

## **Penalties for Violations of Regulations**

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### **6.1 Codes and Regulations Governing Tax Professionals**

The IRS processes more than 200 million tax returns each year, many of them prepared by paid tax professionals. Not surprisingly, as tax law becomes increasingly complex, and taxpayers often seek the help offered by insiders such as attorneys, certified public accountants, and professional tax return preparers.

Unfortunately, there have been numerous cases of abuse committed by unscrupulous tax preparers, who, regardless of harming people who gave them their complete trust, acted only with the intention of taking advantage of them. The IRS has legal and criminal authority to address inappropriate tax return preparation, as well as abusive transaction promoters. The Internal Revenue Code contains penalties for stopping fraudulent, unscrupulous, and / or incompetent tax return preparers, abusive transaction promoters, and face-to-face advisers who fail to submit information or maintain listings regarding reportable transactions. The strict assertion of sanctions is a mandatory vehicle for non-compliant tax preparers, promoters and face-to-face advisers.

To help ensure that tax professionals understand their ethical responsibilities in representing their clients before the IRS and in the preparation of their tax returns, the IRS issued Treasury Department Circular 230. Substantial guidance that serves as a guide for tax professionals regarding their ethical responsibilities in preparing taxes and representing their clients before the IRS can be found in Circular 230. In parallel, all tax professionals are governed by the United States Code, Title 26, Internal Revenue Code (IRC or simply Code). The Treasury Department and the IRS have the task and responsibility to ensure that tax preparers adhere to the rules and regulations properly. The rules were designed to protect taxpayers, tax preparers, and the federal government from fraudulent and unscrupulous tax preparers.

There are a series of penalties against tax preparers who either voluntarily, knowingly or not, or through negligence violate the rules governing tax practice. Fines vary based on the severity of the violation and can start as low as \$ 50 per violation, reaching a maximum annual amount if all violations are added together; and it can exceed \$ 10,000 per incident and many times up to years in prison. Additionally, the IRS has the authority to suspend or disable the tax preparer from practicing tax practice for different lengths of time. The regulations are designed to keep disreputable preparers out of the system.

## 6.2 Circular 230

Circular 230 is a document published by the IRS that governs the professional performance to practice as a tax preparer. The rules and regulations included in Circular 230 outline the rules, standards of conduct and sanctions for tax preparers, as well as for lawyers, certified public accountants and all those who participate in tax preparation and representation. Because taxpayers rely on the actions of their tax preparers to adhere to tax laws, it is necessary for tax preparers to comply with the requirements established by the ethics standards of Circular 230 of the Department of the Treasury.

Circular 230 offers substantial guidance regarding:

- ✓ Establish rules regarding the authority to exercise before the IRS;
- ✓ Identify the duties and restrictions related to exercising before the IRS; and
- ✓ Prescribe penalties for violating the regulations.
- ✓ Appears incompetent or disreputable;
- ✓ Does not comply with the rules or regulations; or
- ✓ With the intent to defraud, knowingly and intentionally misleads or threatens a customer or potential customer.

## 6.3 Non-Monetary Sanctions

The following non-monetary sanctions may be imposed on a practitioner who demonstrates that he or she is incompetent or of a bad reputation, who does not comply with applicable laws, or who, with the intent to defraud, knowingly and intentionally misleads or threatens a client or prospect client:

- ✓ Censure

Censure is the least punitive of the three non-monetary sanctions that can be imposed. Censure is the public reprimand of the practitioner and is usually featured in a resolution that convicts a person of misconduct. It is an expression of strong disapproval and harsh criticism. Thus, although censure is the least punitive, it sends a strong message to the practitioner and his colleagues about the practitioner's behavior.

Unlike suspension or disbarment, censure does not affect a person's eligibility to represent a taxpayer before the IRS. However, the Office of Professional Responsibility (OPR) may subject future representations of the practitioner to certain conditions designed to promote high standards of conduct.

- ✓ Suspension

The suspension implies the temporary prohibition that the practitioner is made to practice before the IRS. An individual who has been suspended is not eligible to represent taxpayers before the IRS during the term of the suspension.

For example, in July 2012 the IRS Office of Professional Responsibility reported through announcement 2012-28 that a Florida Certified Public Accountant was suspended indefinitely due

to fraud. The CPA was convicted in state court. In June 2014 the IRS Office of Professional Responsibility published through announcement 2014-20 that a Virginia Enrolled Agent was suspended for 48 months, and his PTIN was revoked indefinitely for tax evasion, providing false information to the Treasury Department and knowing that his PTIN was not active prepared and signed client tax returns.

