to meet the broad appraisal standards referenced by the proposed regulations.

The legal basis for the proposed regulations is 31 U.S.C. 330.

Description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply.

The proposed regulations would affect EAs, ERPAs, attorneys, CPAs, and AFSP participants who practice before the IRS. The proposed regulations would also affect appraisers who submit appraisals in an administrative proceeding before the Treasury Department or the IRS. Circular 230 affects both individual practitioners and firms. For example, the flush language of 31 U.S.C. 330(c) authorizes the Secretary, or her delegate, to impose a monetary penalty on a firm if the firm knew or should have known that a representative acting on its behalf intended to defraud a client. Further, proposed § 10.36(a) would require practitioners who oversee a firm's practice to take reasonable steps to ensure that the firm has adequate procedures to comply with Circular 230. However, because the proposed regulations would only affect individual practitioners and appraisers, the economic impact of these regulations on any small entity generally will be the result of an individual practitioner or appraiser owning a small business, or a small business employing a practitioner or appraiser, and the business paying for the individual to maintain its status or to comply with other requirements in the Circular. Because an estimate of the number of small entities to which the proposed rule will apply is not available, the Treasury Department and the IRS considered the estimated number of practitioners and appraisers who will be affected by the proposed rule. Based on IRS records, the total number of impacted practitioners and appraisers is approximately 451,405. Specifically, Centralized Authorization File records, which reflect practitioners who filed third-party authorizations with the IRS, reflect approximately 200,000 unique CPAs, 65,000 unique attorneys, and 40,000 unique practitioners who identify as both attorneys and CPAs as of May 17, 2024. Further, IRS Return Preparer Office (RPO) registration records show approximately 62,383 EAs, 608 ERPAs, 3,402 enrolled actuaries, and 75,357 AFSP participants. Finally, in 2022, the most recent year for which complete data are available, approximately 4,200 unique appraisers signed the ''Declaration of Appraiser'' on a Form 8283, *Noncash Charitable Contributions.* Appraisers sign Forms 8283 for appraisals that are used in connection with a tax return or claim of refund. Thus, the forms represent a reasonable approximation of appraisers who are likely to be covered by these proposed rules.

A description of the projected recordkeeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities that will be subject to such requirements that the type of professional skills necessary for preparation of the report or record.

No reporting or recordkeeping requirements are projected to be associated with the proposed regulations.

Identification, to the extent practicable, of all relevant Federal rules that may duplicate, overlap, or conflict with the proposed rule.

The IRS is not aware of any Federal rules that duplicate, overlap, or conflict with the proposed rule.

Description of any significant alternatives to the proposed rule that accomplish the stated objectives of applicable statutes and that minimize any significant economic impact of the proposed rule on small entities, including a discussion of significant alternatives.

Section 330 of title 31, United States Code authorizes the Secretary, or her delegate, to impose standards on individuals who practice before the Treasury Department and the IRS; to suspend or disbar from practice certain individuals; and to bar certain appraisers from submitting evidence or testimony in any administrative proceeding before the Treasury Department or the IRS. The Treasury Department and the IRS have issued regulations under Circular 230 for these purposes since 1921 and have regularly updated them to reflect changing law and current standards of practice. These updates, including those found in the proposed regulations, are essential to ensure that practitioners and appraisers are competent, reputable and have the necessary requirements to provide taxpayers with valuable service. The proposed regulations could have created a new standard for appraisals submitted in an administrative proceeding before the IRS, but that would have been more burdensome to appraisers. Instead, requiring appraisals to conform in substance and principles to the USPAP or IVS is less costly and burdensome because appraisers are already required to abide by these standards. Further, the proposed regulations could have implemented case law to preclude regulating contingent fee arrangements for preparing original or amended returns and ordinary refund claims, but this position would not have met the objective to discourage unduly

aggressive tax positions that result in evasion or abuse of the Federal tax laws. Therefore, the proposed regulations would adopt a straightforward standard: charging a contingent fee for the preparation of an original return, amended return, or claim for refund or credit prepared prior to the examination of a tax return is disreputable conduct.

III. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may result in expenditures in any one year by a State, local, or Tribal government, in the aggregate, or by the private sector, of $100 million in 1995 dollars, updated annually for inflation. This proposed rule does not include any Federal mandate that may result in expenditures by State, local, or Tribal governments, or by the private sector in excess of that threshold.

IV. Executive Order 13132: Federalism

Executive Order 13132 (Federalism) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on State and local governments, and is not required by statute, or preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. These proposed regulations do not have federalism implications and do not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive order.

V. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments) prohibits an agency from publishing any rule that has Tribal implications if the rule either imposes substantial, direct compliance costs on Indian Tribal governments, and is not required by statute, or preempts Tribal law, unless the agency meets the consultation and funding requirements of section 5 of the Executive order.

The Treasury Department and the IRS will hold a consultation with Tribal leaders to receive Tribal feedback on whether practitioners eligible to practice before the IRS should include individuals admitted to practice law in a Tribal court, which will inform the development of future regulations.

Statement of Availability of IRS Documents

IRS Revenue Procedures, Revenue Rulings, Notices, and other guidance cited in this preamble are published in the Internal Revenue Bulletin (or Cumulative Bulletin) and are available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, or by visiting the IRS website at *https://www.irs.gov.*

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are timely submitted to the Treasury Department and the IRS as prescribed in this preamble under the **ADDRESSES** heading. The Treasury Department and the IRS request comments on all aspects of the proposed regulations. Any electronic and paper comments submitted will be available at *https://www.regulations.gov* or upon request. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn.

A public hearing is being held on March 6, 2025, beginning at 10 a.m. ET, in the Auditorium at the Internal Revenue Building, 1111 Constitution Avenue NW, Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. Participants may alternatively attend the public hearing by telephone.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit an outline of the topics to be discussed as well as the time to be devoted to each topic by February 24, 2025. A period of ten minutes will be allocated to each person for making comments. After the deadline for receiving outlines has passed, the IRS will prepare an agenda containing the schedule of speakers. Copies of the agenda will be made available free of charge at the hearing. If no outlines of the topics to be discussed at the hearing are received by February 24, 2025, the public hearing will be cancelled. If the public hearing is cancelled, a notification of cancellation of the public hearing will be published in the **Federal Register**.

Individuals who want to testify in person at the public hearing must send an email to *publichearings@irs.gov* to have your name added to the building access list. The subject line of the email must contain the regulation number REG–116610–20 and, the language TESTIFY In Person. For example, the subject line may say: Request to TESTIFY In Person at Hearing for REG–116610–20.

Individuals who want to testify by telephone at the public hearing must send an email to *publichearings@irs.gov* to receive the telephone number and access code for the hearing. The subject line of the email must contain the regulation number REG–116610–20 and the language TESTIFY Telephonically. For example, the subject line may say: Request to TESTIFY Telephonically at Hearing for REG–116610–20.

Individuals who want to attend the public hearing in person without testifying must also send an email to *publichearings@irs.gov* to have your name added to the building access list. The subject line of the email must contain the regulation number (REG–116610–20) and the language ATTEND In Person. For example, the subject line may say: Request to ATTEND Hearing In Person for REG–116610–20. Requests to attend the public hearing must be received by 5 p.m. ET on March 4, 2025.

Individuals who want to attend the public hearing telephonically without testifying must also send an email to *publichearings@irs.gov* to receive the telephone number and access code for the hearing. The subject line of the email must contain the regulation number (REG–116610–20) and the language ATTEND Hearing Telephonically. For example, the subject line may say: Request to ATTEND Hearing Telephonically for REG–116610–20. Requests to attend the public hearing must be received by 5 p.m. ET on March 4, 2025.

Hearings will be made accessible to people with disabilities. To request special assistance during the hearing, contact the Publications and Regulations Branch of the Office of Associate Chief Counsel (Procedure and Administration) by sending an email to *publichearings@irs.gov* (preferred) or by telephone at (202) 317–6901 (not a toll-free number) by at least March 3, 2025.

Drafting Information

The principal author of these regulations is William J. Prater of the Office of the Associate Chief Counsel (Procedure and Administration). However, other personnel from the Treasury Department and the IRS participated in the development of the regulations.

