



FISHER & WINNER, LLP
MEMORANDUM

NEW U.S. DEPT. OF TREASURY
RULES GOVERNING CONDUCT OF TAX PRACTITIONERS

New rules became effective June 21, 2005 that govern the conduct of tax practitioners, including lawyers and certified public accountants. The new rules are contained in regulations issued by the United States Treasury Department that have historically governed tax practice before the Internal Revenue Service, "Circular 230." Although the strengthened Circular 230 ultimately seeks to curb the use of abusive tax shelters, the language is broad enough to control how lawyers provide even routine written tax advice to clients. Groups of tax professionals have strongly objected to this expansive impact, but the Treasury Department has refused to limit the scope of the rules to abusive transactions.

In order to comply with Circular 230, we have adopted policies that will change how we provide written tax advice to clients. These policies will govern not only our tax lawyers, but also other lawyers, at Fisher & Winner who provide legal services that indirectly contain federal tax advice. The practical implication of revised Circular 230 on the written Federal tax advice we provide is that the advice must either (i) comply with the strict rules applicable to "formal" legal opinions, or (ii) contain a prominent disclosure that limits any taxpayer's ability to use the advice for purposes of penalty protection.

The disclosure reads as follows:

In accordance with Treasury Regulations Circular 230, we inform you that any tax advice contained in this communication was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any tax-related matter addressed herein.

Because formal legal opinions can be quite costly to produce, most written tax advice we provide to clients will now contain the above disclosure. Failure to comply with Circular 230 may result in public censure or fines of practitioners, and may ultimately limit the ability of a lawyer or an entire firm to continue to practice tax law. Therefore, unless the scope of the rules is limited by the government, we will comply with the new provisions in a manner that best allows us to deliver high-quality tax advice in a cost-efficient manner.

We hope that you understand the necessity of the disclosure, and welcome any questions you may have regarding Circular 230 and its impact on the legal advice we provide.