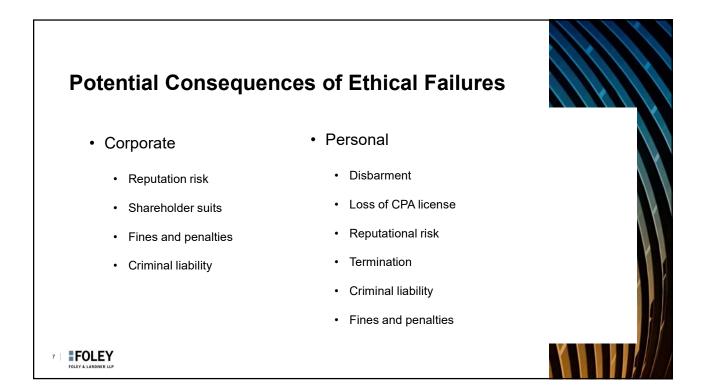


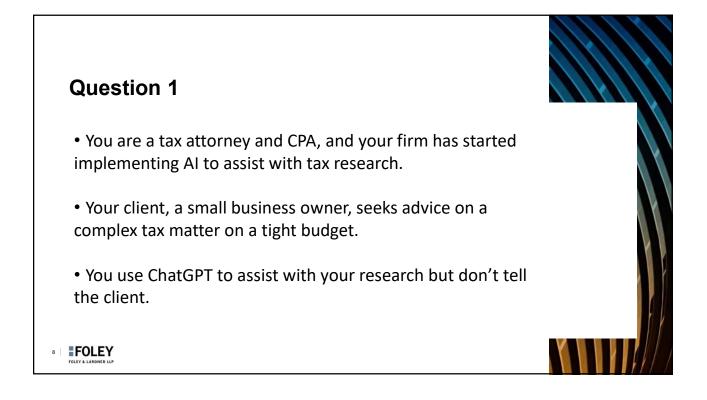
• AICPA Code of Professional Conduct	
https://us.aicpa.org/research/standards/codeofconduct	
ABA Model Rules of Professional Conduct	
https://www.americanbar.org/groups/professional_responsibility/publications/ model_rules_of_professional_conduct/model_rules_of_professional_conduct_ <u>table_of_contents/</u>	
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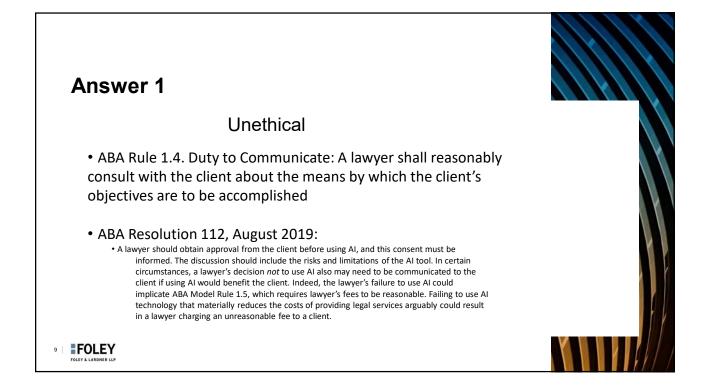
	ABA	AICPA Equivalent
Client Competence	R. 1.1	0.300.060 Due Care
Scope of Representation and Allocation of Authority	R. 1.2	0.300.070 Scope and Nature of Services
Diligence	R. 1.3	0.300.060 Due Care
Communications	R. 1.4	0.300.060.05 Due Care
Confidentiality of Information	R. 1.6	1.700.001
Conflict of Interest	R. 1.7 to 1.12	0.300.050 Objectivity and Independence
Organization as Client	R. 1.13	0.300.020.02 Responsibilities
Advisor / Counselor	R. 2.1	0.300.050.01 Objectivity