Withdrawal of Notice of Proposed Rulemaking

The Treasury Department and the IRS withdraw the notice of proposed rulemaking (REG–113289–08) that was published in the **Federal Register** on July 28, 2009 (74 FR 37183) under the authority of 31 U.S.C. 330.

List of Subjects in 31 CFR Part 10

Accountants, Administrative practice and procedure, Lawyers, Reporting and recordkeeping requirements, Taxes.

Proposed Amendments to the Regulations

Accordingly, the Treasury Department and the IRS propose to amend 31 CFR part 10 as follows:

PART 10—PRACTICE BEFORE THE INTERNAL REVENUE SERVICE

■ **Paragraph 1.** The authority for 31 CFR part 10 continues to read as follows:

Authority: Sec. 3, 23 Stat. 258, secs. 2–12, 60 Stat. 237 *et seq.;* 5 U.S.C. 301, 500, 551–559; 31 U.S.C. 321; 31 U.S.C. 330; Reorg. Plan No. 26 of 1950, 15 FR 4935, 64 Stat. 1280, 3 CFR, 1949–1953 Comp., P. 1017.

■ **Par. 2.** Part 10 is amended by removing the language ''taxpayer'', ''taxpayers'', and ''taxpayer's'' wherever they appear and adding the language ''client'', ''clients'', and ''client's'' in their places, respectively.

■ **Par. 3.** Section 10.0 is revised to read as follows:

§ 10.0 Scope of part.

(a) *In general.* This part contains rules governing the recognition of attorneys, certified public accountants, enrolled agents, enrolled retirement plan agents, enrolled actuaries, and other persons representing clients before the Internal Revenue Service. This part also establishes standards for appraisers who submit appraisals or present evidence or testimony to the Department of the Treasury or the Internal Revenue Service (IRS). Subpart A of this part sets forth rules relating to the authority to practice before the IRS; subpart B of this part prescribes the duties and restrictions relating to subpart A; subpart C of this part prescribes incompetence and disreputable conduct; subpart D of this part sets forth standards relating to the disqualification of appraisers and prescribes sanctions for violating the standards; subpart E of this part prescribes the sanctions for violating the standards in subparts B through D; subpart F of this part contains the rules applicable to disciplinary proceedings and general provisions relating to the availability of official records.

(b) *Applicability date.* This section is applicable beginning on [date 30 days after date of publication of final regulations in the **Federal Register**].

■ **Par. 4.** Section 10.2 is amended by:

■ 1. Revising paragraphs (a)(4) through (6).

■ 2. Removing paragraphs (a)(7) and (8).

■ 3. Revising paragraph (b).

The revisions read as follows:

§ 10.2 Definitions.

(a) * * *

(4) *Practice before the Internal Revenue Service* comprehends all matters connected with a presentation to the Internal Revenue Service or any of its officers or employees relating to a client's rights, privileges, or liabilities under laws or regulations administered by the Internal Revenue Service. Such presentations include, but are not limited to, preparing documents; filing documents; corresponding and communicating with the Internal Revenue Service; rendering written advice with respect to any entity, transaction, plan or arrangement, or other plan or arrangement having a potential for tax avoidance or evasion; and representing a client at conferences, hearings, and meetings. Any action that supports a presentation to the Internal Revenue Service, including the preparation and submission of tax returns in connection with representing a client in a matter before the Internal Revenue Service, may constitute practice before the Internal Revenue Service.

(5) *Practitioner* means any individual described in § 10.3(a), (b), (c), (d), or (e).

(6) A *tax return* includes an amended tax return and a claim for refund or credit within the meaning of section 6696(e)(2) of the Internal Revenue Code, such as a claim for refund or credit made on IRS Form 843, *Claim for Refund and Request for Abatement.*

(b) This section is applicable beginning on [date 30 days after date of publication of final regulations in the **Federal Register**].

■ **Par. 5.** Section 10.3 is amended by:

■ 1. Revising paragraphs (c), (d)(3), and (e)(1) and (3).

■ 2. Removing paragraph (f).

■ 3. Redesignating paragraphs (g) through (j) as paragraphs (f) through (i).

■ 4. Revising newly redesignated paragraph (i).

The revisions read as follows:

§ 10.3 Who may practice.

* * * * *

(c) *Enrolled agents.* Any individual enrolled as an agent pursuant to this part who is not currently under suspension or disbarment from practice before the Internal Revenue Service, and whose valid enrollment is active and has not been terminated under § 10.6, may practice before the Internal Revenue Service.

(d) * * *

(3) An individual who practices before the Internal Revenue Service pursuant to paragraph (d)(1) of this section is subject to the provisions of this part in the same manner as attorneys, certified public accountants, enrolled agents, and enrolled retirement plan agents.

(e) * * *

(1) Any individual enrolled prior to February 12, 2016, as a retirement plan agent pursuant to this part who is not currently under suspension or disbarment from practice before the Internal Revenue Service, and whose enrollment is not in inactive status or has not been terminated under § 10.6, may practice before the Internal Revenue Service.

* * * * *

(3) An individual who practices before the Internal Revenue Service pursuant to paragraph (e)(1) of this section is subject to the provisions of this part in the same manner as attorneys, certified public accountants, enrolled agents, and enrolled actuaries.

* * * * *

(i) *Applicability date.* This section is applicable beginning on [date 30 days after date of publication of final regulations in the **Federal Register**].

■ **Par. 6.** Section 10.4 is amended by:

■ 1. Revising the section heading.

■ 2. Removing paragraphs (b) through (d).

■ 3. Redesignating paragraphs (e) and (f) as paragraphs (b) and (c).

■ 4. Revising newly redesignated paragraph (c).

The revisions read as follows:

§ 10.4 Eligibility to become an enrolled agent.

* * * * *

(c) *Applicability date.* This section is applicable beginning on [date 30 days after date of publication of final regulations in the **Federal Register**]. Former IRS employees must apply for special enrollment in accordance with 31 CFR 10.4(d), revised as of July 1, [year to be determined], on or before [date 30 days after date of publication of final regulations in the **Federal Register**].

■ **Par. 7.** Section 10.5 is amended by revising the section heading and paragraphs (a), (b), (d)(2), (e), and (g) to read as follows:

§ 10.5 Application to become an enrolled agent.

(a) *Form; address.* An applicant to become an enrolled agent must apply as required by forms or procedures established and published by the Internal Revenue Service, including proper execution of required forms under oath or affirmation. The address on the application will be the address under which a successful applicant is enrolled and is the address to which all correspondence concerning enrollment will be sent.

(b) *Fee.* A reasonable nonrefundable fee may be charged for each application to become an enrolled agent. *See* 26 CFR part 300.

* * * * *

(d) * * *

(2) If the applicant does not pass the tax compliance or suitability check, the applicant will not be issued a confirmation of enrollment pursuant to § 10.6(b). An applicant who is initially denied enrollment for failure to pass a tax compliance check may reapply after the initial denial if the applicant becomes current with respect to the applicant's tax liabilities.

(e) *Temporary recognition.* On receipt of a properly executed application, the Commissioner, or delegate, may grant the applicant temporary recognition to practice pending a determination as to whether status as an enrolled agent should be granted. Temporary recognition will be granted only in unusual circumstances and it will not be granted, in any circumstance, if the application is not regular on its face, if the information stated in the application, if true, is not sufficient to warrant granting the application to practice, or if the Commissioner, or delegate, has information indicating that the statements in the application are untrue or that the applicant would not otherwise qualify to become an enrolled agent. Issuance of temporary recognition does not constitute either a designation or a finding of eligibility as an enrolled agent, and the temporary recognition may be withdrawn at any time.

* * * * *

(g) *Applicability date.* This section is applicable beginning on [date 30 days after date of publication of final regulations in the **Federal Register**].

■ **Par. 8.** Section 10.6 is amended by:

■ 1. Revising the section heading and paragraphs (a), (b), (c), and (d)(1) and (2).

■ 2. Removing paragraph (d)(4).

■ 3. Redesignating paragraphs (d)(5) through (7) as paragraphs (d)(4) through (6).

■ 4. Revising newly redesignated paragraphs (d)(4) and (6) and paragraph (e) introductory text.

