

February 21, 2018

Ms. Carol Campbell
Director, Return Preparer Office
Internal Revenue Service
1111 Constitution Ave, NW
Washington, DC 20224

Mr. Stephen Whitlock
Director, Office of Professional Responsibility
Internal Revenue Service
1111 Constitution Ave, NW
Washington, DC 20224

Dear Director Campbell and Director Whitlock:

I write on behalf of the National Association of Enrolled Agents (NAEA), which represents the interests of more than 53,000 enrolled agents (EAs), the only federally licensed tax practitioners authorized by the U.S. Treasury to represent taxpayers before the Internal Revenue Service. We strive to defend the practice rights of EAs and the representation rights of taxpayers while partnering with IRS and the tax industry to improve the nation's tax administration system.

In late 2012, we received authorization from IRS to encourage NAEA members and EAs in good standing to use the agency's officially-designed IRS EA logo. We, in good faith, encouraged our members to use the IRS-approved EA logo widely—in advertisements online and in print; on business cards; and in their business email signatures. We also posted the logo on the NAEA website in late 2012.

Five years later, in October 2017, one of our members was reported to IRS for using the IRS EA logo on her business card and received a visit from an IRS Special Agent assigned to serve a cease and desist letter. The EA in question previously downloaded the IRS-approved logo from the NAEA website and used it on her business card to promote her EA tax credential to the public and potential clients.

After this incident, we arranged through a stakeholder representative from IRS's National Public Liaison Office, a phone call with IRS' Office of Professional Responsibility (OPR). During the November 2nd call, we received assurances OPR would reach out to the agency's Return Preparer Office (RPO) to research and provide clarification to us about IRS's decision to prohibit use of the long-ago approved logo.

After we reached out to IRS about these new developments in October and November 2017, IRS provided our government relations staff with the following e-mail response on December 6, 2017:

"Though the IRS did create the logo around 2011 or 2012, the Office of Professional Responsibility later objected to it and advised that the use of the logo was not acceptable based on Circular 230 Section 10.30 and other rules because it contains IRS and the IRS eagle. It should not be used."

At the risk of understatement, we found this e-mail response insufficient to provide our members guidance. In an effort to provide the clarity this profession deserves, we followed up with RPO in mid-December to obtain an update on the IRS EA logo issue. That office subsequently informed us the agency was working on a new EA logo design both RPO and OPR would deem acceptable for use. At about the same time, I understand we were assured in conversations with IRS: 1) EAs who purchased business cards prior to the 2018 filing season would not be pursued or served cease and desist letters for using the IRS-approved logo; and 2) the agency would soon share for review the newly-approved IRS EA logo acceptable for use by EAs in good standing.

While we welcomed these concessions, we remained concerned that the agency had not issued a formal statement explaining its position and, perhaps, acknowledging that sending a CI agent with a cease and desist letter and then following up with a two-sentence email through NPL might have been suboptimal.

The purpose of this letter is to formalize these conversations so that our constituency understands the Service's current position with respect to the five-year-old approved—and, I must stress, widely used—EA logo. Assuming those assurances still hold, we ask IRS for the following:

- Formal assurance EAs may use the 2012-approved logo until the agency replaces it with a new design.
- An estimated timeline on when we can expect the new design to be presented for review and when it will be distributed widely.
- A transition period between the issuance of the new logo and a prohibition on the use of the prior, obsoleted design.

In the alternative, if the agency stands by the action of the CI agent, we request:

- Official correspondence detailing the Service's decision to prohibit EAs and NAEA members from using the IRS-approved EA logo in their business promotional efforts and advertisements.
- The legal underpinning of the agency's decision. If the agency plans to impose any potential penalties or fines associated with the misuse of the previously IRS-approved EA logo by EAs in good standing, then provide the statutory or regulatory basis for same.
- An explanation why the Service decided five years after approving the EA logo that it suddenly needed to prohibit its use.
- An estimated timeline on when we can expect the new design to be presented for review and when it will be distributed widely.

As we write you, our members are in limbo: concerned they may not continue long-standing use of an IRS-provided EA logo, yet lacking clear, authoritative instruction from the agency to which they are beholden.

In closing, we value our long-standing relationship with both of your offices and both of you personally. We have been, and remain, strong supporters of effective tax administration and also understand, and are sympathetic to, the challenges you and other leaders face. And we hope that should the agency in the future ever have concerns with an issue that affects the entire profession that you'll reach out to us directly. We stand with you as partners in tax administration.

I look forward to working with both of you to provide clarity to those tax professionals who are proud to call themselves enrolled agents.

Sincerely,



Robert Kerr
Executive Vice President
National Association of Enrolled Agents

ⁱ After NAEA received word of this IRS visit to this NAEA member in good standing, he also took time to assure the U.S. Treasury Inspector General of Tax Administration (TIGTA) through correspondence that he removed the IRS-approved EA logo from his business cards.