

2005

**SPECIAL ENROLLMENT
EXAMINATION**



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Part 4

SPECIAL ENROLLMENT EXAMINATION BOOKLET

**September 22, 2005
1:30 P.M. TO 3:30 P.M.**

**Ethics, Recordkeeping
Procedures, Appeal
Procedures, Exempt
Organizations, Retirement
Plans, Practitioner Penalty
Provisions, Research
Materials and Collection
Procedures**

Official Use Only
(Declassified After September 22, 2005)

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Special Enrollment Examination

Part 4

Ethics, Recordkeeping Procedures, Appeal Procedures, Exempt Organizations, Retirement Plans, Practitioner Penalty Provisions, Research Materials and Collection Procedures

Instructions:

The time allotted for this part of the examination is 2 hours. No additional time will be granted. On your answer sheet in the spaces provided you should enter the following:

1. Print your name (First, M.I., Last).
2. Sign your name (First, M.I., Last).
3. Place of examination (City and State).
4. Date of this examination.
5. Print your name (Last, F.I., M.I.) in the boxes provided. Immediately below the boxes darken the oval corresponding to the letter you have printed, as in the sample Name Grid. Darken only one oval in each column below a box in which you have printed a letter. Make no marks in the columns below boxes you have left blank.
6. Enter your candidate number and immediately below, darken the oval corresponding to each number you have entered.
7. Enter your Social Security Number and immediately below, darken the oval corresponding to each number you have entered.

Important:

The answer sheet should not be folded or torn since it will be machine graded.

Read the examination questions carefully. All references are to the Internal Revenue code as amended through December 31, 2004. Unless otherwise stated, all questions relate to the calendar year 2004.

You will be given a No. 2 pencil by the monitor. Darken completely only one oval under the corresponding letter on the answer sheet. In making corrections, erase errors completely.

Scratch paper will be provided, but you may make necessary computations in the questions books. Raise your hand to attract the monitor's attention when you need extra supplies or for permission to leave the room.

!! New procedures!!

All materials must be turned in to the monitor before leaving the room:

Answer sheet: When you finish the examination, your answer sheet must be turned in to the monitor before leaving the room. You must turn in your answer sheet at the end of each test session or your test will not be graded and no credit received. **Answers noted in examination booklets will not be graded.** The examination will be graded in Washington, D.C., by the Office of Professional Responsibility, Internal Revenue Service. You will receive formal notification of your examination results on or about January 31, 2006.

Examination booklets, scratch paper: You must also turn in your examination booklet and scratch paper (used and unused). These materials will be mailed to you after the examination has been administered at all sites.

Challenges must be received by the Office of Professional Responsibility on or before **October 22, 2004.**

Challenges must be on the form or in the format prescribed on www.irs.gov

General Grading Information:

The questions in this examination have been assigned values of 1 to 2 points. All true or false questions have a value of 1 point each and the multiple choice questions in Section B have a value of 2 points each.

The examination is graded on the basis of correct answers. If more than one oval is darkened in answering a questions, the answer will be considered incorrect.

The Service will include the answers with your formal notification of examination results. Therefore, you may want to mark your answers in this examination questions book and retain it for purposes of your future comparison.

Part 4
Section A:
Questions 1 – 40

The following statements are either true or false. Select the most appropriate answer and darken the oval under A for True or B for False.