■ 5. Removing paragraph (e)(1)(iii).

■ 6. Redesignating paragraph (e)(1)(iv) as paragraph (e)(1)(iii).

■ 7. Removing paragraphs (e)(3) and (f)(1)(iii).

■ 8. Revising paragraphs (f)(2)(ii) heading, (f)(2)(iii)(C), (i)(4) and (5), and (j)(2).

■ 9. In paragraph (j)(3), removing the language ''or inactive registered individuals'' from the end of the first sentence.

■ 10. Revising paragraphs (j)(4) through (6), (k), (l), and (n).

The revisions read as follows:

§ 10.6 Term and renewal of status as an enrolled agent or enrolled retirement plan agent.

(a) *Term.* Each individual authorized to practice before the Internal Revenue Service as an enrolled agent or enrolled retirement plan agent will be accorded active enrollment status subject to renewal of enrollment as provided in this part.

(b) *Confirmation of enrollment.* The Internal Revenue Service will issue an enrollment document (such as an enrollment card or other document) to an individual who meets the enrollment requirements in this paragraph (b) and whose application to practice before the Internal Revenue Service is approved. This approval will be valid for the period stated on the enrollment document. An enrolled agent or enrolled retirement plan agent may not practice before the Internal Revenue Service without a valid approval. The enrollment document is in addition to any notification that may be provided to each individual who obtains a preparer tax identification number.

(c) *Change of address.* An enrolled agent or enrolled retirement plan agent must send notification of any change of address to the address specified by the Internal Revenue Service within 60 days of the change of address. This notification must include the enrolled agent's or enrolled retirement plan agent's name, prior address, new address, tax identification number(s) (including preparer tax identification number), and the date the change of address is effective. Unless this notification is sent, the address for purposes of any correspondence from the appropriate Internal Revenue Service office responsible for administering this part will be the address reflected on the practitioner's most recent application for enrollment, or application for renewal of enrollment. A practitioner's change of address notification under this part will not constitute a change of the practitioner's last known address for purposes of section 6212 of the Internal Revenue Code.

(d) * * *

(1) *In general.* Enrolled agents or enrolled retirement plan agents must renew their status with the Internal Revenue Service to maintain eligibility to practice before the Internal Revenue Service. Failure to receive notification from the Internal Revenue Service of the renewal requirement will not be justification for the individual's failure to satisfy the requirement of this paragraph (d).

(2) *Renewal period for enrolled agents.* (i) Applications for renewal of status as an enrolled agent will be required between November 1 and January 31 every three years according to the last digit of the individual's Social Security number or tax identification number. Those individuals who receive initial enrollment as an enrolled agent after November 1 and before April 2 of the applicable renewal period will not be required to renew their enrollment before the first full renewal period following the receipt of their initial enrollment.

(ii) Enrolled agents who have a Social Security number or tax identification number that ends with the numbers 0, 1, 2, or 3, except for those individuals who received their initial enrollment after November 1, 2024, must apply for renewal between November 1, 2024, and January 31, 2025. The renewal will be effective April 1, 2025.

(iii) Enrolled agents who have a Social Security number or tax identification number that ends with the numbers 4, 5, or 6, except for those individuals who received their initial enrollment after November 1, 2025, must apply for renewal between November 1, 2025, and January 31, 2026. The renewal will be effective April 1, 2026.

(iv) Enrolled agents who have a Social Security number or tax identification number that ends with the numbers 7, 8, or 9, or who do not have a Social Security number, except for those individuals who received their initial enrollment after November 1, 2026, must apply for renewal between November 1, 2026, and January 31, 2027. The renewal will be effective April 1, 2027.

* * * * *

(4) *Notification of renewal.* After review and approval, the Internal Revenue Service will notify the individual of the renewal and will issue the individual a document evidencing

current status as an enrolled agent or enrolled retirement plan agent.

* * * * *

(6) *Forms.* Forms required for renewal may be obtained by sending a written request to the address specified by the Internal Revenue Service or from such other source as the Internal Revenue Service will publish in the Internal Revenue Bulletin (*see* 26 CFR 601.601(d)(2)(ii)(*b*)) and on the Internal Revenue Service website.

(e) *Condition for renewal: continuing education.* To qualify for renewal as an enrolled agent or enrolled retirement plan agent an individual must certify in the manner prescribed by the Internal Revenue Service that the individual has satisfied the requisite number of continuing education hours.

* * * * *

(f) * * *

(2) * * *

(ii) *Correspondence or individual study programs (including recorded programs).* * * *

(iii) * * *

(C) The maximum continuing education credit for instruction and preparation may not exceed six hours annually for enrolled agents and enrolled retirement plan agents.

* * * * *

(i) * * *

(4) If a request for waiver is not approved, the individual will be placed in inactive status. The individual will be notified that the waiver was not approved and that the individual has been placed on a roster of inactive enrolled agents or enrolled retirement plan agents.

(5) If the request for waiver is not approved, the individual may file a protest as prescribed by the Internal Revenue Service in forms, instructions, or other appropriate guidance. A protest filed under this section is not governed by subpart F of this part.

* * * * *

(j) * * *

(2) The continuing education records of an enrolled agent or enrolled retirement plan agent may be reviewed to determine compliance with the requirements and standards for renewal as provided in paragraph (f) of this section. As part of this review, the enrolled agent or enrolled retirement plan agent may be required to provide the Internal Revenue Service with copies of any continuing education records required to be maintained under this part. If the enrolled agent or enrolled retirement plan agent fails to comply with the requirement in this paragraph (j)(2), any continuing education hours claimed may be disallowed.

* * * * *

(4) Individuals in inactive status and individuals who are ineligible to practice before the Internal Revenue Service may not state or imply that they are eligible to practice before the Internal Revenue Service, or use the terms enrolled agent or enrolled retirement plan agent, the designations *EA* or *ERPA,* or other form of reference to eligibility to practice before the Internal Revenue Service.

(5) An individual placed in inactive status may be reinstated to an active status by filing an application for renewal and providing evidence of the completion of all required continuing education hours for the enrollment cycle. Continuing education credit under this paragraph (j)(5) may not be used to satisfy the requirements of the enrollment cycle in which the individual has been placed back on the active roster.

(6) An individual placed in inactive status must file an application for renewal and satisfy the requirements for renewal as set forth in this section within three years of being placed in inactive status. Otherwise, the name of such individual will be removed from the inactive status roster and the individual's status as an enrolled agent or enrolled retirement plan agent will terminate. Future eligibility for active status must then be reestablished by the individual as provided in this section.

* * * * *

(k) *Inactive retirement status.* An individual who no longer practices before the Internal Revenue Service may request to be placed in an inactive retirement status at any time and such individual will be placed in an inactive retirement status. The individual will be ineligible to practice before the Internal Revenue Service. An individual who is placed in an inactive retirement status may be reinstated to an active status by filing an application for renewal and providing evidence of the completion of the required continuing education hours for the enrollment cycle. Inactive retirement status is not available to an individual who is ineligible to practice before the Internal Revenue Service or an individual who is the subject of a pending disciplinary matter under this part.

(l) *Renewal while under suspension or disbarment.* An individual who is ineligible to practice before the Internal Revenue Service by virtue of disciplinary action under this part is required to conform to the requirements for renewal of enrollment before the individual's eligibility is restored.

* * * * *

(n) *Applicability date.* This section is applicable beginning on [date 30 days after date of publication of final regulations in the **Federal Register**].

■ **Par. 9.** Section 10.7 is amended by adding paragraph (c)(1)(viii) and revising paragraph (f) to read as follows:

§ 10.7 Representing oneself; participating in rulemaking; limited practice; and special appearances.

* * * * *

(c) * * *

(1) * * *

(viii) An individual who possesses a current Annual Filing Season Program (AFSP) Record of Completion may represent a client before revenue agents, customer service representatives, or similar officers and employees of the Internal Revenue Service, including the Taxpayer Advocate Service, during an examination of a tax return or claim for refund or credit that the individual prepared and signed. The individual must have: a valid Record of Completion for the calendar year in which the tax return or claim for refund or credit was prepared and signed and a valid Record of Completion for the year or years in which the representation occurs.

