



REG

Taxation and Regulation

CPA Exam Review

2026
Edition

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Taxation and Regulation

Taxation & Regulation

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Introduction

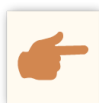
How to Best Use Your Course

Welcome to the UWorld CPA Review course! Our expert team is passionate about helping you succeed and has developed an award-winning program that is proven to yield results. Before you get started, please read through this guide on how to best use your course so that you can master all of the topics laid out for you in the AICPA Blueprints and ultimately pass the CPA Exam. At UWorld, our passion is to make the hard stuff easy to learn and understand.

Plan Your Studies

When preparing for the CPA Exam, half the battle is setting yourself up for success with a solid plan from the get go. This includes establishing short- and long-term goals to ensure you're staying on track.

To get started, use the Study Plan in your course. Start your plan by setting the beginning and ending dates for your schedule. Then select your pace (Fast Track versus Customize) and set the number of hours per day you will study. The system will create your plan based on your choices. It is important to follow your plan steadily so that you can ensure you hit your goals. If you miss a day, make it up!



Tip!

Download the app; this gives you access to everything your course offers even while on the go.

Master the Concepts through Active Learning

With this program, you will build your foundational knowledge and mastery of core exam topics through **active learning**. This evidence-based learning methodology centers around the principle that students retain information best when they actively participate in answering questions.

- **Begin with the Representative Task.** Read through each representative task carefully. (The Representative Tasks are from the AICPA Blueprints and are presented in our books and videos to guide you through the materials.) Pay particular attention to the words at the beginning of the task; they provide guidance on level and focus
- **Scan the book chapter.** Do you feel confident with the material? If you do, you might want to move directly to the questions and begin to practice. If you find that you are hesitant about an area, read the book or watch the video to solidify your understanding before you practice on some questions
- **Watch the videos.** If you prefer to absorb material on video rather than by reading the book, you will notice that the videos are deliberately set up in small segments. Our team created these segments so you can review what you need, either as part of the whole topic or for specific review of a smaller area
- **Practice the questions.** In our question bank (our QBank) we have taken great care to provide you with very high-quality questions and explanations. Each explanation not only tells you why the concept tested is important to understand but also teaches you why the answer is correct and why the other answer choices are not correct. Images, tables, definitions, and TBS Mastery videos also help fill in gaps as you use the questions and explanations to learn by doing

Track Your Progress and Performance

As you complete each chapter, track your progress and performance using our signature **SmartPath Predictive Technology™**. SmartPath is a data-driven platform that provides recommended targets based on those of previous students who have passed the CPA Exam. This is an important tool to help you study efficiently and gauge whether you are *exam-ready*. Your goal is to hit both your progress target (Questions Attempted) and performance target (Score) for each chapter.

As you work through the material, don't worry about hitting your "Score" target right away and focus your efforts on hitting the "Questions Attempted" target first. This approach may feel uncomfortable, but trust that you are building your knowledge as you absorb the answer explanations.

Once you've completed all the topics in a chapter, you can go back and focus your efforts on hitting the "Score" target. If you are falling short, drill down in the Performance tab to see which topics need extra attention.



Tip!

Don't over-study. **SmartPath™** helps determine when you can move on to the next topic.

Solidify the Concepts

Need extra help mastering the concept? Take advantage of the additional learning tools that are integrated into your course. For example, you could be working through a difficult question and find you need further explanation. No problem! There's a link to the supporting lecture right there in the question. Want to remember something for later review? You can easily transfer content directly from the question to a digital flashcard. These are just a few ways we make it easy for you to navigate to and access the right tools at the right time.

These additional tools are designed to enhance your studies—**you do not necessarily need to read or watch all of this material!** Rather, use these tools as a means to improve on any weak areas you might have:

- **Video Lectures** – From the Lectures tab or from the direct link at the bottom of each practice question, you have access to the profession's most motivating and effective lecturers. The lectures break down difficult topics into simplified concepts and provide helpful memory aids. These are especially recommended for visual and auditory learners
- **Textbooks** – The video lectures are accessible side by side with the digital eTextbooks or, in some of our course packages, a printed format. These guides can be used as a reference if you need further explanation of a concept. Many students also find it beneficial to follow along in the textbook while watching the lectures and taking notes, either directly in the physical books or by using the Notes feature and highlighting tool in the platform
- **Digital Flashcards** – Create custom flashcards directly from your practice questions by clicking on the lightning bolt symbol. Depending on your program package, your course may also be pre-loaded with an "Expert Deck" of flashcards covering the most heavily tested topics. You can review all your cards in Study Mode or by using our **spaced-repetition technology**. This is an evidence-based learning method that presents cards you've marked as *difficult* more frequently and cards you've marked as *easy* less frequently. The spacing of how and when the flashcards are introduced has been proven to increase retention and strengthen memory recall

Get Exam-Ready

The final days leading up to the exam are a critical time in which you're going to want to review your SmartPath data and ask, "Am I *exam-ready*?" If you have hit all the targets, you are in a really good spot. However, if any areas are still marked "Needs Improvement," now is the time to focus your efforts on meeting those targets.

We recommend you **take at least one full practice exam before exam day** (click on the "Exam Sim" tab in the QBank). This allows you to hone your test-taking skills in an exam-like environment that follows the same 5-testlet, 4-hour structure as the exam. The Exam Sim pulls questions from the QBank, and there is no limit to the number of times you can create an Exam Sim.

As a final step to assess your exam day readiness, we recommend you **take the full-length mock exam**. Curated with a unique set of questions not featured in the regular QBank, these practice tests are directly aligned to the content allocation and difficulty level of each CPA exam testlet. We recommend using this feature about 1–2 weeks before exam day.

