# **Tax Consulting Services**

**Instructions:**

Due to rapid changes in professional standards and laws applicable to the practice of public accountancy, you also should refer to the following for additional guidance regarding the content of engagement letters:

* [U.S. Treasury Department Circular 230](https://www.irs.gov/pub/irs-pdf/pcir230.pdf) (“Circular 230”)
* [AICPA Professional Standards](https://www.aicpa.org/research/standards.html), rules and interpretations
* AICPA practice aids and training materials
* State board of accountancy rules
* Other applicable laws and regulations, including laws and regulations applicable to the client’s industry

Practitioners providing tax consulting services to individuals should familiarize themselves with these standards and their applicability. Sample engagement letters for personal financial planning services are available at no charge to members of the Personal Financial Planning section of the AICPA at <https://www.aicpa.org>.

**Tax Consulting Services Engagement Letter Considerations:**

* Perform due diligence
	+ Determine how the advice or engagement deliverables will be used, and
	+ Evaluate the risks associated with undertaking the engagement, especially with respect to requests for second opinions on past or future tax positions.
* Consider both the client’s ability to pay professional fees and the need to obtain a retainer prior to rendering services.
* Define the scope and limitations of the engagement, for example:
	+ “Consult with you regarding the individual income tax implications of the current year sale, installment sale or like-kind exchange of the real property located at 123 Main Street, City, State based upon a sales price of $X” or,
	+ “Consult with you regarding the individual income tax implications of exercising your incentive stock options granted to you by XYZ Corporation during the current year and explain options for minimizing the related income tax.”
* Describe the applicable professional standards for the engagement.
* Describe the client’s responsibilities.
* Describe the CPA firm’s responsibilities.
* Indicate when services will begin and conclude.
* Identify the engagement deliverables, for example:
	+ “At the conclusion of the engagement, we will provide you with:

a spreadsheet that calculates anticipated tax under the three scenarios described above, or

a letter explaining the tax implications of the anticipated sale of stock options during the current year and a list of alternative methods and tax consequences of exercising the options.”

* Document the limitations on use of the deliverable.
* Discuss penalties and interest charges.
* Discuss the CPA firm’s responsibilities regarding conflicts of interest.
* Tax advice should be provided in accordance with Circular 230, §10.37, *Requirements for Written Advice.* These requirements include, but are not limited to the following:

“(a) Requirements

(2) The practitioner must –

(i) Base the written advice on reasonable factual and legal assumptions (including assumptions as to future events);

(ii) Reasonably consider all relevant facts and circumstances that the practitioner knows or reasonably should know;

(iii) Use reasonable efforts to identify and ascertain the facts relevant to written advice on each Federal tax matter;

(iv) Not rely upon representations, statements, findings, or agreements (including projections, financial forecasts, or appraisals) of the taxpayer or any other person if reliance on them would be unreasonable;

(v) Relate applicable law and authorities to facts; and

(vi) Not, in evaluating a Federal tax matter, take into account the possibility that a tax return will not be audited or that a matter will not be raised on audit.”

* Providing the advice in writing is preferred.
* In addition to the requirements under Circular 230, it is recommended the tax advice should:
	+ Arrive at a conclusion;
	+ Explain the impact of the conclusion; and
	+ Explain the potential adverse consequences if the taxing authority does not agree with the position taken.
* Attach the CPA firm’s *Terms and Conditions Addendum* to the engagement letter and incorporate such by reference.

Engagement letters should not be used for compliance with Internal Revenue Code (“IRC”) §7216, *Disclosure or Use of Information by Preparers of Returns*, and the applicable regulations, which generally prohibit the disclosure or use of tax return information without the client’s express written consent, the form and content of which are prescribed by IRC §7216. For more information, see the IRS's [Section 7216 Information Center](https://www.irs.gov/tax-professionals/section-7216-information-center). For sample IRC §7216 consent forms, see the AICPA's [Section 7216 Guidance and Resources](https://www.aicpa.org/interestareas/tax/resources/standardsethics/section7216.html).