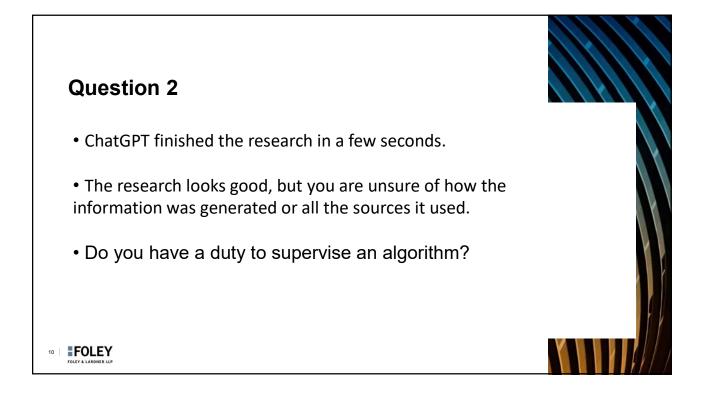
Select Ethics Rules continued ABA AICPA Equivalent Advocate Meritorious Claims & Contentions R. 3.1 0.300.040.04 Integrity Expediting Litigation R. 3.2 0.300.060.05 Due Care Candor toward the Tribunal R. 3.3 0.300.040.03 Integrity Fairness to Opposing Parties 0.300.040.03 Integrity R. 3.4 and Counsel **Truthfulness in Statements** R. 4.1 0.300.040.03 Integrity **Supervisors and Subordinates** R. 5.1 to 5.3 0.200.020.04 **Unauthorized Practice** R. 5.5 Advertising R. 7.1 to 7.3 1.400.090; 1.600 FOLEY 5