AICPA Blueprints

The UWorld CPA Review course is based on the AICPA Blueprints, which show candidates what skills and content topics will be tested on the CPA Exam. You don't have to make tough decisions about what concepts to focus on. If you follow our methodology, you will be well on your way to passing the exam.

Let's take a look at what we mean by starting with the AICPA Blueprints. The Blueprints have four levels:

- Area
- Group
- Topic
- Representative Task

Each Representative Task also has a Skill level.

- Remembering & Understanding
- Application
- Analysis
- Evaluation (used only in AUD)

The Table of Contents of the book shows how each UWorld textbook is set up to follow the order of the AICPA Blueprints, with

- Area
- Group
- Topic

In the pages of each book, we provide the Representative Tasks from the AICPA Blueprints. We did that to make a direct connection between the exam and our content. Our team deliberately focused on what the Tasks say and wrote study materials that match with each Task. There is no closer connection between what will be tested and what you are studying.

Beyond connecting to the topics of the AICPA Blueprints, our team also differentiated the textbook content to match the Skill Levels of the Tasks.

- **Remembering & Understanding** tasks require you to understand the definitions and fundamentals of the topic. We have presented the information in these areas with an eye to creating clear explanations of the topics
- **Application** tasks are more about using your knowledge in scenarios to indicate that you understand the concepts. Our authors have therefore provided examples that show you how to apply your knowledge in specific situations. Many of these examples are similar to questions that you will find on the exam
- **Analysis** tasks require a higher level of thinking, many times requiring you to choose one outcome over another or to make a decision. On the exam, these tasks will always be addressed in Task-Based Simulations, or TBSs. The AICPA intentionally makes these more challenging to determine if you really know the material and can work with it as a professional. In our materials, our authors often guide you through the critical thinking required to work with TBSs
- **Evaluation** tasks are only in the AUD section of the exam and are at the highest level of thinking. They go a step further than the Analysis level and require you to evaluate or judge different approaches or outcomes

The CPA Exam

Within the AICPA Blueprints, there is information about how much time candidates have for each section and how many questions each section contains, categorized by question type. Question types include Multiple-Choice Questions (MCQs) and Task-Based Simulations (TBSs).

| Section | Section Time | Multiple-Choice Questions (MCQs) | Task-Based Simulations (TBSs) |
|-------------------|----------------|----------------------------------|-------------------------------|
| AUD – Core | 4 hours | 78 | 7 |
| FAR – Core | 4 hours | 50 | 7 |
| REG – Core | 4 hours | 72 | 8 |
| BAR – Discipline | 4 hours | 50 | 7 |
| ISC – Discipline | 4 hours | 82 | 6 |
| TCP – Discipline | 4 hours | 68 | 7 |

Scoring Weight by Exam Section

The AICPA also shows candidates how the question types for each section are weighted and account for their overall score.

| Section | Score Weighting | |
|-------------------|----------------------------------|-------------------------------|
| | Multiple-Choice Questions (MCQs) | Task-Based Simulations (TBSs) |
| AUD – Core | 50% | 50% |
| FAR – Core | 50% | 50% |
| REG – Core | 50% | 50% |
| BAR – Discipline | 50% | 50% |
| ISC – Discipline | 60% | 40% |
| TCP – Discipline | 50% | 50% |

Skill Allocations

As mentioned earlier, each Representative Task is tested at a specific Skill Level, and each part of the exam has its own weighting of the Skill Levels, as seen here.

| Section | Remembering & Understanding | Application | Analysis | Evaluation |
|-------------------|-----------------------------|---------------|---------------|------------|
| AUD – Core | 30–40% | 30–40% | 15–25% | 5–15% |
| FAR – Core | 5–15% | 45–55% | 35–45% | – |
| REG – Core | 25–35% | 35–45% | 25–35% | – |
| BAR – Discipline | 10–20% | 45–55% | 30–40% | – |
| ISC – Discipline | 55–65% | 20–30% | 10–20% | – |
| TCP – Discipline | 5–15% | 55–65% | 25–35% | – |

Content Allocations

The AICPA Blueprints address how coverage of the various content areas is allocated in each exam. Using the UWorld system that ties directly to the Blueprint structure, it is easy to see the extent to which each topic is covered.

AUD

| Content Area | | Allocation |
|--------------|---|------------|
| Area I | Ethics, Professional Responsibilities, and General Principles | 15–25% |
| Area II | Assessing Risk and Developing a Planned Response | 25–35% |
| Area III | Performing Further Procedures and Obtaining Evidence | 30–40% |
| Area IV | Forming Conclusions and Reporting | 10–20% |

FAR

| Content Area | | Allocation |
|--------------|-------------------------------|------------|
| Area I | Financial Reporting | 30–40% |
| Area II | Select Balance Sheet Accounts | 30–40% |
| Area III | Select Transactions | 25–35% |

REG

| Content Area | | Allocation |
|--------------|---|------------|
| Area I | Ethics, Professional Responsibilities, and Federal Tax Procedures | 10–20% |
| Area II | Business Law | 15–25% |
| Area III | Federal Taxation of Property Transactions | 5–15% |
| Area IV | Federal Taxation of Individuals | 22–32% |
| Area V | Federal Taxation of Entities (including tax preparation) | 23–33% |

BAR

| Content Area | | Allocation |
|--------------|------------------------------------|------------|
| Area I | Business Analysis | 40–50% |
| Area II | Technical Accounting and Reporting | 35–45% |
| Area III | State and Local Governments | 10–20% |

ISC

| Content Area | | Allocation |
|--------------|---|------------|
| Area I | Information Systems and Data Management | 35–45% |
| Area II | Security, Confidentiality, and Privacy | 35–45% |
| Area III | Considerations for System and Organization Controls (SOC) Engagements | 15–25% |