1. Preparing a tax return, furnishing information at the request of the Internal Revenue Service, or appearing as a witness for the taxpayer is considered practice before the Internal Revenue Service
2. Michael Smith is an Enrolled Agent with an office that employs 4 other Enrolled Agents. Kimberly Wilson is a CPA who was suspended from practice for 1 year by the Office of Professional Responsibility. Kimberly knows Michael and asks him for employment for the one-year period of suspension. Michael employs Kimberly for the sole purpose of corresponding and communicating with the Internal Revenue Service on issues arising for Michael's clients. Michael is allowed to employ Kimberly because the suspension is for less than 2 years, Kimberly is limited to corresponding and communicating with the Internal Revenue Service and the clients are really Michael's not Kimberly's.
3. Only under **very limited circumstances**, as described in the instructions to Form 2848, may a taxpayer authorize an Attorney, CPA or Enrolled Agent to receive and endorse a refund check on behalf of the taxpayer.
4. Mary Pecan, a CPA, prepared a tax return for a client. The return contained a frivolous position that could not be defended under any circumstances. The examiner who conducted the examination made a referral to the Office of Professional Responsibility. After all procedural requirements have been met; the Office of Professional Responsibility will make a final, binding decision as to the appropriate sanction for Mary.
5. Dave operates a retail business as a sole proprietorship with stores in several locations in the Toledo, Ohio area. The books and records for all of the stores are maintained at the main store near his residence. Dave's tax returns have always been prepared by his long time accountant in Toledo. Dave has been notified that his 2004 1040 has been selected for an examination. Dave's brother-in-law in Detroit, Michigan, a district away, has just passed the Enrolled Agent's examination and Dave's wife would like him to handle the examination. The Internal Revenue Service will likely approve a transfer to the Detroit office, provided a properly executed form 2848 is submitted with the request.
6. Ruth's 2002 and 2003 returns were examined for investment expenses. Both examinations resulted in no change to the return as filed. Ruth was notified that her 2004 return was selected for examination for investment expenses. Since Ruth has two prior no change audits, she should notify the Internal Revenue Service, to see if the examination should be discontinued.
7. A representative qualified to practice before the Internal Revenue Service cannot prepare or sign a formal written protest on behalf of a client to request an appeals conference.
8. Joseph received a bill from the Internal Revenue Service for additional tax due of \$2,000 plus accrued interest of \$300. If Joseph pays the \$2,000 tax in full, this will stop the accrual of any additional interest.
9. Brittany's 2003 return was selected for an examination. Information was requested to support claimed business expenses. Brittany failed to provide the Internal Revenue Service with any of the requested information because she felt the examination was an unwarranted invasion of her privacy. The Internal Revenue Service issued a Notice of Deficiency and Brittany filed a petition with the Tax Court. Since the examination was started after July 22, 1998, the Internal Revenue Service will have the burden of proof in the Tax Court Proceedings.
10. In the process of examining or collecting your tax liability the Internal Revenue Service may contact third parties. The Internal Revenue Service must give the taxpayer reasonable notice **before** making any inquiries of third parties such as neighbors, banks, employers, and other employees. This notification must include the specific names of those it intends to contact.
11. An accuracy related penalty of 20% of the underpayment of tax can be asserted if you understate your income tax because of negligent acts or a disregard of the rules or regulations. Negligent acts include the failure to keep adequate books and records.
12. An income tax return preparer that is required to sign a tax return but fails to do so is subject to a penalty.
13. A paid preparer must give the taxpayer a copy of his or her tax return in addition to the copy filed with the Internal Revenue Service.
14. If a person is paid to prepare, assist in preparing, or review a tax return then he/she must sign that return. He/she may, however, choose whether or not to provide the other information in the paid preparer's area of the tax return.
15. Form 2848 is used to appoint a representative to act on a taxpayer's behalf before the Internal Revenue Service. Form 2848 is filed **only if** the taxpayer wants to name a person(s) to represent them and that person is a person recognized to practice before the Internal Revenue Service.