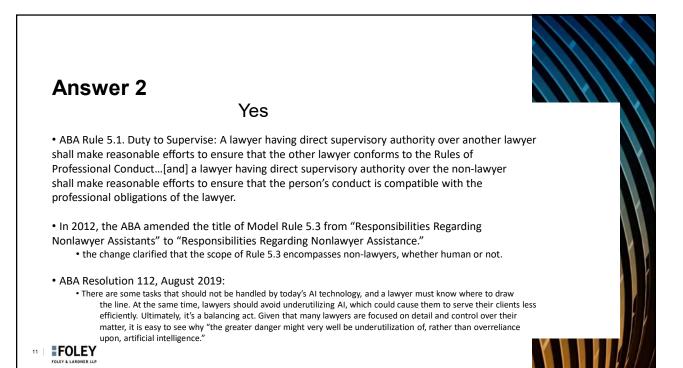


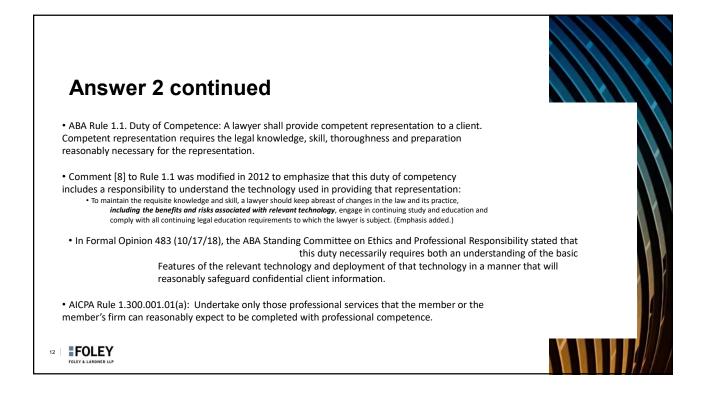


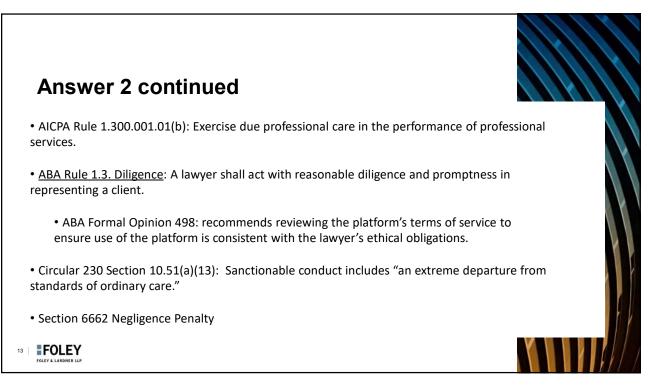


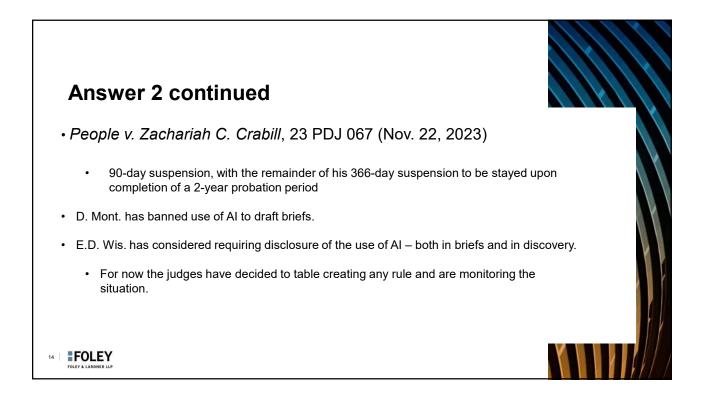


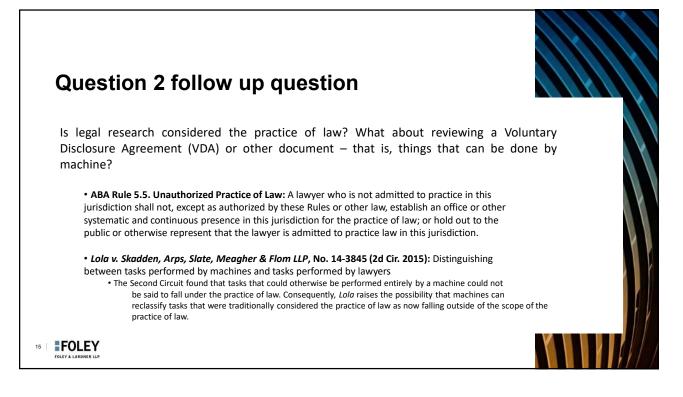












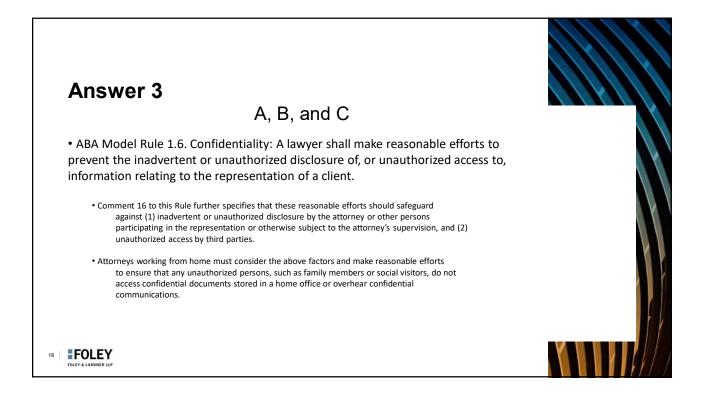
 Sam works remotely as an attorney and CPA and mostly conducts her work over Zoom.

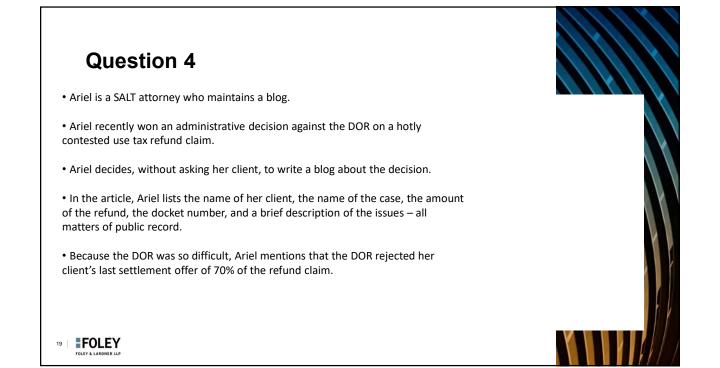
- Sam's husband also works remotely, and their three sons are distance learning and are home all day.
- Because of the limited space in their house, Sam has no choice but to use the family kitchen to conduct her client work.
- Throughout the day, her children and husband come in and out of the kitchen to grab snacks.
- Clients on Zoom can see and hear them, and they can see and hear the clients.
- When they come in the kitchen, Sam makes it a point to not discuss private information with clients; otherwise, her work resumes as usual.

