

January 17, 2023

David J. Holets, Chair
AICPA SSTS Revision Task Force
SSTScomments@aicpa-cima.com

RE: Exposure Draft – Revised Statements on Standards for Tax Services and Invitation to Comment

Dear Mr. Holets:

The Texas Society of Certified Public Accountants (TXCPA) is a nonprofit, voluntary professional organization representing more than 28,000 members. One of the expressed goals of the TXCPA is to speak on behalf of its members when such action is in the best interest of its constituency and serves the cause of the CPAs of Texas, as well as the public interest. TXCPA has established a Federal Tax Policy Committee to represent those interests on tax-related matters. The committee has been authorized by the TXCPA Board of Directors to submit comments on such matters of interest to the committee membership. The views expressed herein have not been approved by the Board of Directors or Executive Board and, therefore, should not be construed as representing the view or policies of the TXCPA.

Part 1: Exposure Draft of Proposed Revisions to the SSTSs

SSTS No. 1, General Standards for Members Providing Tax Services

- 1.2 Knowledge of Errors.
 - Introduction 1.2.2 refers to an “insignificant impact” on the taxpayer’s liability. The importance of “insignificance” is such that this section should refer to Explanation 1.2.17 that addresses insignificance.
 - Explanation 1.2.15 states in instances of “possible exposure to allegations of fraud or other criminal misconduct, the member should advise the taxpayer to consult with an attorney before the taxpayer takes any action.”
 - Consider adding the word “promptly” before the word “advise” as many members may not be aware that continued communications with a taxpayer in this instance could make the member a witness in any proceedings or investigations by a governmental authority against the taxpayer. Consider also adding that a member should focus on assisting the taxpayer in contacting an attorney as soon as possible so that the taxpayer can obtain proper legal counsel in the context of privileged discussions without inadvertently making the member a witness in the matter.
 - In Statement 1.3.5, consider a reference to the requirements of the *Gramm Leach Bliley Act*. The Act is mentioned in Explanation 1.3.11 but not specifically in the statements.

- 1.3 Data Protection.
 - When discussing data security, consider a specific reference to and discussion of the use of non-U.S. based servers and solutions, including possible disclosures to clients on where their data will be stored.
- 1.4 Reliance on Tools.
 - Explanation 1.4.6 refers to giving weight to subscription-based resources over opinion articles from independent internet sources. Implying that all opinion-based articles carry any weight is dangerous. In addition, consider referencing Statement 1.1.6 that discusses professional judgment in the use of tools.

SSTS No. 2, Standards for Members Providing Tax Compliance Services, Including Tax Return Positions

- No comment.

SSTS No. 3, Standards for Members Providing Tax Consulting Services

- No comment.

SSTS No. 4, Standards for Members Providing Tax Representation Services

- Statement 4.1.3 references Section 10.35 of Circular 230.
 - Other technical competence references, such as to applicable rules of the various state boards of public accountancy, are also relevant.
- Statement 4.1.5 includes a sentence that reads, "This includes not unduly delaying or impeding the taxing authority."
 - Consider replacing this sentence with the following: "This includes complying with all applicable authority governing the timeliness for responding to the taxing authority."
- Statement 4.1.6 states that information should be provided "unless there is a good-faith belief that the information is privileged."
 - Consider expanding the above language to include the following, "or otherwise not required or permitted under applicable law."
 - Consider expanding this to also require that the submission of requested information be limited to information relevant to the issues in the tax controversy unless otherwise required under applicable law. In addition, information that is provided should be complete and not misleading.
 - This statement should also reference Sections 10.21 and 10.22 of Circular 230.
- Statement 4.1.8.
 - Consider deleting the language, "detailing the results of the examination for correctness," as this could be read to impose a duty on a member to essentially conduct a tax examination.
 - Consider also referencing other tax representation matters including, for example, collection matters.
- Explanation 4.1.9, in describing "competency," it references "the rules of tax practice and procedure."
 - Consider expanding the second sentence to also include taxpayer rights, such as, "...the rules of tax practice, procedure and taxpayer rights...."

- Explanation 4.1.10.
 - Subsection a. references consulting with “a local law firm.”
 - Consider striking this phrase and replacing it with “appropriate authorities.” Appropriate authorities may include legal professionals, regulatory agencies and malpractice insurance carriers. Many local law firms may have no particular expertise in what constitutes the unauthorized practice of law.
 - Subsection d. references a conflict of interest.
 - Consider changing to “conflict of interest, including how that term may be defined by the relevant tax authority...”
 - The last phrase, “such as...,” proceeds to reference a specific example that is so narrow as to be seriously misleading. Consider omitting or significantly expanding this.
- Explanation 4.1.11 requires compliance with “all” conflict of interest standards.
 - Consider replacing the term “all” with “the most restrictive and applicable...”
 - Consider including a reference to Section 10.29 of Circular 230 as well as the limiting Section 1.000.020 that is superseded, for example, in federal tax matters by the cited section of Circular 230.

SSTS, Questions for Respondents

- ED1. Do you agree with the reorganization of the current SSTSs, and will it enhance their use and understanding? Please explain the rationale behind your response.
 - No comment.
- ED2. Based on review of the proposed changes to the SSTSs, is there any other subject matter which you believe should be revised or deleted from the SSTSs? If so, please provide the rationale.
 - No comment.
- ED3. Are the proposed new standards (data protection, reliance on tools and tax representation services) clear and understandable? If you believe more specificity would be helpful, what recommendations would you suggest?
 - In the area of data protection, should consideration be given to the disclosure or use of information by tax preparers similar to the guidance provided by IRC 7216 and the associated Treasury Regulations?
- ED4. What other subjects impact your tax practice or the tax function you perform and should be considered in future revisions to the SSTSs? Please provide details of the recommended additions, together with your reasoning for the proposed changes.
 - No comment.
- ED5. What additional guidance is needed to help you understand, effectively implement and apply the proposed standards to your working environment?
 - No comment.

Part 2: ITC Questions for Respondents (Quality Management in Tax)

- ITC1. How do you define quality management in tax? Please be as specific as possible.

- Documentation of required due diligence questions and answers.
- "Fresh eye" review before issuing:
 - In solo practices, this may mean a cooling-off period between initial preparation and a second look.
 - In larger firms, review by a different competent preparer after the initial preparation.
- Current education on tax matters for area of practice.
- ITC2. What role do you think the AICPA should undertake regarding quality management in tax? Please explain your rationale.
 - Provide checklists.
 - Provide education.
 - Provide technical news updates through publications and blogs.
- ITC3. To preserve the ability to self-regulate, do you believe the AICPA should consider quality management in tax for potential inclusion in future SSTSs? If "no," how should quality management in tax be addressed? Please provide your reasoning.
 - No, there is too much variety in firm size, management and the services they provide. In addition, differences in complexity, types of returns and changing tax laws would make this a burden to the AICPA and its members.
- ITC4. How do you currently approach and ensure adherence to quality management within your tax function? What challenges do you experience? What type of application material would be helpful from the AICPA?
 - Annually updated checklists for all types of returns that we prepare
 - Second and sometimes third reviews by different preparers
 - Required training and updates for tax staff

Summary

We appreciate this opportunity to provide input on the SSTS Exposure Draft and Invitation to Comment. For further information, please feel free to contact me at 214-749-2462 or at dcolmenero@meadowscollier.com or TXCPA Staff Liaison Patty Wyatt at 817-656-5100 or pw Wyatt@tx.cpa.

Sincerely,



David E. Colmenero, J.D., LL.M., CPA
Chair, Federal Tax Policy Committee
Texas Society of Certified Public Accountants