TCP

| Content Area | | Allocation |
|--------------|---|------------|
| Area I | Tax Compliance and Planning for Individuals and Personal Financial Planning | 30–40% |
| Area II | Entity Tax Compliance | 30–40% |
| Area III | Entity Tax Planning | 10–20% |
| Area IV | Property Transactions (disposition of assets) | 10–20% |

Exam Testlets

Each section of the exam is divided into five testlets. Two testlets cover MCQs and three testlets cover TBSs. Not all sections have an equal number of MCQs and TBSs, as the following chart shows.

| Section | Testlet | | | | | Total | |
|-------------------|-----------|-----------|----------|----------|----------|-----------|----------|
| | 1 | 2 | 3 | 4 | 5 | MCQ | TBS |
| AUD – Core | 39 | 39 | 2 | 3 | 2 | 78 | 7 |
| FAR – Core | 25 | 25 | 2 | 3 | 2 | 50 | 7 |
| REG – Core | 36 | 36 | 2 | 3 | 3 | 72 | 8 |
| BAR – Discipline | 25 | 25 | 2 | 3 | 2 | 50 | 7 |
| ISC – Discipline | 41 | 41 | 1 | 3 | 2 | 82 | 6 |
| TCP – Discipline | 34 | 34 | 2 | 3 | 2 | 68 | 7 |

Finally, to manage your time effectively in the exam, we recommend that you:

- Use 75 seconds per multiple-choice question as a benchmark,
- Allocate 15–20 minutes per task-based simulation, depending on complexity, and
- Take the standard 15-minute break after the third testlet; it doesn't count against your time.

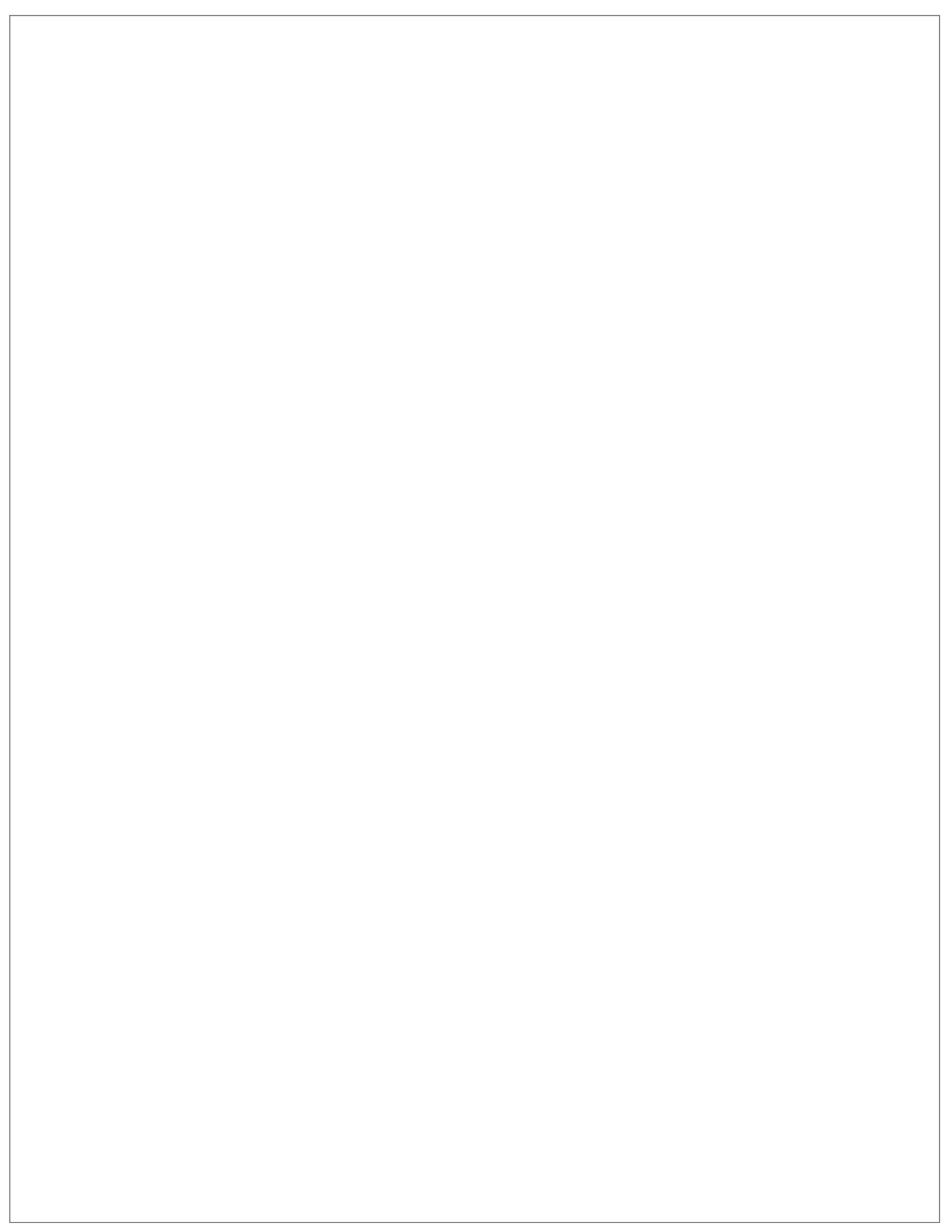
To see the full AICPA Blueprints, visit the AICPA website.

Above all, start the study process with confidence! As Roger always says, "You do not have to be a genius to pass the CPA Exam. If you study, you will pass!" You've got this.