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SAMPLE ONLY – CONSULT WITH AN ATTORNEY BEFORE USE: Certain courts view engagement letters as contracts, and local laws and regulations applicable to engagement letter requirements vary significantly. Governmental bodies, commissions, regulatory agencies, state boards of accountancy and professional organizations also have requirements that may prohibit individuals and entities subject to their regulation or professional standards from including engagement letter provisions that limit the rights of clients. Accordingly, before using an engagement letter, an attorney should review it for conformity with applicable laws and regulations.

**NOTE: PLEASE REFER TO CNA’S SAMPLE *TERMS AND CONDITIONS ADDENDUM* FOR OTHER IMPORTANT ENGAGEMENT LETTER PROVISIONS RELATED TO:**

* **ADMINISTRATIVE PRACTICES, SUCH AS BILLING AND COLLECTIONS;**
* **COMPLIANCE WITH PROFESSIONAL STANDARDS, INCLUDING RECORDS MANAGEMENT;**
* **CLARIFICATION OF FIRM RESPONSIBILITIES, SUCH AS LIMITATIONS ON ORAL ADVICE AND REFERRALS;**
* **RISK ALLOCATION, SUCH AS DISPUTE RESOLUTION; AND**
* **CONTRACT ENFORCEABILITY, SUCH AS SEVERABILITY.**

[*Date*]

[*Client Representative*]

[*Client Name*]

[*Client Address*]

Dear [*Client Representative*]:

[*CPA Firm*] (“firm,” “we,” “us,” or “our”) is pleased to provide [*Client Name*] (“you” or “your”) with the professional services described below. This letter, and the attached *Terms and Conditions Addendum[[1]](#footnote-1)* and any other attachments incorporated herein (collectively, “Agreement”), confirm our understanding of the terms and objectives of our engagement and the nature and limitations of the services we will provide. The engagement between you and our firm will be governed by the terms of this Agreement.

*Engagement Objective and Scope*

* *Use specific language to define the scope of the engagement including identity of the client, time period, locations, business units, etc., as applicable. If warranted, based upon the nature of services to be rendered, define what is not in scope.*

Our advice is dependent upon the timeliness, accuracy and completeness of the information and representations that we receive from you, as well as your stated intended use of the advice. Therefore, providing us with inaccurate or incomplete information or representations may result in inaccurate findings or inappropriate recommendations, and critical recommendations may not be identified. If information changes during the course of the engagement, you must provide us with the updated information and representations on a timely basis, as the change in information may affect our advice. We will not audit or otherwise verify the data you submit to us, although we may ask you to clarify certain information.

Our engagement does not include any procedures designed to detect errors, fraud, or theft. Therefore, our engagement cannot be relied upon to disclose such matters. In addition, we are not responsible for identifying or communicating deficiencies in your internal controls. You are responsible for developing and implementing internal controls applicable to your operations.

This engagement is limited to the professional services outlined above.

***Deliverables***

We will issue the following deliverable(s) upon completion of our services.

* [*Outline deliverable(s) to be prepared. Omit language that implies promised results or performance related to the services or products to be delivered. See instructions for examples*].Any recommendations included in the deliverable(s) will be based upon information you provide.

The deliverable(s) presented as part of this engagement are for internal use only and are not to be distributed externally to third parties, in whole or in part, or used for any other purpose, without the express written permission of the firm. You agree to indemnify and hold us harmless with respect to any and all claims arising from the use of these tax consulting services by unauthorized third parties regardless of the nature of the claim, including negligence of any party.

Our advice is based upon tax reference materials, facts, assumptions, and representations that are subject to change. Tax reference materials include, but are not limited to the Internal Revenue Code (“IRC”), regulations, Revenue Rulings, Revenue Procedures, Private Letter Rulings, court decisions, and similar state and local guidance. We will not update our advice after the conclusion of the engagement for subsequent legislative or administrative changes or future judicial interpretations. To the extent we provide written advice concerning federal tax matters, we will follow the guidance contained in U.S. Treasury Department Circular 230 (“Circular 230”), §10.37, *Requirements for Written Advice*.

We may be available to update our advice as a separate engagement. If you ask us to update our work for changes in the information or representations that you provide to us or tax law changes, and we agree to perform this update, we will confirm this engagement in a separate Agreemnt.

If for any reason we are unable to complete the engagement, we will not issue the deliverable(s).