* * * * *

(f) *Applicability date.* This section is applicable beginning on [date 30 days after date of publication of final regulations in the **Federal Register**].

■ **Par. 10.** Section 10.8 is revised to read as follows:

§ 10.8 Participation in IRS proceedings by non-practitioners.

(a) *Furnishing Information.* Any individual, except appraisers who have been disqualified pursuant to § 10.61(a), including non-practitioners, may appear as a witness before the Internal Revenue Service, or furnish information at the request of the Internal Revenue Service or any of its officers or employees.

(b) *Applicability date.* This section is applicable beginning on [date 30 days after date of publication of final regulations in the **Federal Register**].

■ **Par. 11.** Section 10.9 is amended by:

■ 1. In paragraph (a)(2)(i), removing the language ''and pay any applicable user fee'' from the end of the paragraph.

■ 2. In paragraph (a)(2)(ii), removing the language ''and paying any applicable user fee'' from the end of the paragraph.

■ 3. In paragraph (a)(4)(i), removing the language ''and pay any applicable user fee'' from the first sentence in the paragraph.

■ 4. Revising paragraph (c).

■ 5. Adding paragraph (d).

The revision and addition read as follows:

§ 10.9 Continuing education providers and continuing education programs.

* * * * *

(c) *Fee.* In addition to any vendor fees that are charged, a continuing education provider may be required to pay a user fee to obtain or renew a continuing education provider number or continuing education provider program number.

(d) *Applicability date.* This section is applicable beginning on [date 30 days after date of publication of final regulations in the **Federal Register**].

■ **Par. 12.** Section 10.21 is revised to read as follows:

§ 10.21 Knowledge of error or omission.

(a) *In general.* A practitioner who, while representing a client in a matter before the Internal Revenue Service, knows that either the client, the practitioner, or a prior practitioner has not complied with the revenue laws of the United States and regulations, or has made an error in or omission from any return, document, affidavit, or other paper that the client submitted or executed under the revenue laws of the United States and regulations, must advise the client promptly of the fact of such noncompliance, error, or omission. The practitioner must advise the client of the consequences of the noncompliance, error, or omission, as provided under the internal revenue laws of the United States and regulations, and recommend the corrective actions, such as disclosure, to be taken.

(b) *Disclosure and continued representation.* If a practitioner is representing a client in a matter before the Internal Revenue Service, the practitioner should request the client's agreement to disclose the noncompliance, error, or omission to the Internal Revenue Service. The practitioner must also take reasonable steps to ensure that the noncompliance, error, or omission is not repeated in subsequent submissions to the Internal Revenue Service. If the client does not agree to disclose the noncompliance, error, or omission, the practitioner should consider whether the practitioner can continue to represent the client before the Internal Revenue Service and meet the obligation to ensure diligence as to accuracy under § 10.22.

(c) *Applicability date.* This section is applicable beginning on [date 30 days after date of publication of final regulations in the **Federal Register**].

■ **Par. 13.** Section 10.22 is amended by revising paragraphs (a)(1) through (3) and (c) to read as follows:

§ 10.22 Diligence as to accuracy.

(a) * * *

(1) In preparing or assisting in the preparation of, approving, or submitting documents, affidavits, and other papers, including tax returns prepared, approved or submitted in connection with representing a client in a matter before the Internal Revenue Service;

(2) In determining the correctness of oral or written representations made by the practitioner when representing a client in a matter before the Internal Revenue Service; and

(3) In determining the correctness of oral or written representations made by the practitioner to clients when representing clients in a matter before the Internal Revenue Service.

* * * * *

(c) *Applicability date.* This section is applicable beginning on [date 30 days after date of publication of final regulations in the **Federal Register**].

§ 10.27 [Removed]

■ **Par. 14.** Section 10.27 is removed.

■ **Par. 15.** Section 10.30 is amended by revising paragraphs (a)(1) and (e) to read as follows:

§ 10.30 Solicitation.

(a) * * *

(1) A practitioner may not, with respect to any Internal Revenue Service matter, in any way use or participate in the use of any form of public communication or private solicitation containing a false, fraudulent, or coercive statement or claim; or a misleading or deceptive statement or claim. Enrolled agents and enrolled retirement plan agents, in describing their professional designation, may not utilize the term *certified* or imply an employer-employee relationship with the Internal Revenue Service. Examples of acceptable descriptions for enrolled agents are ''enrolled to represent clients before the Internal Revenue Service,'' ''enrolled to practice before the Internal Revenue Service,'' ''admitted to practice before the Internal Revenue Service,'' *EA,* or *E.A.* Similarly, examples of acceptable descriptions for enrolled retirement plan agents are ''enrolled to represent clients before the Internal Revenue Service as a retirement plan agent'' and ''enrolled to practice before the Internal Revenue Service as a retirement plan agent,'' *ERPA,* or *E.R.P.A.*

* * * * *

(e) *Applicability date.* This section is applicable beginning on [date 30 days after date of publication of final regulations in the **Federal Register**].

* * * * *

■ **Par. 16.** Section 10.31 is revised to read as follows:

§ 10.31 Negotiation of payments to clients.

(a) *In general.* A practitioner may not endorse or otherwise negotiate or transfer any paper or electronic check, prepaid or debit card, phone or mobile payment, or other form of payment issued to a client by the government in respect of a Federal tax liability. *Negotiate or transfer* includes directing or accepting payment by any means, electronic or otherwise, into an account owned, controlled by, or held for the benefit of the practitioner or any firm or other entity with which the practitioner is associated.

(b) *Applicability date.* This section is applicable beginning on [date 30 days after date of publication of final regulations in the **Federal Register**].

■ **Par. 17.** Section 10.33 is amended by:

■ 1. Revising the section heading and paragraphs (a) introductory text and (a)(1).

■ 2. Redesignating paragraph (a)(4) as paragraph (a)(7).

■ 3. Adding new paragraph (a)(4) and paragraphs (a)(5) and (6).

■ 4. Revising paragraph (b).

■ 5. Removing paragraph (c).

The revisions and additions read as follows:

§ 10.33 Best practices for tax practitioners.

(a) *Best practices.* Tax practitioners should provide clients with the highest quality representation concerning Federal tax issues by adhering to best practices in providing advice and in preparing or assisting in the preparation of a submission to the Internal Revenue Service. In addition to compliance with the standards of practice provided elsewhere in this part, best practices include the following:

(1) Communicating clearly with the client regarding the terms of the engagement, including those relating to fees, expenses, and payment. For example, the practitioner should determine the client's expected purpose for and use of the advice and should have a clear understanding with the client regarding the form and scope of the advice or assistance to be rendered.

* * * * *

(4) Maintaining a policy related to data security safeguards with respect to a client's tax return or other confidential information. Practitioners should also consider developing an incident response plan with specific procedures for responding to a data breach and for disclosure of data breaches to clients.

(5) Identifying, evaluating, and addressing a mental impairment, whether chronic or temporary, arising out of or related to age, substance abuse, a physical or mental health condition, or other circumstance that may have an adverse impact on a tax practitioner's ability to provide the highest quality representation of a client before the Internal Revenue Service.

(6) Establishing a business continuity and succession plan that addresses procedures and safeguards in the event of the sale or cessation of the practitioner's practice, the practitioner's death or disability, or the occurrence of extraordinary events such as a natural disaster, cyberattack, or pandemic.

* * * * *

(b) *Applicability date.* This section is applicable beginning on [date 30 days after date of publication of final regulations in the **Federal Register**].

■ **Par. 18.** Section 10.34 is amended by revising the section heading and paragraphs (a) heading, (a)(1)(i) introductory text, (c)(1)(i) and (ii), and (d) and (e) to read as follows:

§ 10.34 Standards with respect to tax returns, documents, affidavits, and other papers prepared or submitted while representing a client before the Internal Revenue Service.