REG

**Area I: Ethics, Professional
Responsibilities, and Federal
Tax Procedures**





REG 1
Ethics and
Responsibilities
in Tax Practice

REG 1: Ethics and Responsibilities in Tax Practice

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1.01 Regulations Governing Practice before the IRS

Regulations Governing Practice before the IRS



Representative Task (Remembering & Understanding): Recall the regulations governing practice before the Internal Revenue Service.



Representative Task (Application): Apply the regulations governing practice before the Internal Revenue Service given a specific scenario.

Circular 230 contains the IRS's rules of practice governing CPAs and others who practice before the agency. The government may censure, fine, suspend, or disbar tax advisors from practice before the IRS if they violate Circular 230's standards of conduct. "Practicing" entails primarily preparing and filing documents and communicating and meeting with IRS representatives on behalf of a taxpayer.

Circular 230 consists of five subparts. Within each subpart, certain sections are particularly applicable to CPAs. Below is a summary of the subparts and sections typically tested on the CPA exam.

| Five Subparts of Circular 230 | |
|-------------------------------|--|
| Subpart A | Provides rules related to the authority to practice before the IRS <ul style="list-style-type: none">• Sec. 10.3 – Who may practice• Sec. 10.8 – Return preparation and application of rules to other individuals |
| Subpart B | Describes the duties and restrictions of those authorized to practice before the IRS <ul style="list-style-type: none">• Sec. 10.20 – Information to be furnished• Sec. 10.21 – Knowledge of client's omissions• Sec. 10.22 – Diligence as to accuracy• Sec. 10.24 – Assistance from the disbarred• Sec. 10.27 – Fees• Sec. 10.28 – Return of client's records• Sec. 10.29 – Conflicting interests• Sec. 10.30 – Solicitation• Sec. 10.31 – Negotiation of taxpayer checks• Sec. 10.34 – Standards with respect to tax returns and documents, affidavits, and other papers• Sec. 10.37 – Requirements for other written advice |

| Five Subparts of Circular 230 | |
|-------------------------------|---|
| Subpart C | Indicates sanctions for violations <ul style="list-style-type: none"> • Sec. 10.50 – Sanctions • Sec. 10.51 – Incompetence and disreputable conduct |
| Subpart D | Provides rules for disciplinary proceedings <ul style="list-style-type: none"> • Sec. 10.60 – Institution of proceeding |
| Subpart E | Definitions and general provisions, including the availability of public records |

Section 10.3 – Who May Practice

Subpart A of Circular 230 sets forth rules governing authority to practice before the IRS. Examples of individuals who may practice before the IRS include attorneys, CPAs, registered tax return preparers, enrolled agents and enrolled actuaries, and enrolled retirement plan agents. Most importantly, Section 10.3 provides that in order for a CPA to practice before the IRS, the CPA must:

- **Not** currently be under **suspension or disbarment** from practice before the IRS
- **File a declaration** with the IRS indicating that the CPA is currently qualified as a CPA and **authorized to represent** the party

Although providing **written tax advice** (eg, tax opinion) is **considered practice** before the IRS, an exception is made for the written declaration requirement. Providing a written declaration for every instance of written tax advice would be too onerous for the CPA and IRS.

Although there are no minimum education requirements, practitioners must be competent, meaning that they possess the appropriate level of knowledge, skill, thoroughness, and preparation necessary. They may acquire competence by studying the relevant tax law or consulting with experts.

Circular 230 Requirements to Practice before the IRS

| | Practice before the IRS | Provide Written Tax Advice |
|----------------------------|-------------------------|----------------------------|
| Be in Good Standing | ✓ | ✓ |
| Written Declaration | ✓ | ✗ |

Practice before the IRS includes *all matters connected with a presentation to the IRS* or any of its officers or employees related to a taxpayer's rights, privileges, or liabilities under laws or regulations administered by the IRS. These presentations include but are not limited to:

- Preparing documents (eg, tax returns for compensation)
- Filing documents
- Corresponding and communicating with the IRS
- Representing a client at conferences, hearings, and meetings (eg, tax audit)
- Rendering written advice with regard to transactions having a potential for tax avoidance or evasion



A CPA prepares a tax return for a hair salon owner in exchange for free haircuts. While no cash has exchanged hands, this barter transaction is still considered *preparing a tax return for compensation*. Therefore, the CPA **is** practicing before the IRS.

A CPA, who normally does not prepare tax returns, agrees to prepare a tax return for her mother's hair salon because her mother's regular CPA was in the hospital and could not complete the return. No compensation was received for preparing the return. Since this was a one-time situation to help a family member and no compensation was received, the CPA is **not** considered to be practicing before the IRS.

A CPA delivers a written tax opinion discussing the detailed tax implications her client is considering. Providing a detailed, written tax opinion to a client **is** considered practicing before the IRS.