***CPA Firm Responsibilities***

We will perform our services in accordance with the American Institute of Certified Public Accountants (“AICPA”) Statements on Standards for Tax Services and Statement on Standards for Consulting Services. These services are *not (Optional)* considered personal financial planning services because we *do not (Optional)* consider ourselves to be personal financial planners. As such, the personal financial planning standards *do* *not (Optional)* apply.

It is our duty to perform services with the same standard of care that a reasonable tax return preparer would exercise in this type of engagement. It is your responsibility to safeguard your assets and maintain accurate records pertaining to transactions. We will not hold your property in trust for you, or otherwise accept fiduciary duties in the performance of the engagement.

Arguable positions

We will use our judgment to resolve questions in your favor where a tax law is unclear, provided that we have a reasonable belief that there is substantial authority for doing so. If there are conflicting interpretations of the law, we will explain the possible positions that may be taken on your return. We will follow the position you request, provided it is consistent with our understanding of tax reference materials. If the IRS, state or local tax authorities later contest the position you select, additional tax, penalties, and interest may be assessed. We assume no liability, and you hereby release us from any liability, including but not limited to, additional tax, penalties, interest, and related professional fees.

***Client Responsibilities***

You agree to provide us with complete copies of previously filed tax returns, supporting schedules and any other records or information that we may request, either at the inception or during the course of the engagement.

*Communication of authority of others (Optional)*

*You hereby authorize the following individuals to communicate directly with us to request services and obtain copies of tax and financial information on your behalf:*

*Name Title*

*You agree that the authority conveyed above shall continue in full force and effect until you inform us of any modifications in writing.*

*Online access to information (Optional)*

*To the extent you provide our firm with access to electronic data via a local or online database from which we will download your trial balance or other information, you agree that the data is accurate as of the date and time you authorize it to be downloaded.*

Ultimate responsibility

You have final responsibility for the accuracy of your tax consulting services. We will provide you with a copy of the deliverable(s) for review prior to finalization. You agree to review and examine deliverables carefully for accuracy and completeness. You are solely responsible for implementation of any strategies discussed in the deliverable(s).

***Timing of the Engagement***

Our engagement shall commence upon receipt of this executed Agreement. Our services will conclude after one of the following events has occurred:

* transmission of the deliverable(s) as identified above,
* notice to you that no deliverable(s) will be provided,
* written notification by either party that the engagement is terminated, or
* one year from the execution date of this Agreement.

***Penalties and Interest Charges***

Federal, state, and local tax authorities impose various penalties and interest charges for non-compliance with tax laws and regulations, including failure to file or late filing of returns, and underpayment of taxes. You, as the taxpayer, remain responsible for the payment of all tax, penalties, and interest charges imposed by tax authorities.

***Professional Fee***

Our professional fee for the services outlined above is estimated to be $[*X*], *of which [X]% is due upon execution of this Agreement as a retainer* (*Optional*). This fee is based upon the complexity of the work to be performed, and our professional time, as well as out-of-pocket expenses. In addition, this fee depends upon the timely delivery, availability, quality, and completeness of the information you provide to us. You agree that you will deliver all records requested and respond to all inquiries made by our staff to complete this engagement on a timely basis. You agree to pay all fees and expenses incurred whether or not we finalize our advice.

We require that all outstanding invoices be paid prior to releasing the completed deliverables. We do not release incomplete deliverables.

\* \* \* \* \* \*

We appreciate the opportunity to be of service to [*Client Name*]. Please date and execute this Agreement and return it to us to acknowledge your acceptance. We will not initiate services until we receive the executed Agreement *and retainer (Optional)*.

Very truly yours,

[*CPA Firm*]

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[*Accountant Name*]

[*Accountant Title*]

ACCEPTED:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[*Client Name*]

[*Authorized Officer*]

[*Title of Officer*]

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[*Date*]

\* \* \* \* \* \*

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1. See the Terms and Conditions Addendum that is included in the [AICPA Tax Section’s Annual Tax Compliance Kit](https://www.aicpa.org/interestareas/tax/resources/compliance/annualcompliancekit.html?tab-1=1#tabs). [↑](#footnote-ref-1)