

A Question of Ethics

In serving clients, tax preparers can find themselves faced with ethical dilemmas. Often, the obvious answer to the dilemma can cause more problems than it solves. Consider the following situation.

“A 92-year-old taxpayer who has been a client for 30 years is showing definite signs of inability to handle personal financial affairs. Information provided by the client indicates that thousands of dollars have been sent to overseas and Canadian ‘lottery’ scams. On one occasion, the client gave bank routing numbers and account numbers to a stranger over the phone. Disaster was avoided in that case because the client was persuaded to close the account immediately.

“The ethical dilemma is that the elderly gentleman’s son is also my client. I am torn between feeling responsible for alerting the son to the deteriorating condition of his parent and the responsibility for respecting the privacy of the client. I have urged my client to share with his son the letters, phone calls, etc., from these scams, but he apparently is not doing so. Is there anything I can do?”

Duty to client. Under the NAEA Rules of Professional Conduct: “Members and associates will maintain a confidential relationship between themselves and their clients, or former clients, disclosing confidential information only when authorized or legally obligated to do so.”

Unfortunately, there are no provisions in rules of professional conduct or in Circular 230 that allow you to break the confidentiality rules in this situation. You can give advice that is within the range of expertise, namely tax and/or financial planning advice. Tax practitioners commonly see clients who seem to be heading in the wrong direction with their personal lives, but the practitioner needs to be careful not to violate rules of professional conduct or perform acts that are out of their field of expertise.

Your best outcome would be to gain the client’s permission to speak with his son about his financial affairs. If you see a crime being committed, it is appropriate to notify the authorities. However, if your observations can fit into the category of what you determine as bad judgment on the client’s part, and the client has not had anyone assigned by the court to manage his affairs, you should not break the rule of confidentiality.

Avoid ethical violations. Tax Materials, Inc. offers Continuing Professional Education (CPEs) courses designed to educate tax preparers on issues of ethics. The course *Avoid Ethical Violations* is available under *TheTaxReview Series* tab at www.thetaxbook.com.