(a) *Tax returns prepared or submitted while representing a client in a matter before the IRS.* (1) * * *

(i) Prepare, while representing a client in a matter before the Internal Revenue Service or, for tax returns prepared by the practitioner prior to the representation, including returns already filed with the Internal Revenue Service, submit a tax return or claim for refund or a claim for a credit that the practitioner knows or reasonably should know contains a position that—

* * * * *

(c) * * *

(1) * * *

(i) A position taken on a tax return that is relevant to the representation of a client in a matter before the Internal Revenue Service if—

(A) The practitioner provided written advice, as defined under § 10.37, to the client with respect to the position; or

(B) The practitioner prepared and submitted the tax return while representing the client in a matter before the IRS.

(ii) Any document, affidavit or other paper submitted in a matter before the Internal Revenue Service.

* * * * *

(d) *Relying on information furnished by clients.* A practitioner advising a client to take a position on a tax return, document, affidavit or other paper submitted in a matter before the Internal Revenue Service, generally may rely in good faith without verification upon information furnished by the client. However, the practitioner may not ignore the implications of information furnished to, or actually known by, the practitioner, and must make reasonable inquiries if the information as furnished appears to be incorrect, inconsistent with an important fact or another factual assumption, or incomplete.

(e) *Applicability date.* This section is applicable beginning on [date 30 days after date of publication of final regulations in the **Federal Register**].

■ **Par. 19.** Section 10.35 is amended by adding a sentence at the end of paragraph (a) and revising paragraph (b) to read as follows:

§ 10.35 Competence.

(a) * * * Competency includes understanding the benefits and risks associated with relevant technology that is used by the practitioner to provide services to clients or to store and transmit tax return and other confidential information.

(b) This section is applicable beginning on [date 30 days after date of publication of final regulations in the **Federal Register**].

■ **Par. 20.** Section 10.36 is amended by revising paragraphs (a) and (c) to read as follows:

§ 10.36 Procedures to ensure compliance.

(a) Any individual subject to the provisions of this part who has (or individuals who have or share) principal authority and responsibility for overseeing a firm's practice governed by this part, including, while representing a client, the provision of advice concerning Federal tax matters or the preparation or submission of documents in a matter before the Internal Revenue Service, must take reasonable steps to ensure that the firm has adequate procedures in effect for all members, associates, and employees (whether or not those individuals are otherwise subject to this part) for purposes of complying with subparts A through C of this part, as applicable (including the best practices described in § 10.33(a)). In the absence of a person or persons identified by the firm as having the principal authority and responsibility described in this paragraph (a), the Internal Revenue Service may identify one or more individuals subject to the provisions of this part responsible for compliance with the requirements of this section.

* * * * *

(c) This section is applicable beginning on [date 30 days after date of publication of final regulations in the **Federal Register**].

■ **Par. 21.** Section 10.37 is amended by revising the section heading and paragraphs (b)(2), (c), (d) introductory text, (d)(2), and (e) to read as follows:

§ 10.37 Requirements for written tax advice.

* * * * *

(b) * * *

(2) The practitioner knows or reasonably should know that the other person is not competent or lacks the necessary qualifications to provide the advice, or is unaware of all relevant facts and circumstances; or

* * * * *

(c) *Standard of review.* 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 reasonable practitioner standard, considering all facts and circumstances, including, but not limited to, the scope of the engagement, the practitioner's knowledge of the client's particular circumstances, and the type and specificity of the advice sought by the client.

(d) *Federal tax matter.* A Federal tax matter, as used in this section, is any transaction, plan, arrangement, or other matter (whether prospective or completed), which is of a type that the Internal Revenue Service determines as having a potential for tax avoidance or evasion, concerning the application or interpretation of—

* * * * *

(2) Any provision of law impacting a person's obligations under the internal revenue laws and regulations, including but not limited to the person's liability to pay tax, ability to take a specific return position (whether prospective or completed), or obligation to file returns; or

* * * * *

(e) *Applicability date.* This section is applicable beginning on [date 30 days after date of publication of final regulations in the **Federal Register**].

§§ 10.38, 10.91, and 10.93 [Removed]

■ **Par. 22.** Sections 10.38, 10.91, and 10.93 are removed.

§§ 10.50, 10.51, 10.52, 10.53, 10.60, 10.61, 10.62, 10.63, 10.64, 10.65, 10.66, 10.67, 10.68, 10.69, 10.70, 10.71, 10.72, 10.73, 10.74, 10.75, 10.76, 10.77, 10.78, 10.79, 10.80, 10.81, 10.82, 10.90, and 10.92 [Redesignated as §§ 10.70, 10.50, 10.71, 10.72, 10.80, 10.81, 10.82, 10.83, 10.84, 10.85, 10.86, 10.87, 10.88, 10.89, 10.90, 10.91, 10.92, 10.93, 10.94, 10.95, 10.96, 10.97, 10.98, 10.99, 10.100, 10.101, 10.102, 10.100, and 10.113]

■ **Par. 23.** Redesignate the sections in the first column as the sections in the second column:

Current section:	New section:
10.50	10.70
10.51	10.50
10.52	10.71
10.53	10.72
10.60	10.80
10.61	10.81
10.62	10.82
10.63	10.83
10.64	10.84
10.65	10.85
10.66	10.86
10.67	10.87
10.68	10.88
10.69	10.89
10.70	10.90
10.71	10.91
10.72	10.92
10.73	10.93
10.74	10.94
10.75	10.95
10.76	10.96
10.77	10.97
10.78	10.98
10.79	10.99
10.80	10.100
10.81	10.101
10.82	10.102
10.90	10.110
10.92	10.113

■ **Par. 24.** Revise the heading for subpart C to read as follows:

Subpart C—Incompetence or Disreputable Conduct

■ **Par. 25.** Newly redesignated § 10.50 is amended by:
■ 1. Revising paragraphs (a) introductory text and (a)(12).
■ 2. Adding paragraph (a)(19).
■ 3. Revising paragraph (b).
■ 4. Adding paragraph (c).

The revisions and additions read as follows:

§ 10.50 Incompetence or disreputable conduct.

(a) *Incompetence or disreputable conduct.* Incompetence or disreputable conduct for which a practitioner may be sanctioned under § 10.70 includes actions that relate to a practitioner's fitness to practice before the Internal Revenue Service, regardless of whether those actions are connected to a presentation to the Internal Revenue Service as defined under § 10.2(a)(4). Incompetence or disreputable conduct includes, but is not limited to—

* * * * *

(12) Contemptuous conduct in connection with practice before the Internal Revenue Service (or during any proceeding pursuant to § 10.80 or an investigation by the Treasury Inspector General for Tax Administration), including the use of abusive or otherwise contemptuous acts or language, making false accusations or statements, knowing them to be false, or circulating or publishing malicious or libelous matter.

* * * * *

(19) Willfully failing to follow any Federal tax law.

(b) *Assessment of certain penalties.* Assessment against a practitioner of a penalty related to a willful attempt to understate tax liabilities under section 6694(b) of the Internal Revenue Code (Code); aiding or abetting in the understatement of tax liabilities under section 6701 of the Code; careless, reckless, or intentional disregard for applicable rules or regulations (within the meaning of 26 CFR 1.6662–3(b)(2) and 1.6694–3(c)) under section 6662(b)(1) of the Code; or promotion of abusive tax shelters under section 6700 of the Code will be considered a violation of paragraph (a)(7) of this section. The assessment of any of these penalties, however, is not required to show a violation of paragraph (a)(7) of this section.

(c) *Applicability date.* This section is applicable beginning on [date 30 days after date of publication of final regulations in the **Federal Register**].

■ **Par. 26.** New § 10.51 is added to subpart C to read as follows:

§ 10.51 Fees that constitute disreputable conduct.

(a) *Unconscionable fees.* Charging an unconscionable fee is disreputable conduct.

(b) *Contingent fees.* Charging a contingent fee in connection with the preparation of an original or amended tax return or claim for refund or credit prepared prior to the examination of the tax return is disreputable conduct.

(1) *Preparation of an original or amended tax return or claim for refund or credit* includes providing advice that is directly relevant to determining the existence, character, or amount of an item, entry, or another portion of a tax return or claim for refund, including any schedules that are part of the tax return or claim for refund or credit.