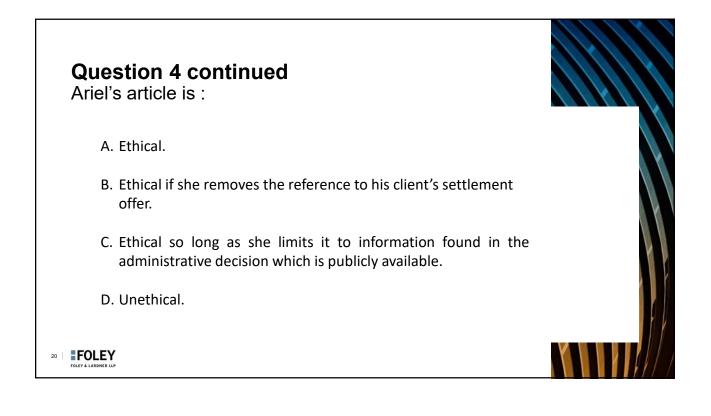


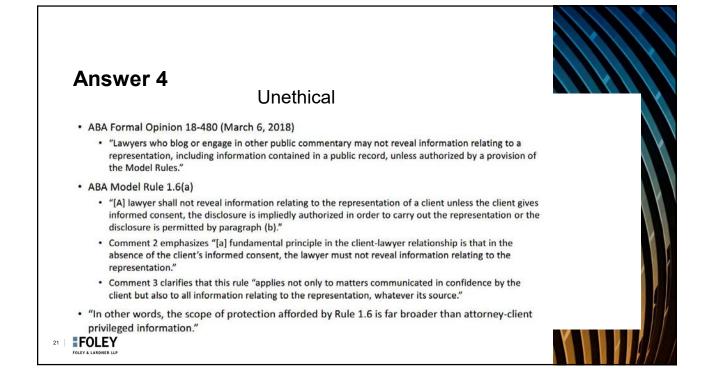


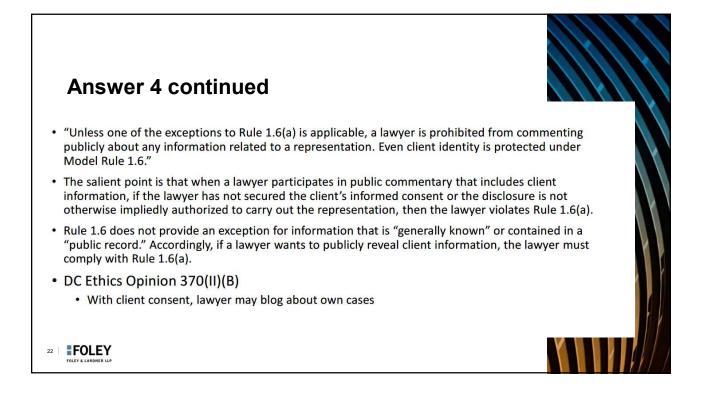
Oursetien 2 sentinus d	
Question 3 continued Should Sam do anything differently?	
A. Work with her family to designate break times when they are allowed to enter the kitchen	
B. Position her computer so that her family members cannot see clients	
C. Use a headset	
D. Tell her employer she cannot work from home unless the employer pays the construction costs associated with a home renovation to add a private office.	











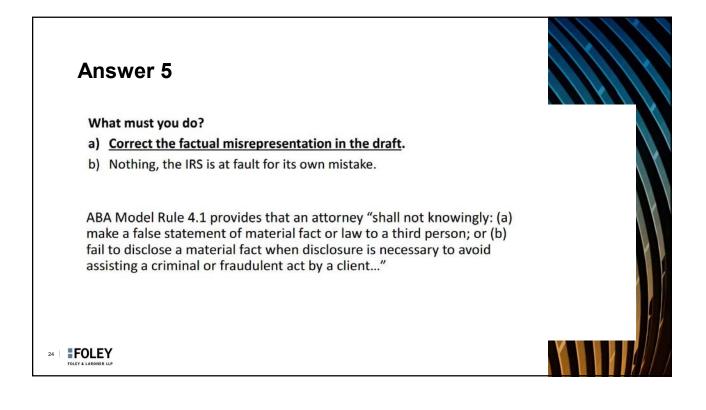
You have negotiated a settlement to resolve a large and highly contentious audit issue. The IRS prepares a draft closing agreement memorializing the terms of the settlement and asks for your review and signature. While reviewing the draft closing agreement, you notice an incorrect representation of a material fact that has been disclosed to the IRS previously during audit. The misrepresentation is beneficial to taxpayer.