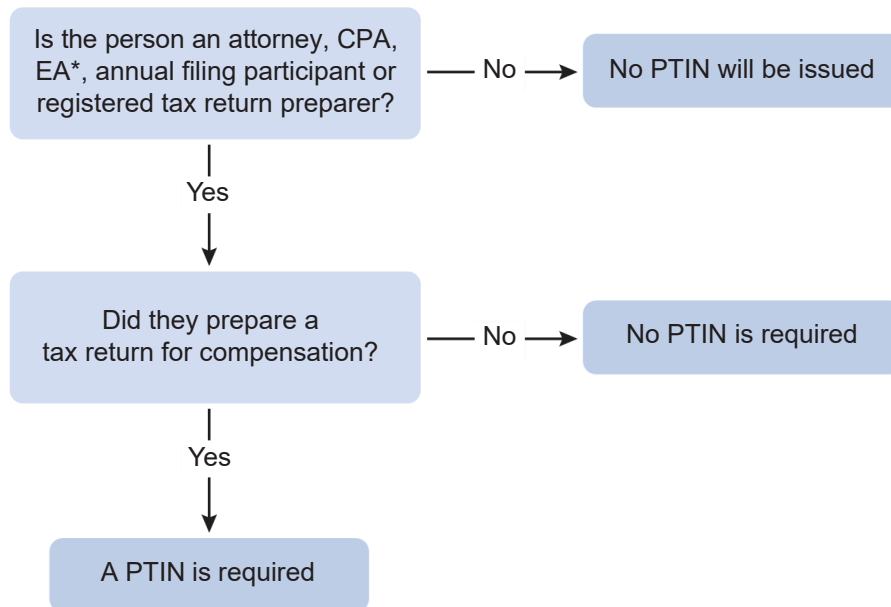


A taxpayer may represent themselves or be represented by a family member (who is not paid to do so) or by the person who prepared the tax return. In addition, entities may be represented by the following: employers by a full-time employee, a partnership by a partner, a corporation by an officer, and a trust or estate by the trustee or executor.

Section 10.8 – Return Preparation and Application of Rules to Other Individuals

A preparer tax identification number (PTIN) is required to prepare a tax return or claim for refund in exchange for compensation (compensation is any value received). Only attorneys, CPAs, enrolled agents, registered tax return preparers, and annual filing season program participants may obtain PTINs.

Circular 230—PTIN Requirements

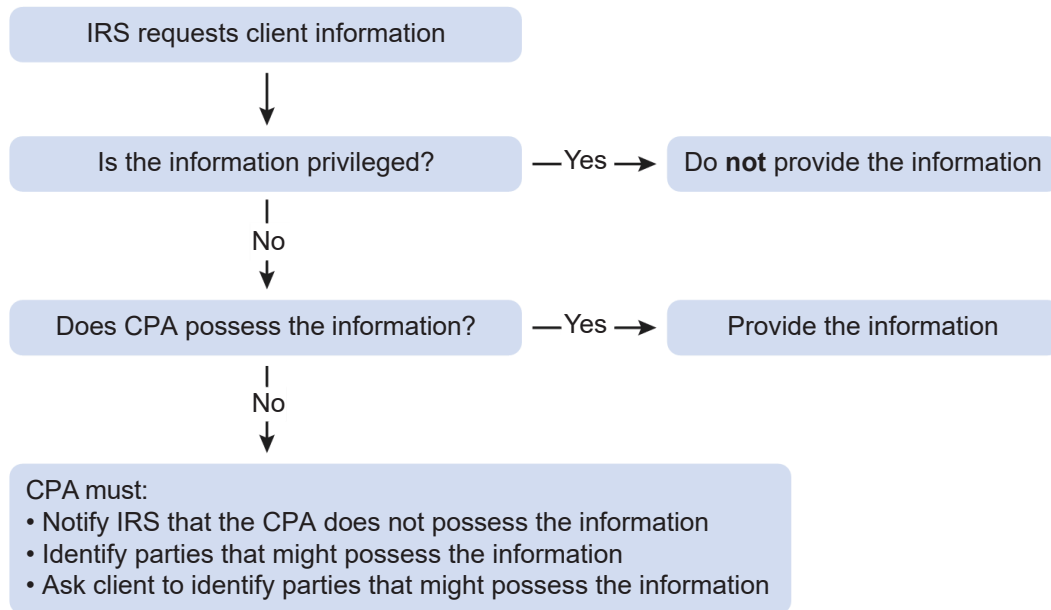


*EA is an enrolled agent with the IRS

Section 10.20 – Information to Be Furnished to the IRS

A practitioner must promptly submit to the IRS any records or information that its agents and officers request properly and lawfully, "unless the practitioner believes in good faith and on reasonable grounds that the records or information are privileged." In other words, Section 10.20 requires prompt *cooperation* with all IRS requests for information.

When the IRS Requests Client Information from a CPA



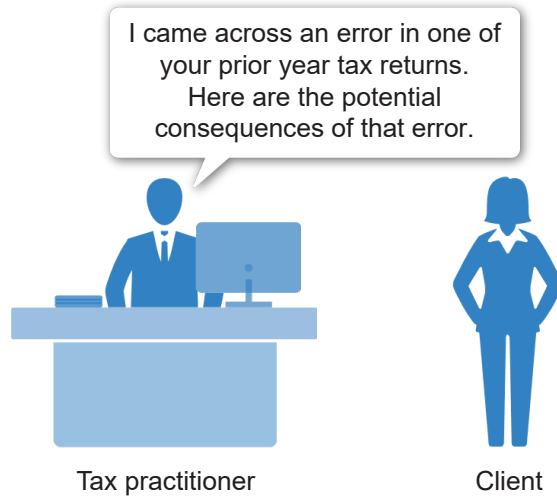
Section 10.21 – Knowledge of Client's Omission

If a practitioner becomes aware of an incident of a client's noncompliance with tax laws or of an error or omission on a filing with the IRS, the practitioner is required to:

- *Promptly advise* the client of the circumstance (even if the statute of limitations has expired); and
- Advise the client as to the *potential consequences*.

The practitioner does *not* need to notify the IRS of the error and may not do so without the client's permission. The *client* ultimately decides the course of action to take to correct the omission (eg, amend the return). Typically, errors are discovered when reviewing a recently filed tax return and prior tax returns filed by the tax preparer or other tax preparer.

Tax Practitioner Duty to Inform Client of Error



Section 10.22 – Diligence as to Accuracy

A CPA must exercise due diligence in preparing or assisting in the preparation of filings with the IRS and in determining the correctness of representations made by the practitioner to the IRS and to clients. The practitioner can rely on another person, provided that the practitioner has exercised reasonable care and due diligence in engaging, supervising, training, and evaluating the individual.