(2) *Contingent fee* is any fee that is based in whole or in part on whether or not a position taken on a tax return or other filing avoids challenge by the Internal Revenue Service or is sustained either by the Internal Revenue Service or in litigation. A contingent fee includes a fee that is based on a percentage of the refund reported on a tax return, that is based on a percentage of the taxes saved, or that otherwise depends on the specific tax result attained. A contingent fee also includes any fee arrangement in which the practitioner will reimburse the client for all or a portion of the client's fee in the event that a position on a tax return or other filing is challenged by the Internal Revenue Service or is not sustained, whether pursuant to an indemnity agreement, a guarantee, rescission rights, or any other arrangement with a similar effect.

(c) *Applicability date.* This section is applicable beginning on [date 30 days after date of publication of final regulations in the **Federal Register**].

■ **Par. 27.** Revise the heading for subpart D to read as follows:

Subpart D—Appraisers

■ **Par. 28.** Add new §§ 10.60 through 10.62 to subpart D to read as follows:

* * * * *

Sec.

* * * * *

§ 10.60 Definitions.

(a) *Appraiser.* The term *appraiser* means any individual who determines the market value of any asset to support a position taken on a tax return or in an administrative proceeding. Appraisers include, but are not limited to, individuals who meet the definition of a ''qualified appraiser'' under section 170(f)(11)(E) of the Internal Revenue Code.

(b) *Administrative proceeding.* An administrative proceeding for purposes of this subpart, includes any matter or other action before the Department of the Treasury or the Internal Revenue Service that involves the presentation of documents, testimony, or other evidence. Administrative proceedings include, but are not limited to, investigations, examinations, appeals, and collection actions.

(c) *Applicability date.* This section is applicable beginning on [date 30 days after date of publication of final regulations in the **Federal Register**].

§ 10.61 Disqualification of appraisers.

(a) *Authority to disqualify appraisers.* The Commissioner, or delegate, after due notice and an opportunity for a

hearing, may disqualify an appraiser for violations of any of the standards under paragraph (b) of this section or for the disreputable conduct described under paragraph (c) of this section. Disqualification may include a finding that appraisals by such appraiser will have no probative effect in an administrative proceeding or barring an appraiser from presenting evidence or testimony in any administrative proceeding before the Department of the Treasury or the Internal Revenue Service.

(1) The disqualification of an appraiser will remain in effect until the appraiser is authorized to present evidence or testimony pursuant to § 10.101. The prohibition applies to appraisals, evidence, and testimony submitted or presented by the appraiser and is not limited to a specific appraisal or client. The prohibition also applies to appraisals made before the effective date of disqualification.

(2) Any appraisal made by a disqualified appraiser after the effective date of disqualification will not have probative effect in any administrative proceeding before the Department of the Treasury or the Internal Revenue Service. An appraisal otherwise barred from admission into evidence pursuant to this section may be admitted into evidence solely for the purpose of determining the client's reliance in good faith on such appraisal.

(b) *Appraisal standards and prohibited conduct.* (1) All appraisals submitted in an administrative proceeding should conform to the substance and principles of generally accepted appraisal standards as evidenced by the Uniform Standards of Professional Appraisal Practice (USPAP) promulgated by the Appraisal Standards Board of the Appraisal Foundation or the International Valuation Standards (IVS) promulgated by the International Valuation Standards Council (IVSC).

(2) An appraiser may not prepare an appraisal, where the appraiser knew or reasonably should have known that it would be submitted during an administrative proceeding and used to support a substantial valuation misstatement as defined in section 6662(e) of the Internal Revenue Code (Code), a substantial estate or gift tax valuation understatement as defined in section 6662(g), or a gross valuation misstatement as defined in section 6662(h).

(c) *Disreputable conduct.* An appraiser who has been assessed a penalty under section 6694, 6695A, 6700, or 6701 of the Code, for which it is determined that the appraiser acted willfully, recklessly, or through gross incompetence with respect to the proscribed conduct may be disqualified for engaging in disreputable conduct.

(d) *Misconduct triggering disqualification.* An appraiser may be disqualified under § 10.61(a) if the appraiser:

(1) Willfully violates any of the standards described in paragraphs (b)(1) and (2) of this section.

(2) Recklessly or through gross incompetence engages in a pattern of submitting appraisals that violate the standards described in paragraph (b)(1) of this section.

(3) Recklessly or through gross incompetence violates the standard described in paragraph (b)(2) of this section.

(4) Engages in the disreputable conduct described in paragraph (c) of this section.

(e) *Defenses to disqualification.* If an appraiser shows compliance with the substance and principles of USPAP standards or IVS with all relevant appraisals, the showing will be taken into account as a defense in determining whether the appraiser acted willfully, recklessly, or though gross incompetence with respect to a violation of paragraph (b)(2) or (c) of this section.

(f) *Applicability date.* This section is applicable beginning on [date 30 days after date of publication of final regulations in the **Federal Register**].

§ 10.62 Receipt of information concerning appraisers.

(a) *Officer or employee of the Internal Revenue Service.* If an officer or employee of the Internal Revenue Service has reason to believe an appraiser has violated § 10.61(b)(1) or (2) or has been assessed a penalty under section 6694, 6695A, 6700, or 6701 of the Internal Revenue Code, the officer or employee will promptly make a written report of the suspected violation. The report will explain the facts and reasons upon which the officer's or employee's belief rests and must be submitted to the office(s) of the Internal Revenue Service responsible for administering or enforcing this part.

(b) *Other persons.* Any person other than an officer or employee of the Internal Revenue Service having information of misconduct described in § 10.61(d) may make an oral or written report of the alleged misconduct to the office(s) of the Internal Revenue Service responsible for administering or enforcing this part or any officer or employee of the Internal Revenue Service. If the report is made to an officer or employee of the Internal Revenue Service, the officer or employee will make a written report of the suspected misconduct and submit the report to the office(s) of the Internal Revenue Service responsible for administering and enforcing this part.

(c) *Destruction of report.* No report made under paragraph (a) or (b) of this section will be maintained unless retention of the report is permissible under the applicable records control schedule as approved by the National Archives and Records Administration and designated in the Internal Revenue Manual. Reports must be destroyed as soon as permissible under the applicable records control schedule.

(d) *Effect on proceedings under subpart E of this part.* The destruction of any report will not bar any proceeding under subpart E but will preclude the use of a copy of the report in a proceeding under subpart E.

(e) *Applicability date.* This section is applicable to conduct occurring on or after [date 30 days after date of publication of final regulations in the **Federal Register**].

■ **Par. 29.** Revise the heading for subpart E to read as follows:

Subpart E—Sanctions for Violation of the Regulations

§§ 10.70, 10.71, and 10.72 [Transferred to Subpart E]

■ **Par. 30.** Newly redesignated §§ 10.70, 10.71, and 10.72 are transferred to subpart E.

■ **Par. 31.** Newly redesignated § 10.70 is amended by:

■ 1. Removing paragraph (b).

■ 2. Redesignating paragraphs (c) through (f) as paragraphs (b) through (e).

■ 3. Revising newly redesignated paragraph (e).

The revision reads as follows:

§ 10.70 Sanctions.

* * * * *

(e) *Applicability date.* This section is applicable to conduct occurring on or after [date 30 days after date of publication of final regulations in the **Federal Register**].

■ **Par. 32.** Newly redesignated § 10.71 is revised to read as follows:

§ 10.71 Violations subject to sanction.

(a) A practitioner may be sanctioned under § 10.70 if the practitioner—

(1) Willfully violates any of the regulations (other than § 10.33) contained in this part; or

(2) Recklessly or through gross incompetence (within the meaning of § 10.50(a)(13)) violates § 10.34, § 10.35, § 10.36, or § 10.37.

(b) This section is applicable to conduct occurring on or after [date 30

days after date of publication of final regulations in the **Federal Register**].

■ **Par. 33.** Newly redesignated § 10.72 is amended by revising paragraphs (d) and (e) to read as follows:

§ 10.72 Receipt of information concerning practitioner.

* * * * *

(d) *Effect on proceedings under subpart F of this part.* The destruction of any report will not bar any proceeding under subpart F but will preclude the use of a copy of the report in a proceeding under subpart F.

(e) *Applicability date.* This section is applicable to conduct occurring on or after [date 30 days after date of publication of final regulations in the **Federal Register**].