What must you do?

- a) Correct the factual misrepresentation in the draft.
- b) Nothing, the IRS is at fault for its own mistake.



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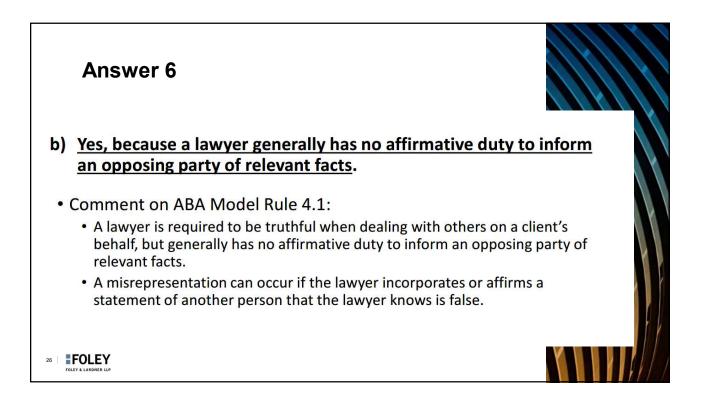


In a draft settlement agreement, the government has identified an IP licensing arrangement covered by the agreement. However, the government has failed to identify a similar agreement with several other related entities due to a failure to develop facts with respect to those entities. The settlement agreement would close the tax obligations for all of the related entities.

Can you sign the agreement?

- a) Yes, because a lawyer can lie when dealing with others on a client's behalf.
- b) Yes, because a lawyer generally has no affirmative duty to inform an opposing party of relevant facts.
- c) No, because a lawyer is required to be truthful when dealing with others on a client's behalf.
- d) No, because a lawyer must disclose all relevant facts to the opposing party.







You are a CPA. Your client, NoWhere, Inc., has realized that after operating "under the radar" in Alabama for six years, it needs to start filing tax returns in Alabama. You are preparing and will sign the initial tax return for the current tax year. The initial return asks: 'What was the first date the company began doing business in Alabama?" You want to leave the answer blank because you know it would be disadvantageous to your client if you respond that the client began doing business in Alabama six years ago.

Should you sign the return with the omitted answer?

Answer 7

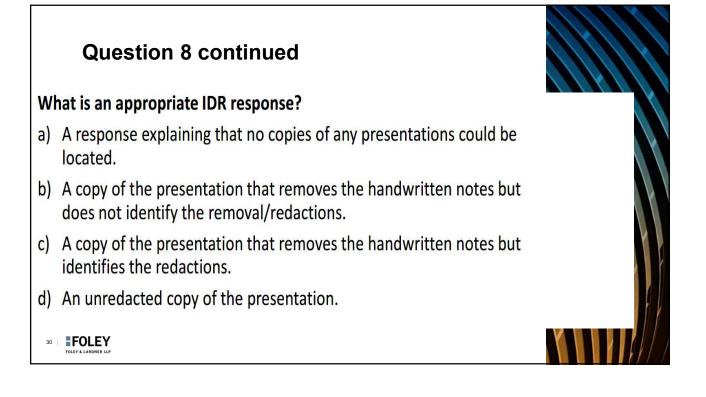
No. You cannot sign the Alabama return.

AICPA SSTS No. 2, Answers to questions on Returns, paragraph 5, provides that a CPA "should not omit an answer merely because it might prove disadvantageous to a taxpayer."



The IRS issues an IDR request that asks for copies of all presentations or other documents addressing an IP restructuring. You are able to locate a copy of a key presentation but are unable to locate the original. The copy includes extensive notes from the VP of Tax that highlight potential exposures and sensitivities associated with the IP restructuring. You conclude that none of the handwritten notes are protected from disclosure by attorney-client privilege or attorney work product.