✓ Disbarment

Disbarment makes the practitioner ineligible to practice before the IRS. Unlike suspension, debarment may or may not be temporary. In many cases, a disqualified practitioner will be able to reapply for the privilege of once again representing clients before the IRS after a specified period, during which they cannot practice. Disbarment is generally the most severe non- monetary sanction that can be imposed on a practitioner by the Department of the Treasury.

For example, a practitioner was disqualified as a result of his conviction for a felony he committed, due to the practitioner's conduct he was deemed unfit to practice before the IRS.

#### 6.4 Monetary Sanctions

In addition to or in lieu of non-monetary penalties, the regulations authorize the Treasury Department to impose monetary penalties on any practitioner who engages in conduct subject to penalties.

In addition, if the practitioner subject to sanction was acting on behalf of an employer or other entity in connection with the conduct giving rise to the penalty, a monetary sanction for the employer or other entity may be imposed if the employer reasonably knew or should have known of such conduct. In other words, if a practitioner's employer knew that the practitioner was engaging in activities that constitute a violation of IRS regulations, they would also be subject to monetary penalties.

The Treasury Department limits the amount of the pecuniary penalty that may be imposed on a practitioner. According to Circular 230 of the Department of the Treasury, the amount of the fine must not exceed the gross income obtained or derived from the conduct of the practitioner that gives rise to the sanction.

Any pecuniary fine imposed on a professional may be, in addition to or in place of suspension, disbarment, or censure and may be in addition to any sanction imposed on an employer or other entity.

For the returns corresponding to fiscal year 2021, some of the various penalties and amounts are:

- ✓ **Failure to present the tax return:** The amount of the tax addition for failure to file a tax return within 60 days of the due date of such return (determined with respect to any extension of time for filing) will not be less than the lesser of \$ 435 or the 100% of the amount that must be shown as tax on such returns.

- ✓ **Other assessable penalties regarding the preparation of tax returns for others:** The amounts of the fine are:

Scenario	Daily penalty	Maximum Penalty
Failure to provide a copy to the taxpayer	\$ 50	\$ 27,000
Not sign the declaration	\$ 50	\$ 27,000
Failure to provide identification number	\$ 50	\$ 27,000
Do not retain a copy or list	\$ 50	\$ 27,000
Failure to submit correct information statements	\$ 50 per statement and per item	\$ 27,000
Check negotiation	\$ 560 per check	No limit
Failure to be diligent in determining eligibility for head of household filing status, child tax credit, American opportunity tax credit, and earned income credit	\$ 560 per failure	No limit

- ✓ **Failure to submit the declaration of the Company or Corporation S:** The dollar amount used to determine the amount of the fine is \$ 210.

## 6.5 Incompetence and Reputation of Misconduct

The incompetence and reputation for misconduct for which a practitioner may be penalized include a wide variety of offenses. The offenses listed in Treasury Department Circular 230 that constitute incompetence and disreputable conduct are:

1. Conviction for committing a criminal offense under federal tax laws.
2. Conviction for committing a crime involving dishonesty or breach of trust.
3. Conviction for committing a felony or felonies under federal or state law and because the practitioner's implicated conduct renders him / her unfit to practice before the IRS.
4. Give false or misleading information or participate in the delivery of false or misleading information, to the Department of the Treasury, or any court authorized to deal with federal tax matters, knowing that the information is false or misleading. The term "information", when used in this context, includes facts or other matters contained in testimony, federal tax returns, financial statements, applications for enrollment, affidavits, statements, and any other oral or written document or statement.
5. The offering of services that in any way violates the regulations contained in Circular 230 of the Treasury Department through the use of false or misleading statements with the intention of deceiving a client or a potential client; or implying that the practitioner is capable of improperly obtaining special consideration or action from the IRS.
6. Knowingly failing to file a federal tax return in violation of federal tax laws, or intentionally evading, or attempting to evade, or participating in any way in the evasion or attempted evasion of any assessment or payment of any federal tax.
7. Intentionally assisting, advising, or inciting a prospective customer or customer to violate any federal tax law, or suggesting a prospective customer or customer violate any federal tax law, or knowingly advising or suggesting a prospective customer or customer of an

illegal plan to evade or pay federal taxes.