Section 10.24 – Assistance from the Disbarred

A practitioner should *not* knowingly accept even indirect assistance from any person disbarred or suspended from practice by the IRS.



Sam and Judy are partners in the S&J Partnership. Sam has violated regulations and been disbarred by the IRS. However, Judy (who is in good standing with the IRS) needed help during tax season and allowed Sam to work on tax returns. Judy signs off on all of the work completed by Sam. This arrangement involves accepting indirect assistance from a disbarred individual and violates Section 10.24.

Section 10.27 – Fees

Generally, a practitioner may **not** charge either an unconscionable fee or a contingent fee for matters before the IRS. However, there are *three exceptions* regarding *contingent fees*. Contingent fees may be charged for:

1. An administrative examination or a challenge to an original return, an amended return, or a claim for refund (not for preparing original return);
2. Services related to a claim for credit or refund in connection with statutory interest or penalties charged by the IRS; or
3. Services related to a judicial proceeding under the IRC.

Section 10.28 – Return of Client's Records

A practitioner is generally required to return any and all client records needed for the client to comply with tax obligations, although *copies may be retained*. Generally, a dispute over fees does **not** justify retention of client records.

However, the practitioner may temporarily withhold the records if the *practitioner's state law allows* the retention of client records as a result of a dispute over fees. When they are retained under such circumstances, the practitioner must:

- Return those that are required to be attached to the client's tax return; and
- Provide reasonable access to the client to review and copy records necessary to comply with the client's tax obligations.

| Treasury Department Circular No. 230: Requirements for a Tax Practitioner to Return Client Records | |
|---|--|
| General Rule | <ul style="list-style-type: none"> • Must return all client records when requested by client • May retain copies |
| If There Is a Fee Dispute | <ul style="list-style-type: none"> • May temporarily withhold <i>some</i> records if state law permits • Must return any records necessary for client to comply with tax obligations and allow access to others |
| Types of Records | <ul style="list-style-type: none"> • Written and electronic documents from client • Material prepared by client or client's other representatives (eg, attorney) • Prior returns and refund claims • Other material prepared and used for client's tax matter (eg, appraisals) |

Section 10.29 – Conflicting Interests

A practitioner may **not** represent a client before the IRS when there is a conflict of interest, such as when representation of one client would be adverse to another or when there is a risk that representation will be limited as a result of responsibilities to other clients or others.

A practitioner may represent a client despite a conflict of interest if **all** of the following apply:

- It is reasonable for the practitioner to believe that representation will be competent and diligent;
- Representation is not prohibited by law; *and*
- All affected clients waive the conflict of interest, by giving their written, informed consent.

In addition to Circular 230 guidelines on conflicts of interest, the AICPA has its Guidelines for Conflicts of Interest in the Performance of Tax Services, which add these additional responsibilities for practitioner management of conflicts of interest.

- The practitioner should adopt procedures to use in identifying and managing conflicts of interest
- The standard for evaluating whether a conflict exists is whether a reasonable third party evaluating the situation would conclude that the practitioner's integrity and objectivity are compromised



A practitioner has been filing a joint tax return for a married couple for 10 years. The couple is now going through a divorce. A conflict would exist if the practitioner prepared returns for each of the spouses separately because circumstances may find the spouses having different views on deductions. The practitioner would also have extensive knowledge of each spouse's financial position, which might affect the practitioner's objectivity in evaluating decisions about their returns.

Section 10.30 – Solicitation

A practitioner may **not** make false, fraudulent, or coercive statements or claims or misleading or deceptive statements or claims with respect to any IRS matter in any form of public communication or private solicitation. Nor may a practitioner make an uninvited solicitation to perform services in matters related to the IRS, whether written or oral, if doing so violates federal or state laws or another applicable rule.

Any *lawful* solicitation by or on behalf of a practitioner before the IRS must:

- Identify that it is a solicitation
- Indicate the source of information used to choose the recipient, if applicable

A practitioner may disseminate information about fees, including fixed fees for specific routine services, hourly rates, ranges of fees for particular services, and fees charged for an initial consultation. Fee information may be communicated in a variety of ways, including professional lists, telephone directories, print media, mailings, electronic mail, facsimile, hand-delivered flyers, radio, television, and any other method. Advertised fees must be honored for at least 30 days. Additionally, copies of the advertised communications must be kept by the practitioner for at least 36 months from transmission.

Practitioners may not use the term "certified" in describing their standing or experience with the IRS. However the following language may be used:

- Enrolled to represent taxpayers before the Internal Revenue Service
- Enrolled to practice before the Internal Revenue Service
- Admitted to practice before the Internal Revenue Service

Section 10.31 – Negotiation of Taxpayer Checks

A tax preparer may not endorse or otherwise negotiate a client's government check issued in relation to a federal tax liability (eg, a client's tax refund).

Section 10.34 – Standards with Respect to Tax Returns and Documents, Affidavits, and Other Papers

A tax return should not be filed with a tax position that *lacks a reasonable basis*, is an unreasonable position, or represents a willful attempt to understate the liability or constitutes an intentional disregard for rules or regulations. A practitioner may not willfully, recklessly, or through gross incompetence:

- Sign a tax return or claim for refund when the practitioner knows or should know that it contains such a position; or
- Advise a client to take such a position or prepare a portion of a return or claim for refund containing such a position.