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d) An unredacted copy of the presentation.

ABA Model Rule 3.4 provides in part that a lawyer shall not: Unlawfully obstruct another party's access to evidence or unlawfully alter, destroy or conceal a document or other material having potential evidentiary value. A lawyer shall not counsel or assist another person to do any such act.

Comment to Rule 3.4: Subject to evidentiary privileges, the right of an opposing party, including the government, to obtain evidence through discovery or subpoena is an important procedural right. The exercise of that right can be frustrated if relevant material is altered, concealed or destroyed. Applicable law in many jurisdictions makes it an offense to destroy material for purpose of impairing its availability in a pending proceeding or one whose commencement can be foreseen.



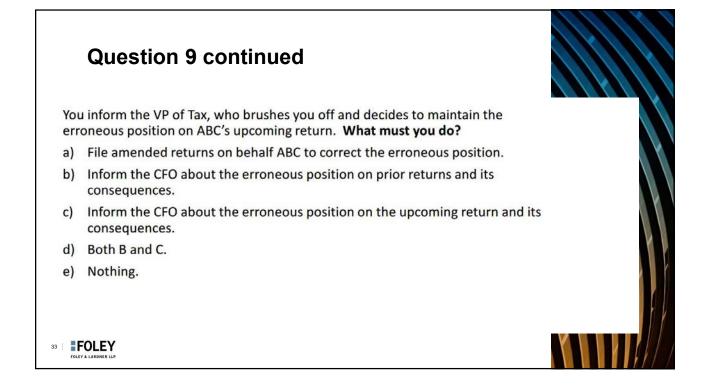
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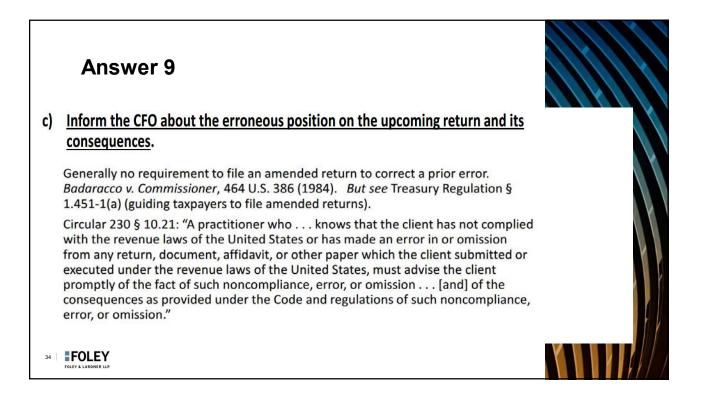
Question 9

Upon review of Company ABC's past tax returns in connection with a forthcoming transaction, you realize that Company ABC took a clearly erroneous position by currently deducting expenses that should have been capitalized, which resulted in an understatement of millions of dollars over the past few returns. You inform the VP of Tax, who brushes you off and decides to maintain the erroneous position on ABC's upcoming return.

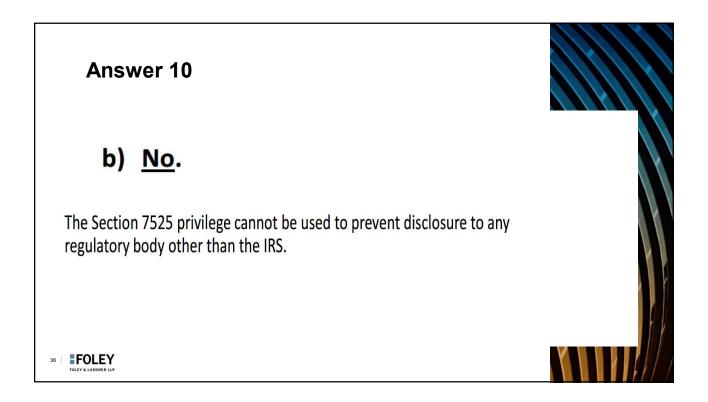
What must you do?