16. As a general rule, if you receive property in a nontaxable exchange, your basis in that property is the same as the basis of the property you gave up. You **must** keep the records on the old property, as well as the new property, until the period of limitations expires for the year in which you dispose of the new property in a taxable disposition.
17. For 2004, your maximum allowable deduction for contributions to a Roth IRA, if neither you nor your spouse was covered for any part of the year by an employer retirement plan, is \$3,000 (\$3,500, if you are 50 or older).
18. An organization **may qualify** for exemption from federal income tax under Internal Revenue Code section 501 if it is organized and operated exclusively as a Political Action Committee.
19. A **Notice of Federal Tax Lien** does not attach to property acquired after the lien filing date.
20. Bankruptcy proceedings will always permanently stop the Internal Revenue Service from enforcement action.
21. Margaret Bright is an Enrolled Agent who participates in the Internal Revenue Service *e-file* Program as an Electronic Return Originator & Transmitter. Billy Bud filed his 2004 Form 1040 electronically by the extended due date of August 15, 2005. (Billy had requested an automatic extension of time to file by August 15, 2005). On December 1, 2005 Billy realized that he did not claim a \$10,000.00 contribution on his Form 1040 for 2004. Billy requested that Margaret file an amended return for 2004. Margaret is allowed to electronically file the amended return because it is prior to the end of the filing year for tax year 2004, which is December 31, 2005.
22. Taxpayers often elect the Direct Deposit option because it is the fastest way of receiving refunds. The Electronic Return Originator (ERO) **must** accept any Direct Deposit election to any eligible financial institution designated by the taxpayer.
23. An authorized Internal Revenue Service *e-file* Provider is not considered to be an income tax preparer as long as their services are limited to "typing, reproduction, or other mechanical assistance in the preparation of a return. However, they are still subject to assessment of any and all return preparer penalties by the Internal Revenue Service.
24. The Internal Revenue Service *e-file* Program allows taxpayers to schedule the payment for withdrawal on a future date. Scheduled payments must be effective on or before the return due date. As an example, a Provider may transmit an individual income tax return in February and the taxpayer can specify that the withdrawal be made in April as long as it is on or before the return due date.
25. The Office of Professional Responsibility will make available for public inspection at the Office of Professional Responsibility the roster of all persons enrolled to practice, the roster of all persons censured, suspended, or disbarred from practice before the Internal Revenue Service, and the roster of all disqualified appraisers.
26. A Statutory Notice of Deficiency is also known as a 90-day letter because the taxpayer generally has 90 days from the date of the letter to file a petition with the United States Tax Court.
27. Nancy had e-mail correspondence in 2003 with her long-time tax return preparer, an enrolled agent. The correspondence related to tax advice on the depreciation of rental property Nancy had acquired in 2003. Nancy never filed the 2003 or subsequent returns. Nancy was notified by the Internal Revenue Service that she is the subject of a criminal investigation for the failure to file her returns. The Internal Revenue Service has issued a subpoena to obtain the e-mails as part of its investigation. The e-mails with her preparer are confidential communications between Nancy and her federally authorized practitioner and are therefore protected under Internal Revenue Code Section 7525.
28. After April 1, 2007, an individual who received initial enrollment during an enrollment cycle must complete two (2) hours of qualifying continuing education credit for each month enrolled during the enrollment cycle. Enrollment for any part of a month is considered enrollment for the entire month.
29. Except as provided in other sections of Circular 230, a practitioner will be presumed to have exercised due diligence if the practitioner relies on the work product of another person and the practitioner used reasonable care in engaging, supervising, training, and evaluating the person, taking proper account of the nature of the relationship between the practitioner and the person.
30. Form 8453, U.S. Individual Income Tax Declaration for an Internal Revenue Service e-file Return, must be signed **after** the return is prepared and **before** the electronic data portion of the return is submitted.
31. Vivian Blake is an Enrolled Agent who participates in the Internal Revenue Service *e-file* Program as an Electronic Return Originator & Transmitter. Fred Birch has not filed his Form 1040 for tax years 1992 and 1993. Fred hires Vivian in March of 2005 to prepare and file the delinquent returns. Vivian will be able to electronically file the delinquent 1992 and 1993 returns after April 15, 2005 and before January 1, 2006.
32. The Internal Revenue Service may use a *levy* to legally seize your property to satisfy a tax debt.
33. A federal tax lien gives the Internal Revenue Service a legal claim to your property as security for payment of your tax debt.
34. If you did not live with your spouse at any time during the year and you file a separate return, your filing status for determining the deduction phase out for a traditional IRA, is single.

35. The Internal Revenue Service may abate (reduce) the amount of interest you owe if the interest is due to an unreasonable error or delay by an Internal Revenue Service officer or employee in performing a ministerial or managerial act.
36. An unenrolled return preparer may represent any taxpayer before a revenue officer of the Internal Revenue Service, provided that the unenrolled return preparer has prepared at least one return for any taxpayer in the last three years.
37. A practitioner must exercise due diligence in determining the correctness of oral or written representations made by the practitioner to clients with reference to any matter administered by the Internal Revenue Service.
38. Joseph Smith, an enrolled agent, has represented Stephen Francis before the Internal Revenue Service and also prepared returns for Stephen in each of the last three years. Stephen was divorced last year, and his ex-wife, Lindsay, stops by Joseph's office and asks Joseph to represent her before the Internal Revenue Service with respect to the examination of her return that she filed separately from her husband in a year in which they were separated but not yet divorced. Because the representation involves a tax return for which Lindsay filed separately, and Lindsay was separated at the time, Joseph may undertake the representation of Lindsay without considering whether a conflict of interest exists between Lindsay and her former spouse.
39. In order to be absolutely certain that she will not be sanctioned for failing to exercise due diligence, an enrolled agent must complete all tasks involved with the representation of a taxpayer herself.
40. An enrolled agent cannot be sanctioned for a materially false or misleading statement that the client decides to make on a document submitted to the IRS, provided that it is the client who makes the final decision to submit the document containing the false or misleading statement.