8. Misappropriation or failure to promptly remit funds received from a client for the purpose of paying taxes or other obligations to the United States.
9. Attempting to influence or offer or agree to attempt to influence the official action of any IRS official or employee by using threats, false accusations, coercion or duress, by offering any special incentive or promise of an advantage, or by the granting of any gift, favor or item of value.
10. Disbarment or suspension of the practice as a lawyer, certified public accountant, public accountant or actuary by any duly constituted authority.
11. Knowingly assisting and inciting another person to practice before the IRS during such person's period of suspension, disbarment, or illegibility.
12. Act with contemptuous conduct of contempt of authority in relation to the practice before the IRS, including the use of abusive language, making false accusations or statements with knowledge that they are actually false, or distributing or publishing malicious or defamatory matters.
13. Knowingly giving a false opinion, recklessly, or through gross incompetence. A false opinion includes those that reflect or are the result that comes from:
  - a false or erroneous statement with knowledge of the real data or the law,
  - an assertion of a position that is known to be unjustified under current laws,
  - advice or assistance in engaging in conduct known to be illegal or fraudulent,
  - concealing topics that the law requires to be disclosed, or
  - knowingly disregard information indicating that the material facts expressed in the opinion or in the material offered are false or misleading.
14. Willingly not sign a practitioner-prepared tax return when the practitioner's signature is required under federal tax laws unless the problem is due to reasonable cause and not willful negligence.
15. Intentionally disclosing or otherwise using a tax return or tax return information in a manner not authorized by the Internal Revenue Code.
16. Willful failure to comply with filing a practitioner-prepared tax return via magnetic or other electronic means when federal law requires the practitioner to do so, unless the failure to do so is due to reasonable causes and not willful negligence.
17. Intentionally preparing all or substantially all, or signing a tax return or claim for refund when the practitioner does not possess a current or otherwise valid Tax Preparer Identification Number (PTIN) or some other prescribed identification number.
18. Willingly represent a taxpayer before an IRS official or employee unless the practitioner is authorized to do so in accordance with regulations.

## 6.6 Abusive or Fraudulent Tax Preparer

The practice of fraudulent tax preparation generally involves the preparation and orchestrated filing of false tax returns (on paper or electronically) by unscrupulous preparers who come to claim, for example:

- ✓ Inflated expenses, whether personal or business,
- ✓ False deductions, or
- ✓ Disallowed credits or excessive exemptions, fraudulent tax credits, such as the Earned Income Tax Credit.

Dishonest tax preparers use a variety of methods to formulate illegal and fraudulent deductions to reduce taxable income. These include, but are not limited to the following:

- ✓ The fraudulent preparation of Schedule C, *Business Profits or Losses*, claiming deductions for expenses that have not been paid by the taxpayer to offset Form 1099, *Miscellaneous*, or income from outside employment.
- ✓ Include itemized deductions that are false and exaggerated or inflated on Schedule A, *Itemized Deductions*, for charitable contributions or for medical and dental expenses.
- ✓ Claim false losses on Schedule E, *Additional Income and Losses*.
- ✓ Claim false dependents.

Preparer clients may or may not have been aware of the false expenses, deductions, exemptions, or credits that appear on their tax returns.

The following are examples of some of the investigations that have been conducted of fraudulent or abusive tax preparers:

- ✓ Louisiana: Tax Fraud of \$ 10 million and Money Laundering Conspiracies

Jacqueline J. Arias, was sentenced to 97 months in prison, three years of supervised release and restitution of \$10,589,326 for her role in filing false tax returns and money laundering. Arias was also ordered a fine of nearly \$400,000 in cash.

According to court documents, Arias participated in a multi-year scheme to defraud the United States by filing false tax returns that fraudulently claimed large sums in tax refunds. The charges were brought against Arias, his tax preparation business, Arias's husband and 19 other people, all of foreign nationalities.

- ✓ Texas:

### Preparer Tax Convicted for Fraudulent Tax Returns

Ousmane Sow was sentenced to 30 months in prison and one year of supervised release. Ousmane Sow, a Dallas-area tax preparer, pleaded guilty to assisting and assisting in the preparation of fraudulent tax returns. According to court documents, defendant Ousmane Sow

and co-defendant Tichafara Mpariwa provided tax preparation services through a company owned by them and operating under the name DSL Tax Services, LLC. Saw knowingly prepared and caused individual tax returns containing materially false credits and deductions to be filed to fraudulently increase his clients' refunds.