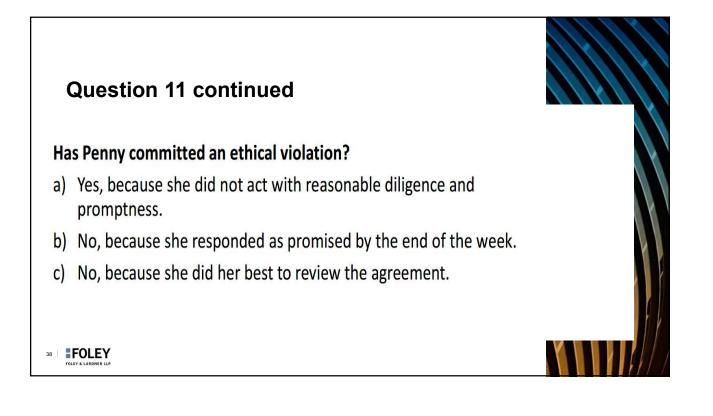


Question 10	
Can the Section 7525 privilege be used to prevent disclosure of protected materials to any US federal agency?	
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Penny Procrastinator is swamped with work. Her supervisor calls on a Monday, asking her to review a stock purchase agreement by the end of the week. Penny agrees, even though she knows she does not have enough time. Penny waits until late Sunday night, quickly skims the SPA, and sends her comments. Penny spent about an hour reviewing the SPA, but, had she had more time, she would have spent about 15 hours to fully review the SPA.

Has Penny committed an ethical violation?





Yes, because she did not act with reasonable diligence and promptness.

ABA Model Rule 1.3 (Client-Lawyer Relationship: Diligence): "A lawyer shall act with reasonable diligence and promptness in representing a client."

Comment 2: "A lawyer's work load must be controlled so that each matter can be handled competently."

Comment 3: "Perhaps no professional shortcoming is more widely resented than procrastination. A client's interests often can be adversely affected by the passage of time or the change of conditions; in extreme instances, as when a lawyer overlooks a statute of limitations, the client's legal position may be destroyed. Even when the client's interests are not affected in substance, however, unreasonable delay can cause a client needless anxiety and undermine confidence in the lawyer's trustworthiness. A lawyer's duty to act with reasonable promptness, however, does not preclude the lawyer from agreeing to a reasonable request for a postponement that will not prejudice the lawyer's client."



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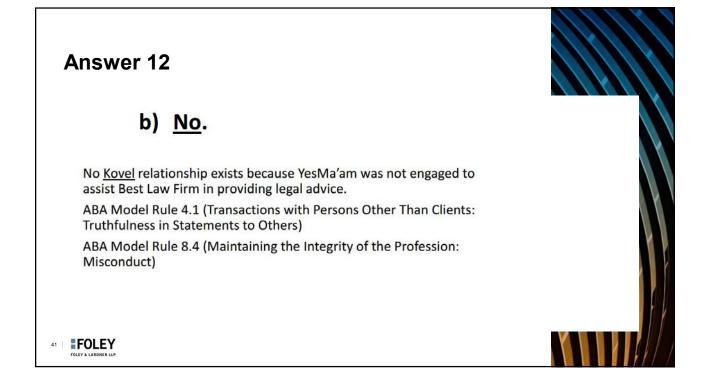
Question 12

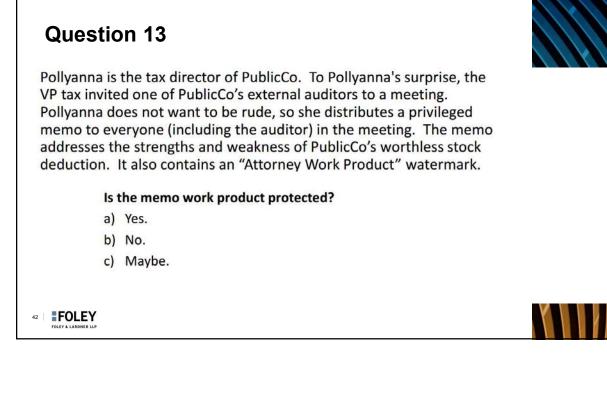
Brilliant Co, a global company with a lot of really high-value, important technology, hires an accounting firm, YesMa'am LLP, to design and implement a global reorganization of its IP ownership so as to lower its effective tax rate and repatriate cash. Brilliant Co is nervous about only having one advisor for such an important project. Brilliant sends an RFP to We Can Law Firm to bid on the project in a coplanning type role with YesMa'am. We Can Law Firm is hired, but Brilliant Co decides We Can Law Firm is too expensive and asks YesMa'am to do the bulk of the work on the project, including all factual development and analysis. Brilliant Co asks We Can Law Firm to enter into a Kovel with YesMa'am and asks YesMa'am to include We Can Law Firm on correspondence to obtain Attorney Client Privilege.