Turn the page for Part 4, Section B

Part 4
Section B
Questions 41 - 80

The following questions are multiple choice. Select the most appropriate answer and darken the oval under the corresponding letter on the answer sheet.

41. With respect to unenrolled return preparers, which of the following statements is **correct**?
- A. An unenrolled return preparer is an individual other than an attorney, CPA, enrolled agent, or enrolled actuary who prepares and signs a taxpayer's return as the preparer, or who prepares a return but is not required (by the instructions to the return or regulations) to sign the return.
 - B. An unenrolled return preparer is only permitted to appear as a taxpayers' representative before a Customer Service Representative of the Internal Revenue Service.
 - C. An unenrolled preparer may receive refund checks on behalf of the taxpayer if Form 8821 has been executed.
 - D. An unenrolled preparer is permitted to represent a taxpayer over the telephone with the Automated Collection System unit.
42. Margaret Smith is a CPA who is representing John & Mary Jones before the Wage and Investment Division of the Internal Revenue Service. The Service is questioning John & Mary on contributions that were listed on page 2 of their 2004 Form 1040. While reviewing the documentation provided by John & Mary, Margaret discovers contributions that were made to a non-qualified organization. What is the appropriate action for Margaret to take?
- A. Margaret must advise John & Mary on how to keep the omission from being discovered by the IRS.
 - B. Margaret must notify the Internal Revenue Service that she is no longer representing John & Mary by withdrawing her Form 2848.
 - C. Margaret must advise John & Mary promptly of the omission and the consequences provided by the Internal Revenue Code and Regulations for such omission.
 - D. Margaret must immediately advise the Internal Revenue Service examiner of the non-qualified contributions.
43. The Office of Professional Responsibility can censure, suspend or disbar a practitioner from practice before the Internal Revenue Service for incompetence and/or disreputable conduct. Which one of the following is considered disreputable conduct?
- A. Conviction of any criminal offense under the revenue laws of the United States.
 - B. Conviction of any criminal offense involving dishonesty or breach of trust.
 - C. Giving false or misleading information or participating in any way in the giving of false or misleading information to the Department of the Treasury or any officer or employee thereof.
 - D. All of the above.
44. Josephine Jones, an Enrolled Agent, received a complaint from the Office of Professional Responsibility. Select the statement below that is **correct** with respect to the contents of the answer that Josephine will file in rebuttal to the complaint.
- A. Josephine may only state a general denial of the allegations.
 - B. Josephine must specifically admit or deny each allegation set forth in the complaint, and may not state that she is without sufficient information to admit or deny a specific allegation.
 - C. Josephine may deny a material allegation in the complaint even though she knows it to be true.
 - D. Josephine must specifically admit or deny each allegation set forth in the complaint, except that she may state that she is without sufficient information to admit or deny a specific allegation.
45. How long must each practitioner maintain records of their completed CPE credits?
- A. CPE credit information does not have to be retained by the Enrolled Agent since the qualifying organization provides the Office of Professional Responsibility a list of each participant that completed CPE credits.
 - B. CPE credit information must be maintained for a period of three (3) years from the date they are completed.
 - C. CPE credit information must be retained for a period of three (3) years following the date of renewal of enrollment.
 - D. CPE credit information must be retained for a period of one (1) year following the year they are completed.
46. To maintain active enrollment to practice before the Internal Revenue Service, each individual enrolled is required to have his or her enrollment renewed. The Office of Professional Responsibility will notify the individual of his or her renewal of enrollment and will issue the individual a card to evidence enrollment. Which of the following statements about renewal of enrollment is **correct**?
- A. A reasonable refundable fee may be charged for each application for renewal of enrollment filed with the Office of Professional Responsibility.
 - B. Failure by an individual to receive notification from the Office of Professional Responsibility of the renewal requirement will not be justification for the failure to timely renew enrollment.
 - C. Forms required for renewal may only be obtained from the National Association of Enrolled Agents.
 - D. The enrollment cycle is a 3 year period and all Enrolled Agents must renew at the same time, no matter when they first became Enrolled Agents.