#### Mother and Daughter Convicted of Role in Conspiracy to Commit Tax Fraud

Patricia Foley of "A-Kind Bookkeeping and Tax" was sentenced to 24 months in prison, three years of supervised release and ordered to pay restitution of \$ 842,815 to the IRS. Foley pleaded guilty to one count of conspiracy to commit tax fraud. His daughter, Cassandra Renee Egbert, was sentenced to 18 months in prison, three years of supervised release and ordered to pay, in conjunction with her mother, the same amount of restitution.

According to court documents, Foley and Egbert were involved in preparing and filing fraudulent tax returns with the IRS in which they claimed false deductions and credits that they knew clients were not entitled to receive.

#### ✓ Washington: Tax Preparer Convicted of Filing False Returns

Kyle Baxter, a tax preparer from Olympia, Washington, was sentenced to 24 months in prison and to pay \$ 255,033 in restitution to the Department of Internal Revenue. Baxter pleaded guilty to the fraud that netted him more than \$ 250,000 in three years.

According to court documents, Baxter presented himself as a provider of tax preparation services operating under the name "Baxtax". Over a three-year period, Baxter, a firefighter, filed at least 280 tax returns. Many of his clients were fellow firefighters, EMTs and paramedics. On many tax returns, Baxter claimed deductions and credits for which his clients were clearly ineligible, such as the Child Tax Credit for clients without children. The false tax returns increased the refunds paid by the IRS to customers. Although Baxter provided its clients with paper copies of their tax returns, these returns were not the same that they provided to the IRS.

#### ✓ Florida: Tax Preparer Sentenced to Prison for Preparing False Tax Returns

Raymond Jones, Jr. was sentenced to 16 months in prison and to pay \$ 400,524 in restitution to the IRS.

Jones pleaded guilty to preparing and filing false tax returns. According to court documents, Jones worked as a tax preparer for Express Tax Returns (ETR), using information that taxpayers provided to ETR, Jones was filing false tax returns with the IRS. In preparing a Form 1040, Jones intentionally exaggerated or falsely claimed, among other items, deductions for self-employed retirement plan contributions, education credits, and expenses. He did so, knowing that this would increase his customers' reimbursements.

#### ✓ Ohio: Tax Preparer Sentenced for Conspiracy to Submit Fraudulent Refunds

Ruth Benton was sentenced to 27 months in prison, three years of supervised release, and ordered to pay \$ 748,843 in restitution. Benton pleaded guilty to conspiring to file false federal tax refund claims with the IRS.

According to court documents, Benton conspired with Shacretta Williams and others to prepare and file false claims for federal tax refunds with the IRS for tax year 2010. Benton and Williams had worked together in various tax preparation businesses in Cincinnati, Ohio, including “Your Tax Service” a Benton-owned business that opened its doors in January 2011. Although the conspiracy is limited to income tax for tax year 2010, Benton also prepared false tax returns during tax years 2005 to 2009. Benton prepared false federal tax refund claims since she expected, and often received, a portion of her client's refund once the refund check was cashed.

## 6.7 Analyzing Real-World Ethical dilemmas

Analyzing real-world ethical dilemmas involves examining situations where values, principles, or moral obligations may be in conflict, requiring individuals to make tough decisions with potentially significant consequences. In ethical analysis, key steps include identifying the core ethical issues, understanding the perspectives of all involved parties, evaluating possible actions, and considering the broader impacts on individuals and society. Here are some well-known frameworks for analyzing ethical dilemmas, as well as examples from real-world scenarios:

### 1. Ethical Frameworks for Analysis

- a. **Utilitarianism:** This approach focuses on outcomes, aiming to maximize overall happiness or benefit. A decision is ethical if it leads to the greatest good for the greatest number.
- b. **Deontology:** This principle-based approach, often associated with Kant, emphasizes duty and following rules or obligations, regardless of consequences.
- c. **Virtue Ethics:** Emphasizes the character of the decision-maker, focusing on virtues like honesty, compassion, and integrity, with the belief that moral character drives ethical behavior.
- d. **Ethics of Care:** This perspective emphasizes empathy, relationships, and the responsibility to care for others, particularly in close or dependent relationships.

### 2. Real-World Ethical Dilemmas

- a. **Medical Decision-Making:** During the COVID-19 pandemic, medical professionals faced choices about who to prioritize for life-saving treatment when resources like ventilators and ICU beds were scarce. This dilemma involves balancing utilitarianism (maximizing lives saved) with principles of equity and fairness.
- b. **Technology and Privacy:** Social media companies like Facebook and Twitter face the dilemma of balancing user privacy with data monetization and the free flow of information. Ethical questions arise around user consent, transparency, and the societal impact of personal data usage.
- c. **Environmental Responsibility:** Large corporations, especially in energy and manufacturing, are often confronted with the dilemma of balancing profit and environmental responsibility. Choosing cheaper, environmentally harmful practices may increase profits but can have long-term environmental impacts.