■ **Par. 34.** Add subpart F to read as follows:

Subpart F—Rules Applicable to Disciplinary Proceedings and General Provisions

§§ 10.80 through 10.102, 10.110, and 10.113 [Transferred to Subpart F]

■ **Par. 35.** Newly redesignated §§ 10.80 through 10.102, 10.110, and 10.113 are transferred to subpart F.

■ **Par. 36.** Newly redesignated § 10.80 is amended by revising paragraphs (b) and (d) to read as follows:

§ 10.80 Institution of proceeding.

* * * * *

(b) Whenever the Secretary of the Treasury, or delegate, determines that the appraiser acted willfully, recklessly, or through gross incompetence, or engaged in disreputable conduct, as defined under § 10.61(d)(1) through (4), with respect to the proscribed conduct, the appraiser may, in accordance with this section, be subject to a proceeding for disqualification. A proceeding for disqualification of an appraiser is instituted by the filing of a complaint, the contents of which are more fully described in § 10.82.

* * * * *

(d) This section is applicable beginning on [date 30 days after date of publication of final regulations in the **Federal Register**].

■ **Par. 37.** Newly redesignated § 10.85 is amended by:

■ 1. Revising paragraph (a)(2).

■ 2. Adding paragraph (a)(3).

■ 3. Revising paragraph (c).

The revisions and addition read as follows:

§ 10.85 Supplemental charges.

(a) * * *

(2) It appears that the respondent has knowingly introduced false testimony during the proceedings against the respondent; or

(3) It appears that the respondent has engaged in contemptuous conduct within the meaning of § 10.50(a)(12) during the proceedings against the respondent.

* * * * *

(c) *Applicability date.* This section is applicable beginning on [date 30 days after date of publication of final regulations in the **Federal Register**].

■ **Par. 38.** Newly redesignated § 10.99 is amended by revising paragraph (e) and adding paragraphs (f) and (g) to read as follows:

§ 10.99 Effect of disbarment, suspension, or censure.

* * * * *

(e) *Jurisdiction to investigate compliance with censure, suspension, or disqualification.* A practitioner or appraiser who is censured, suspended, or disqualified under § 10.61(a), § 10.70, or § 10.102 will be considered a practitioner or appraiser for the purpose of investigating whether the practitioner or appraiser is in compliance with the terms of their censure, suspension, or disqualification. Censured, suspended, or disqualified practitioners or appraisers may face additional sanctions or disbarment for any violation.

(f) *Jurisdiction to investigate disbarred practitioners and non-practitioners.* The IRS may investigate a practitioner disbarred under § 10.70 or a non-practitioner to determine whether they are wrongly holding themselves out as practitioners.

(g) *Applicability date.* This section is applicable beginning on [date 30 days after date of publication of final regulations in the **Federal Register**].

■ **Par. 39.** Newly redesignated § 10.101 is revised to read as follows:

§ 10.101 Petition for reinstatement.

(a) *In general.* A practitioner disbarred or suspended under § 10.70, or an appraiser disqualified under § 10.61, may petition for reinstatement before the Internal Revenue Service after the expiration of 5 years following such disbarment, suspension, or disqualification (or immediately following the expiration of the suspension or disqualification period, if shorter than 5 years). A practitioner or appraiser suspended or disqualified under § 10.102 may petition for reinstatement at any time upon a showing of good cause as described in § 10.102(f)(2). Reinstatement will not be granted unless the Internal Revenue Service determines that the petitioner is not likely to engage thereafter in conduct contrary to the regulations in this part, and that granting such reinstatement would not be contrary to the public interest.

(b) *Applicability date.* This section is applicable beginning on [date 30 days after date of publication of final regulations in the **Federal Register**].

■ **Par. 40.** Newly redesignated § 10.102 is amended by:

■ 1. Revising the section heading.

■ 2. Removing paragraph (a).

■ 3. Redesignating paragraphs (b) through (h) as paragraphs (a) through (g).

■ 4. Revising newly redesignated paragraphs (a), (b) introductory text, (b)(2) and (4), and (e) through (g).

The revisions and additions read as follows:

§ 10.102 Expedited suspension or disqualification.

(a) *When applicable.* The expedited suspension procedures in this section are initiated by issuing the show cause order described under paragraph (d) of this section. A show cause order will be issued to any practitioner or appraiser for whom paragraph (a)(1), (2), (3), (4), (5), (6), or (7) of this section is true within the 5 years prior to the date that the show cause order was issued. The expedited procedures described in this section may be used to suspend the practitioner from practice before the Internal Revenue Service, disqualify an appraiser from presenting evidence or testimony in any administrative proceeding before the Department of the Treasury or the Internal Revenue Service, or find that any appraisal made by a disqualified appraiser after the effective date of disqualification will not have probative effect in any administrative proceeding before the Department of the Treasury or the Internal Revenue Service.

(1) A practitioner has a license to practice as an attorney, certified public accountant, or actuary suspended or revoked for cause (not including failure to pay a professional licensing fee) by any authority or court, agency, body, or board described in § 10.50(a)(10).

(2) An appraiser has a license or certification to conduct appraisals revoked or suspended by any state licensing or certification board.

(3) A practitioner or appraiser has voluntarily forfeited a practitioner's or appraiser's license or certification after any authority described in paragraph (a)(1) or (2) of this section initiated an investigation of, or proceeding against, the practitioner or appraiser for alleged violations of applicable standards or rules of conduct for which the practitioner's or appraiser's license or certification could be suspended or

revoked for cause, if proven. Voluntary forfeiture includes retirement, resignation, consensual permanent inactivation, or similar action.

(4) A practitioner has, irrespective of whether an appeal has been taken, been convicted of any crime under title 26, United States Code, any crime involving dishonesty or breach of trust, or any felony for which the conduct involved renders the practitioner unfit to practice before the Internal Revenue Service.

(5) A practitioner has violated conditions imposed on the practitioner pursuant to § 10.99(d).

(6) A practitioner has been sanctioned by a court of competent jurisdiction, whether in a civil or criminal proceeding (including suits for injunctive relief), relating to any client's tax liability or relating to the practitioner's own tax liability, for—

(i) Instituting or maintaining proceedings primarily for delay;

(ii) Advancing frivolous or groundless arguments; or

(iii) Failing to pursue available administrative remedies.

(7) A practitioner 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 (b) 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 (e) of this section; or

(ii) Failing to make a return required more frequently than annually, in violation of the Federal tax laws, during 5 of the 7 tax periods immediately preceding the institution of a proceeding under paragraph (b) 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 (e) of this section.

(b) *Expedited suspension or disqualification procedures.* A suspension or disqualification under this section will be proposed by a show cause order that names the respondent, is signed by an authorized representative of the Internal Revenue Service under § 10.89(a)(1), and is served according to the rules set forth in § 10.83(a). The show cause order must give a plain and concise description of the allegations that constitute the basis for the proposed suspension or disqualification. The show cause order must notify the respondent—

* * * * *

(2) That an expedited suspension or disqualification decision by default may be rendered if the respondent fails to file a response as required;

* * * * *

(4) That the respondent may be suspended or disqualified either immediately following the expiration of the period within which a response must be filed or, if a conference is requested, immediately following the conference.

* * * * *

(e) *Suspension or disqualification*—(1) *In general.* The Commissioner, or delegate, may suspend the respondent from practice before the Internal Revenue Service or disqualify an appraiser from presenting evidence or testimony in any administrative proceeding before the Department of the Treasury or Internal Revenue Service by a written notice of expedited suspension or disqualification immediately following:

(i) The expiration of the period within which a response to a show cause order must be filed if the respondent does not file a response as required by paragraph (c) of this section;

(ii) The conference described in paragraph (d) of this section if the Internal Revenue Service finds that the respondent is described in paragraph (a) of this section;

(iii) If the respondent has not requested a conference, upon consideration of any response described in paragraph (c) of this section; or

(iv) The respondent's failure to appear, either personally or through an authorized representative, at a conference scheduled by the Internal Revenue Service under paragraph (d) of this section.