A tax practitioner may not **advise** a client to take a *frivolous tax position* on a document, affidavit, or other paper submitted to the IRS. Nor may a tax practitioner advise a client to submit a document, affidavit, or other paper to the IRS if:

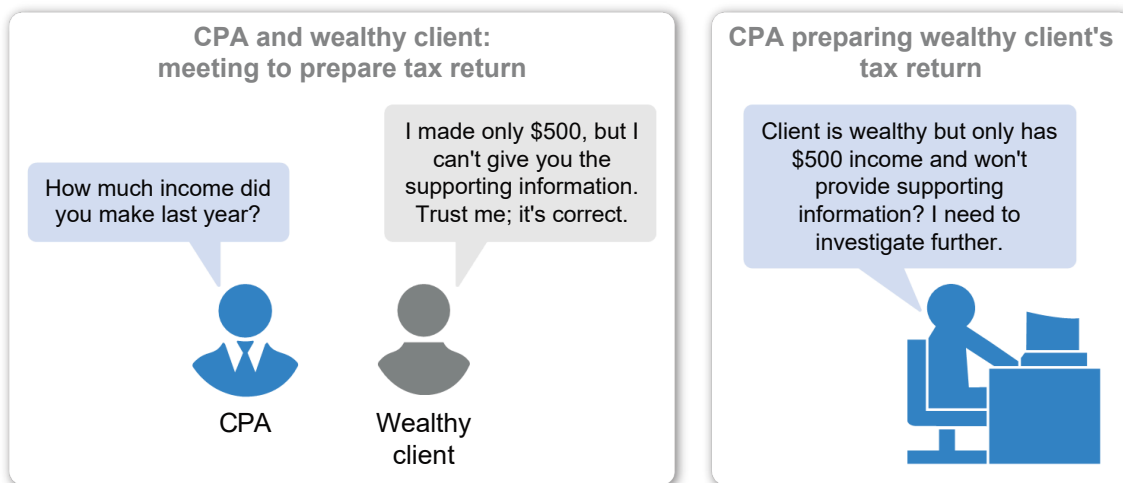
- It is intended to delay or impede administration of federal tax laws or is frivolous; or
- It contains or omits information indicating an intentional disregard for a rule or regulation, unless the practitioner also advises the client to submit a document indicating a good-faith challenge to the rule or regulation.

A practitioner is required to **advise clients regarding potential penalties** that are reasonably likely to be assessed, and the opportunity to avoid penalty through disclosure, when those penalties have the potential of arising from:

- A tax position taken if the practitioner either signed or prepared the return or advised the client relative to the position
- A document, affidavit, or other paper submitted to the IRS

A practitioner may, in good faith, rely on information obtained from a client without verification. If information furnished by the client appears incorrect, incomplete, or otherwise unsatisfactory based on information known by or furnished to the practitioner, that fact may **not** be ignored by the practitioner.

CPA Relying on Information Furnished by Client



Ben, a tax practitioner, has been completing Xavier's personal and Subchapter S tax returns for 10 years. During that time, Xavier has always submitted mileage amounts for his vehicle used in his business. When Xavier submitted information for the sale of that vehicle and the purchase of a new one, Ben noticed that the odometer mileage on the vehicle documented by the dealership for the trade-in was 45,000 miles less than the total business mileage Xavier had submitted during the time he used the original vehicle. Ben has knowledge of an inconsistency and may not ignore it.

Section 10.37 – Requirements for Other Written Advice

Tax practitioners may give written advice if it is based on reasonable factual and legal assumptions and the practitioner reasonably considers all relevant facts and circumstances. A practitioner is prohibited from giving written advice that is based on unreasonable assumptions; unreasonably relies on representations, statements, findings, or agreements of the taxpayer or another; does not consider all relevant information that is known, or should be known, by the practitioner; or considers the possibility that the position, or the return on which it is taken, will not be audited or will be resolved through settlement.

A practitioner may rely on the advice of another, provided:

- The advice is reasonable; and
- Reliance is in good faith, considering all facts and circumstances.

| Treasury Department Circular No. 230: Requirements for a Tax Practitioner When Giving Other Written Advice | |
|---|---|
| Required | <ul style="list-style-type: none"> • Basing advice on reasonable factual and legal assumptions (past and future) • Reasonably considering all relevant facts • Making reasonable efforts to identify facts for each tax matter • Relating applicable law to the facts |
| Prohibited | <ul style="list-style-type: none"> • Relying on the client's representations or documents (eg, appraisals) if reliance would be unreasonable • Taking into account the possibility that a tax return will not be audited |

Section 10.50 – Sanctions

The Secretary of the Treasury has the authority to **censure**, **suspend**, or **disbar** a practitioner from practice before the IRS if the practitioner:

- Is shown to be incompetent or disreputable;
- Violates requirements either willfully or as a result of gross incompetence; or
- Willfully and knowingly misleads or threatens a client or prospective client with the intent to defraud.

The Secretary of the Treasury also has the authority to impose a *monetary penalty* on any practitioner who engages in the prohibited conduct indicated above. The maximum penalty equals 100% of the gross income derived from the misconduct.

Section 10.51 – Incompetence and Disreputable Conduct

Some of the actions or events that indicate incompetence or disreputable conduct include:

- Conviction of any crime under federal tax laws
- Conviction of any crime involving dishonesty or breach of trust
- Conviction of any state or federal felony that would render one unfit to practice before the IRS
- Giving false or misleading information to tax officials or attempting to influence an officer or employee of the IRS
- Soliciting employment in violation of Section 10.30
- Willfully failing to prepare a federal tax return or evading, or attempting to evade, an assessment or payment of federal tax
- Being disbarred or suspended from practice as a CPA or an attorney
- Willfully assisting, counseling, or encouraging a client or prospective client to violate a tax law or evade federal taxes or their payment

- Failure to promptly remit funds received from a client for the payment of taxes
- Contemptuous conduct, such as using abusive language, knowingly making false accusations, or circulating malicious or libelous material in connection with practice before the IRS
- Knowingly, recklessly, or as a result of gross incompetence giving a false opinion
- Willingly failing to sign a tax return when required
- Willfully disclosing or using a tax return or tax information inappropriately
- Willfully failing to file using electronic media when required to do so
- Providing covered tax services without a valid PTIN
- Willfully representing a taxpayer before the IRS when not authorized to do so

Section 10.60 – Institution of Proceeding

Any violation of laws relative to practice before the IRS may result in reprimand or a proceeding for sanctions. Instituting a proceeding requires that the respondent be advised in writing of the law, facts, and conduct warranting such action and given an opportunity to dispute facts, assert additional facts, and make arguments.