- d. **Corporate Transparency and Accountability:** Whistleblowing cases, such as those involving major corporations or government agencies, present ethical dilemmas about loyalty and honesty. Employees may need to choose between reporting unethical practices to protect the public and maintaining their loyalty to the organization.

## 6.8 Training

### Answer Exercise 1

Guillermo Rodríguez failed to act properly by ignoring the IRS request. By ignoring the IRS request he is not only violating the regulations contained in Circular 230, but he is also falling short of the ethical demands of the profession. Regardless of whether the IRS employee made a mistake in submitting the application, Guillermo should not have ignored the IRS, the IRS employee's mistake is irrelevant.

Guillermo has certain obligations that his role as a tax preparer imposes on him. Upon receiving the request, Guillermo should have taken the following actions:

- ✓ Notify the IRS applicant that he has received his client's request for records.
- ✓ Notify the IRS applicant that the records were not in his possession.
- ✓ Provide the IRS applicant with all the information he had regarding who might possess the requested records.

Finally, Guillermo should have asked his client for the records he owned and sent them to the IRS applicant along with an explanation.

### Answer Exercise 2

Barter is an exchange of goods or services in this case between the tenant and the owner. Mrs. Fernanda Martínez's client must include the fair market value of the goods or services received as an exchange in her income. The client must also deduct the value of any landscaping services provided by their tenant.

Mrs. Fernanda Martínez, regardless of the client's intention of wanting or not to report the exchange agreement of the second rental unit, which must be converted to fair market value and considered as income, has two important immediate obligations:

- ✓ She must inform her client that by not including the fair market value of the landscaping services she received, she would be in breach of the income laws of the United States as she would be omitting the tax base.
- ✓ She must inform her client of the consequences she is exposed to for filing a tax return or other documents to the IRS without including the omitted income.

If, knowing the consequences, the client insists, Mrs. Fernanda Martínez should not sign or

proceed with the client's tax return, since she is aware of the omission of the fair market value of the services that the client received in exchange for the rent.

### **Answer Exercise 3**

Luis' clients may not be telling the truth about the number of children they have. As part of the due diligence, Luis has asked them if their information and records are complete, accurate and they answered yes. This is not enough and neither does it give us a logical answer to the obvious question where the two children that they claim as children came from this year and which they had not claimed in previous years.

Luis has to do his due diligence thoroughly. Due diligence is not simply asking the client if the information and documentation is true, accurate and complete. What due diligence requires in this case is detailed and reasonable questioning by Luis of his clients.

Some of the obvious questions he needs to discover the truth in this case are:

- ✓ Why didn't you report those two children last year?
- ✓ Why don't the children have the same last name as their other two children?
- ✓ Request birth certificates for both children.
- ✓ Where do the children live? Request proof of residence.
- ✓ What school do they go to? Request recent documentation from the school.
- ✓ Who is the children's pediatrician? Request documentation of recent vaccinations.

After asking several questions and reviewing the documents requested of their clients, the couple revealed that the two children are actually children of their sister and brother-in-law who do not have social security and that the two children live with their parents and not with the clients. But they want to claim them to be able to get the credit and give it to the parents of the children who need it.

After obtaining customer responses to these questions and any other appropriate follow-up questions, Luis should document all customer responses in his records. He also has a duty to inform his clients that the IRS may examine their tax return and, if it is found to be incorrect or fraudulent, it may impose penalties for fraud. Customers must return the amount of the error with interest to the IRS. Additionally, the IRS could also prohibit customers from claiming EITC credit in the future.

Luis has a lot to lose if he decides to practice his profession without paying attention to the requirements of accuracy and due diligence, as well as putting his reputation at risk by failing to evaluate the veracity of his client's claims. If Luis does not comply with the due diligence requirements:

- ✓ The IRS can fine \$560 against him for each such breach.
- ✓ Luis may be subject to disciplinary action by the IRS Office of Professional Responsibility.
- ✓ Luis may face suspension or expulsion from participation in IRS electronic filing (e-file).

- ✓ Luis may be excluded from the tax return preparation practice.

If the IRS finds that the case should be subject to a criminal investigation, Luis could be subject to criminal prosecution after it has been proven that he committed fraud.

