

NEW REQUIREMENTS UNDER IRS CIRCULAR 230

Effective June 21, 2005, the Treasury Department revised the standards of practice before the Internal Revenue Service (“IRS”) relating to requirements that must be followed when tax practitioners provide written advice regarding Federal tax issues. These regulations are published as part of IRS Circular 230.

The primary focus of the revisions is on written Federal tax advice concerning transactions considered to be tax shelter transactions. The language of the new provisions is quite broad and goes beyond tax shelters as it covers advice provided in connection with legitimate business transactions that are structured in a tax-efficient manner. The IRS Circular 230 requirements apply to all written forms of Federal tax advice, including not only formal legal opinions, but also written advice contained in private offering memoranda, letters, draft contracts, memos, e-mails, and other documents. The new standards require written tax advice to take the form of a complete and detailed opinion regarding Federal tax matters affecting a transaction or to specifically state that it is not such an opinion and therefore cannot be relied upon for the purpose of avoiding penalties imposed by the Internal Revenue Code.

Attorneys at Hancock & Estabrook, LLP who provide tax advice are required to comply with IRS Circular 230. Therefore, the manner in which we provide such advice to our clients will be affected by its provisions. Specifically, written advice given by members of our tax-related practice areas will contain a legend that clearly states that the advice is not intended by the practitioner, and cannot be relied upon by the client, for the purpose of avoiding penalties as a result of Federal tax positions taken by the client in connection with the transaction. Although the specific wording may vary depending on the circumstances, you will see a legend in our written communications to our clients similar to the following:

IRS CIRCULAR 230 NOTICE: In order to comply with the requirements mandated by the IRS, we are required to advise you that any Federal tax advice contained in this e-mail message, including attachments to this message, is not intended or written to be used, and cannot be used, for the purpose of avoiding penalties under the Internal Revenue Code or promoting, marketing, or recommending to another party any transaction or tax-related matter addressed in this e-mail message or attachments.

Unless a client instructs us in writing that a reliance opinion is requested, or we conclude after a discussion with a client that a reliance opinion is required, all written Federal tax advice provided by the Firm will bear the appropriate legend. Please be assured that the use of this new legend does not reflect any decrease in the quality of our services or the attention we give to our correspondence with you.

If you have any questions or concerns about the IRS Circular 230 regulations, please contact Martin L. Fried or Michael L. Corp.