(2) *Duration of suspension or disqualification.* A suspension or disqualification under this section will commence on the date that the written notice of expedited suspension or disqualification is served on the practitioner or appraiser, either personally or through an authorized representative. The suspension or disqualification will remain effective until the earlier of:

(i) The date the Internal Revenue Service lifts the suspension or disqualification upon receipt of a petition for reinstatement under § 10.101 and after determining that the practitioner or appraiser has shown good cause based on all the relevant facts and circumstances why the suspension or disqualification should be lifted and the individual reinstated to practice; or

(ii) The date the suspension or disqualification is lifted or otherwise modified by an Administrative Law Judge or the Secretary of the Treasury, or delegate deciding appeals, in a proceeding referred to in paragraph (f) of this section and instituted under § 10.80.

(3) *Good cause.* For purposes of this paragraph (e), a suspended practitioner or disqualified appraiser may show good cause when, for example, the individual was suspended or disqualified:

(i) Under paragraphs (a)(1) through (3) of this section, and the individual's license or certificate to practice as an attorney, certified public accountant, actuary, or appraiser has been restored;

(ii) Under paragraph (a)(4) of this section, and the conviction was reversed on appeal, with no retrial underway or pending;

(iii) Under paragraph (a)(5) of this section, and the individual is no longer in violation of the conditions imposed on the individual under § 10.99(d) and the individual either fully satisfied the conditions or is compliant with them if they are still in effect;

(iv) Under paragraph (a)(6) of this section, and the individual has satisfied any terms of the court-imposed sanction, such as payment of a monetary sanction or completion of mandated hours of pro bono work; has not been sanctioned again for the same or substantially similar conduct by a court or any other authority described in § 10.50(a)(10); and has ceased the conduct that resulted in the sanction (for example, ceased advancing frivolous or groundless arguments in matters before the Internal Revenue Service and courts or other tribunals); or

(v) Under paragraph (a)(7) of this section, and the individual is fully compliant with the individual's tax filing and payment obligations, including any installment agreement or other payment arrangement entered into with the Internal Revenue Service.

(f) *Demand for § 10.80 proceeding.* If the Internal Revenue Service suspends a practitioner or disqualifies an appraiser under the expedited suspension procedures described in this section, the practitioner or appraiser may demand that the Internal Revenue Service institute a proceeding under § 10.80 and issue the complaint described in § 10.82. The demand must be in writing, specifically reference the suspension or disqualification action under § 10.82, and be made within 2 years from the date on which the practitioner's suspension or appraiser's disqualification commenced. The Internal Revenue Service must issue a complaint demanded under this paragraph (f) within 60 calendar days of

receiving the demand. If the Internal Revenue Service does not issue such complaint within 60 days of receiving the demand, the suspension or disqualification is lifted automatically. The preceding sentence does not, however, preclude the Commissioner, or delegate, from instituting a regular proceeding under § 10.80.

(g) *Applicability date.* This section is applicable beginning on [date 30 days after date of publication of final regulations in the **Federal Register**].

■ **Par. 41.** Newly redesignated § 10.110 is amended by:

■ 1. Removing paragraph (a)(4).

■ 2. Redesignating paragraphs (a)(5) and (6) as paragraphs (a)(4) and (5).

■ 3. Revising paragraph (c).

The revision reads as follows:

§ 10.110 Records.

* * * * *

(c) *Applicability date.* This section is applicable beginning on [date 30 days after date of publication of final regulations in the **Federal Register**].

■ **Par. 42.** Sections 10.111 and 10.112 are added to read as follows:

§ 10.111 Establishment of advisory committees.

(a) *Advisory committees.* To promote and maintain the public's confidence in tax advisors, the Internal Revenue Service is authorized to establish one or more advisory committees composed of at least six individuals authorized to practice before the Internal Revenue Service. Membership of an advisory committee must be balanced among those who practice as attorneys, accountants, enrolled agents, enrolled actuaries, and enrolled retirement plan agents. Under procedures prescribed by the Internal Revenue Service, an advisory committee may review and make general recommendations regarding the practices, procedures, and policies of the offices described in § 10.1.

(b) *Applicability date.* This section is applicable beginning on [date 30 days after date of publication of final regulations in the **Federal Register**].

§ 10.112 Saving provision.

Any proceeding instituted under this part prior to [date 30 days after date of publication of final regulations in the **Federal Register**], for which a final decision has not been reached or for which judicial review is still available is not affected by the revisions to this part effective [effective date of final regulations]. Any proceeding under this part based on conduct engaged in prior to [date 30 days after date of publication of final regulations in the **Federal Register**], which is instituted after that date, will apply this subpart, but the conduct engaged in prior to [effective date of final regulations], will be judged by the regulations in effect at the time the conduct occurred.

■ **Par. 43.** Section 10.114 is added to read as follows:

§ 10.114 Applicability date.

Except as otherwise provided in any section of this part and subject to § 10.112, the provisions of this part are applicable on [date 30 days after date of publication of final regulations in the **Federal Register**].

Douglas W. O'Donnell,

Deputy Commissioner.

Aviva R. Aron-Dine,

Deputy Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2024–29371 Filed 12–20–24; 4:15 pm]

BILLING CODE 4830–01–P

DEPARTMENT OF EDUCATION

34 CFR Part 30

[Docket ID ED–2023–OPE–0123]

RIN 1840–AD95

Student Debt Relief Based on Hardship for the William D. Ford Federal Direct Loan Program (Direct Loans), the Federal Family Education Loan (FFEL) Program, the Federal Perkins Loan (Perkins) Program, and the Health Education Assistance Loan (HEAL) Program; Withdrawal

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Withdrawal of notice of proposed rulemaking and termination of rulemaking proceeding.

SUMMARY: The U.S. Department of Education (Department) is withdrawing a notice of proposed rulemaking (NPRM) that, under the Secretary's authority to waive repayment of a loan provided by the Higher Education Act of 1965, as amended (HEA), proposed to specify the Secretary's authority to waive all or part of any student loan debts owed to the Department based on the Secretary's determination that a borrower has experienced or is experiencing hardship related to such a loan.

DATES: The notice of proposed rulemaking published in the **Federal Register** at 89 FR 87130 on October 31, 2024, is withdrawn as of December 20, 2024.

FOR FURTHER INFORMATION CONTACT: Tamy Abernathy, U.S. Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW, 5th floor, Washington, DC 20202. Telephone: (202) 245–4595. Email: *NegRegNPRMHelp@ed.gov.*

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7–1–1.

SUPPLEMENTARY INFORMATION:

Background

On October 31, 2024, the Department published an NPRM in the **Federal Register** that, in accordance with the Secretary's authority to waive repayment of a loan provided by sections 432(a)(6) and 468(2) of the HEA, would specify the Secretary's discretion to provide debt relief to borrowers who are experiencing or have experienced hardship related to their loans. *See* 89 FR 87130. The proposed regulations would modify the Department's existing debt collection regulations to provide greater specificity regarding the Secretary's discretion to waive Federal student loan debt. The proposed rule outlines two pathways for discretionary relief: (i) a predictive assessment offering individualized, automatic waivers based on the borrower's likelihood of default to provide immediate relief as soon as practicable; and (ii) a holistic assessment of the borrower's circumstances based on an application or information within the Department's possession to address persistent hardships not sufficiently addressed by other Department programs.

The Department accepted public comments on the NPRM from October 31, 2024 through December 2, 2024. In response to the NPRM, the Department received 14,735 written comments, and the Department reviewed such comments.

Withdrawal of the Notice of Proposed Rulemaking and Termination of the Rulemaking Proceeding

In accordance with the Secretary's authority under sections 432(a)(6) and 468(2) of the HEA to waive repayment of a loan, the Department issued the NPRM to specify the Secretary's discretion to provide targeted debt relief to borrowers who have experienced or are experiencing hardship repaying their student loans based on the criteria specified in the NPRM.[1]

[1] As the Department noted in the NPRM, these proposed regulations related to hardship are separate from the proposals for student debt relief specified in the Notice of Proposed Rulemaking issued on April 17, 2024 (April 2024 NPRM) (89 FR 27564), which is the subject of a separate Notice of Withdrawal. These proposed regulations differ from the waivers in the April 2024 NPRM along various dimensions, including that the provisions in this