#### Answer Exercise 4

Circular 230 clearly states, the return of client documents or records includes: “All written or electronic documents or materials, provided by the client to the practitioner, or obtained by the practitioner in the course of professional representation of the client, that existed before the client hired the services of the practitioner”.

Susana had to return to the client all the documents or records that were given to her in order to prepare the tax return, even if she had not received any remuneration for her services. Since she did not receive any payment for her services, Susana is not required to provide the client with the tax return that she prepared.

Although Circular 230 states that a professional must immediately return the client's file, applicable state laws in the state where Susana practices may allow her to retain them. However, even if the law allows the retention of client records, Susan must return to the client the records that must be attached to the client's tax return. In such a case, Susan must provide the client access to review and copy all additional records necessary for the client to comply with federal tax obligations.

#### Answer Exercise 5

Ricardo's actions are entirely within the ethical standards of conduct regarding conflicts of interest and comply with the requirements of Circular 230. Although a practitioner is generally not allowed to represent clients before the IRS if there is a conflict of interest, Ricardo met all of the following requirements:

- ✓ The practitioner reasonably believes that he will be able to provide competent and diligent representation to each affected client.
- ✓ Representation is not prohibited by law.
- ✓ Each affected client waives the conflict of interest and gives informed consent, confirmed in writing by each affected client at the time the practitioner learns of the conflict of interest. This written confirmation can be made within a reasonable period of time after informed consent, but in no case within a period of more than 30 days.
- ✓ This written confirmation may be made within a reasonable period of time after the consent is informed, but in no case later than 30 days after it.
- ✓ The practitioner must retain copies of the written consents for at least 36 months after the date of completion of the representation of the affected clients. Written consents must be provided to any IRS official or employee, whenever requested.

## Answer Exercise 6

Flavio has committed several ethical violations related to the offering of services and the publication of fees for services.

Let's start by analyzing his professional description, it could be said that it is ambiguous and even misleading since it could be understood that Flavio has a professional experience of ten years as an Enrolled Agent, which is not true. Flavio could have been more specific as follows: Flavio Mac, Enrolled Agent, EA, more than ten years of tax preparation experience and one year of Enrolled Agent experience.

On the other hand, Flavio publishes that he is "100% certified by the IRS to represent him in tax matters". By posting that he is certified by the IRS he is in direct violation of the regulations of Circular 230, which specifically indicates that, in the description of their professional designation, an Enrolled Agent may not use the term "certified". The IRS recommends using the following terminology "registered to represent taxpayers before the IRS".

Finally, Flavio did not specify in the advertisement that he would only grant the discount offered to the people who presented the advertisement or the flyer, therefore, Flavio must comply with applying the 25% discount to all individual tax preparations during the first month of the season. According to Circular 230, a practitioner cannot charge more than the published fees for at least 30 calendar days after the last publication date of the fees.

## Answer Exercise 7

The owner of Alltax was very wise to remember and put into practice the regulations of Circular 230 which says that practitioners are prohibited from endorsing or otherwise negotiating (directly or through an agent) any check issued (by any means including the electronic version of the check) by the government in respect of taxpayers' federal tax debt.

Practitioners who endorse or otherwise negotiate (directly or through an agent) any check issued under the circumstances outlined in the preceding paragraph must pay a fine of \$560 for each check.

## Answer Exercise 8

In this case, Mrs. Ana Gámez is not only violating the regulations related to ethics established in Circular 230, Ana practiced the unauthorized practice of the law (UPL). The unauthorized practice of law includes all branches of the law, not limited to certain types of laws. According to the United States Office of Citizenship and Immigration Services (USCIS) Only certain individuals are allowed to represent immigrants seeking asylum, residency, work permits, and any other immigration matter before the United States government. These include attorneys and law students under the supervision of a legal aid program, or individuals specifically accredited and authorized to deal with immigration matters.

Ana had to limit herself to preparing taxes and communicating to her client the general regulations

governing the tax treatment of income. Regarding the immigration issue, Ana should have suggested that her client seek the professional services of an immigration attorney. Ana had to abstain from providing legal advice and from carrying out immigration procedures for Mrs. Carmen and her family. Ana, not having the proper training, nor the knowledge of immigration laws, nor the credentials required to practice the legal profession, exposed Mrs. Carmen and her family to painful consequences.

Ana is not only violating the ethical rules identified in Circular 230, by participating in these practices, which is leaving open the possibilities of civil and criminal actions against her. In this case, it is very likely that the court will rule in favor of Mrs. Carmen.