Is it appropriate for We Can Law Firm to engage YesMa'am under a Kovel arrangement under these circumstances?

- a) Yes.
- b) No.
- c) Maybe.







c) <u>Maybe</u>.

United States v. Textron, 577 F.3d 21 (1st Cir. 2009) (Work product doctrine does not apply to tax accrual work papers because they were not prepared in anticipation of litigation);

United States v. Deloitte LLP, 610 F.3d 219 (D.C. Cir. 2010) (Disclosure to outside auditor does not waive work product protection);

Frank Betz Associates v. Jim Walter Homes, 226 F.R.D. 533 (D.S.C. 2005) (same);

In re Diasonics Securities Litigation, 1986 U.S. Dist. LEXIS 24177 (N.D. Cal. 1986) (Disclosure to outside auditor waives work product protection).

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Question 14

You are asked to provide an analysis relating to tax consequences of an IP restructuring. Your supervisor represents that a key entity in the restructuring did not own any valuable IP. However, based on your own experience, you recall reviewing a valuation report that assigned significant value to customer lists that were owned by the entity and are concerned that the representation may be inaccurate or incomplete.

Can you rely upon the supervisor's representation when rendering the opinion?

- a) Yes, you can rely upon the representation without further verification.
- b) Yes, but only if you confirm that it is complete and accurate.
- c) No, you cannot rely upon representations.
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b) Yes, but only if you confirm that it is complete and accurate.

Circular 230 Section 10.34(d): A practitioner advising a client to take a position on a tax return, document, affidavit or other paper submitted to the Internal Revenue Service, or preparing or signing a tax return as a preparer, generally may rely in good faith without verification upon information furnished by the client. The practitioner may not, however, ignore the implications of information furnished to, or actually known by, the practitioner, and must make reasonable inquiries if the information as furnished appears to be incorrect, inconsistent with an important fact or another factual assumption, or incomplete.



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Question 15

As the head of global tax controversy, you have led the company through a prolonged IRS audit. The VP of Tax advises that he wants to settle the issue so that he can wrap the audit up before his retirement at the end of the calendar year. The chances of winning the issue in litigation are well above 80% but he instructs you to accept the IRS's offer to settle the case at 20% of the tax benefit. You believe that this is the wrong strategy and think that you can get a much better deal by countering to settle the case at 70% of the tax benefit.

Can you pursue your preferred settlement strategy?

- a) Yes, because you have more expertise than the VP of Tax regarding settlement strategy.
- b) Yes, because the VP of Tax is pursuing settlement for personal goals rather than the goals of the company.
- c) No, because a lawyer must defer to the client regarding the objectives of representation.



Answer 15	
c) <u>No, because a lawyer must defer to the client regarding the</u> <u>objectives of representation</u> .	
ABA Rule 1.2(a): "A lawyer shall abide by a client's decision whether to settle a matter."	
ABA Model Rule 1.13, Comment 3: Ordinarily, a lawyer has no obligation to seek, within the organization's hierarchy, review of an authorized representative's settlement directive merely because the attorney believes the directive reflects poor judgment or otherwise doubts the utility or prudence of the authorized representative's directive.	
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You are a CPA. You are about to sign and file the 1120 tax return for your company. You are advised that certain numbers were not final and reasonable estimates based on the best available information were used to compute the amount of income tax liability reflected on the return.

> Is it ethical to sign and file a tax return that you know is based in part on an estimate used to compute the amount of tax owed?

- a) No, all numbers must be final.
- b) Yes, because it is not practical to obtain exact data and the estimates are reasonable.
- c) Yes, any estimate is fine.