1.02 Internal Revenue Code and Regulations Related to Tax Return Preparers

Who Is a Tax Preparer



Representative Task (Remembering & Understanding): Recall who is a tax return preparer.

A "tax return preparer" (TRP) includes anyone who prepares **for compensation**, or who employs one or more persons to prepare, all or a **substantial portion** of any tax return or claim for refund. This includes a person who prepares a return or claim for refund *outside* the U.S. regardless of the person's nationality, residence, or the location of the person's place of business. The term *tax return* applies to *all* federal income tax returns, federal estate and gift tax returns, employment tax returns, and excise tax returns.

- The compensation received can be either monetary or nonmonetary (eg, a bartering arrangement) and based on an explicit or implicit agreement between the client and the tax return preparer
- A person may be a TRP *without* regard to educational qualifications and professional status requirements
- A TRP does **not** have to be enrolled to practice before the IRS. An enrolled agent is anyone who has passed a comprehensive exam given by the IRS and has the right to represent taxpayers before the IRS and perform tax-related services (eg, prepare tax returns)
- TRPs must be competent, meaning that they possess "the appropriate level of knowledge, skill, thoroughness, and preparation necessary." They may acquire competence by studying the relevant tax law or consulting with experts

Performing the following acts does **not** classify a person as a tax return preparer:

- An individual preparing a return of a taxpayer, or an officer, a general partner, member, shareholder, employee, trustee, or executor of a taxpayer, by whom the individual is regularly and continuously employed or compensated
- Preparing a return for family or a friend free of charge or through a sponsored volunteer program (eg, IRS Volunteer Income Tax Assistance Program, tax counseling for the elderly)
- Simply typing, reproducing, or providing other mechanical assistance in preparing a return

| CPA as Tax Return Preparer | |
|----------------------------|--|
| Qualifies If | <ul style="list-style-type: none">• Prepares tax returns for compensation (eg, money or barter)• Employs others to prepare tax returns |
| Does Not Qualify If | <ul style="list-style-type: none">• Prepares returns for friends or family free of charge• Provides tax return administrative tasks (eg, data entry)• Prepares entity's return as an employee of that entity |
| Other Elements | <ul style="list-style-type: none">• Required to have a Preparer Tax Identification Number (PTIN)• Need not be enrolled to practice before the IRS (ie, enrolled agent) |



Under the Internal Revenue Code, what is a person who is paid to prepare and file federal tax returns called?

The IRC uses the term a **tax return preparer** for anyone who prepares for **compensation**, or who employs one or more persons to prepare, all or a substantial portion of any tax return or claim for refund. The preparer may be a CPA or an enrolled agent. The terms "tax return professional" and "tax practitioner" are often used to refer to individuals who handle tax-related matters.

Signing and Nonsigning TRP

A TRP includes both **signing** and **nonsigning** preparers. A **signing** preparer bears the "**primary responsibility**" for the overall accuracy of the return or claim for refund even when the nonsigning preparer prepared all or a substantial portion of a return. However, in certain circumstances, a nonsigning preparer could *potentially* have the same level of responsibility (ie, be subject to preparer penalties) as a signing preparer.

- When there are multiple people working on a return, the person who is primarily responsible for the position giving rise to an *understatement* is the TRP punishable under the tax provisions
- If it is unclear who is responsible for the position taken by the taxpayer, the person with **overall supervisory responsibility** for preparing the return or for the position will be the TRP

A nonsigning TRP is any TRP who is **not** a signing TRP but who prepares **all or a substantial portion** of a return or provides advice (written or oral) to a taxpayer or to another tax return preparer when that advice leads to a position that constitutes a substantial portion of the return. Factors considered for determining whether a portion of a return is a *substantial portion* include:

- The size and complexity of the item relative to the taxpayer's gross income; and
- The size of the understatement attributable to the item compared to the taxpayer's reported tax liability.



Smith is preparing an income tax return for a client. He brings in his partner, Kahn, who is a tax expert and whose advice Smith uses to complete a major portion of the return. Smith signs the return. Although Kahn contributed substantially to the completion of the return, he is considered a nonsigning preparer.

There are **two exceptions** (ie, de minimis rule) when a **nonsigning** TRP will **not** be deemed as completing a substantial portion of a tax return and, therefore, not subject to any potential preparer penalties. A portion of the tax return is **not** considered to be a substantial portion if it involves amounts of gross income or amounts of deductions:

1. Less than \$10,000; or
2. Less than \$400,000, which is also less than 20% of the gross income indicated on the return.



Jessie, a partner in a CPA firm, reviews a tax return reporting \$26 million in gross income and offers an opinion that the taxpayer may take a deduction of \$300,000. Another partner in the firm signs the tax return. Because the \$300,000 deduction is less than \$400,000 (which is also less than 20% of \$26 million), Jessie has not completed a substantial portion. However, if the deduction was \$600,000 (ie, greater than \$400,000), Jessie would now be considered a nonsigning TRP.