47. Bethany timely filed her 2001 1040 tax return and paid the \$2,000 tax as shown on the return at the time of filing. The return was subsequently examined and Bethany signed an agreement form for the proposed changes on August 20, 2003. She paid the additional tax due of \$5,000 on September 30, 2003. In 2004, Tiffany located missing records which she believes would make \$3,000 of the additional assessment erroneous. Which of the following statements accurately states the date by which Bethany must file a claim for refund to get the \$3,000 back?
- August 20, 2005, two years from signing the agreement form.
 - April 15, 2005, three years from the due date of the original return.
 - September 30, 2005, two years from when the additional tax was paid.
 - No claim for refund can be filed since an examination agreement form was signed.
48. In the process of preparing Orlo Corporation's 2002 return, Dave, an enrolled agent, provided to Orlo Corporation calculations he had prepared computing basis of property that was sold and reported on the 1120 Form 4797. Later, when Orlo Corporation's 2002 return was examined by the Internal Revenue Service, Orlo Corporation refuses to provide the Internal Revenue Service with the calculations, claiming that this was a privileged communication between Orlo Corporation and its federally authorized practitioner. Which of the following statements is true?
- Orlo Corporation does not have to provide the calculations to the Internal Revenue Service because they are privileged under the Federal Tax Practitioner privilege rules.
 - Orlo Corporation must provide the calculations to the Internal Revenue Service because privilege does not apply to a determination with respect to an item that will be presented to the government on an original return.
 - Orlo Corporation must provide the calculations to the Internal Revenue Service because the Federal Tax Practitioner privilege does not apply to documents written by Dave because he is not a CPA.
 - Orlo Corporation does not have to provide the calculations to the Internal Revenue Service if they believe this transaction might be construed as a tax shelter.
49. Disputes involving what areas of taxation may **not** be resolved in the United States Tax Court?
- Income tax
 - Gift tax
 - Employment tax
 - Estate tax
50. After the issuance of a Statutory Notice of Deficiency, failure to timely file a petition with Tax Court will result in which of the following?
- The Internal Revenue Service will issue a 30-day letter.
 - The Internal Revenue Service will assess the tax it says the taxpayer owes.
 - The Internal Revenue Service will issue a 90-day letter.
 - You will be required to post a deposit before being allowed to request an extension for time to file a petition.
51. A frivolous income tax return is one that does not include enough information to figure the correct tax or that certain information clearly showing that the tax that was reported is substantially incorrect. If a taxpayer files a frivolous return, which penalty applies specifically to the taxpayer for the frivolous return?
- \$50 for failure to supply your social security number.
 - 20% of the underpayment, reduced for those items for which there was adequate disclosure made.
 - \$500 frivolous return penalty, applied in addition to any other applicable penalty or penalties.
 - \$100 for the failure to furnish the tax shelter registration number.
52. Of the following statements below, which one **is not** considered practice before the Internal Revenue Service?
- Communicating with the Internal Revenue Service for a taxpayer regarding the taxpayer's rights, privileges, or liabilities under laws and regulation administered by the Internal Revenue Service.
 - Representing a taxpayer at conferences, hearings, or meetings with the Internal Revenue Service.
 - Preparing a tax return or furnishing information at the request of the Internal Revenue Service.
 - Preparing and filing necessary documents at the request of the Internal Revenue Service for a taxpayer and discussing issues.

53. Judith wants to revoke a power of attorney that she previously executed and does not want to name a new representative. In order to do this, what is Judith's most appropriate action?
- Judith must call the Internal Revenue Service toll free number, verify that she is Judith and inform them she wants to revoke the current power of attorney that is on file.
 - Judith must send a letter to her nearest Internal Revenue Service Center informing them that she wants to revoke the current power of attorney that is on file.
 - Judith must send a copy of the previously executed power of attorney to the Internal Revenue Service (with an original signature) and write "REVOKE" across the top of the power of attorney.
 - Judith must send a new power of attorney to the Internal Revenue Service office(s) where the prior power was originally filed and name herself as the representative.
54. Kevin Blue had his 2004 tax return examined by the Internal Revenue Service. Kevin did not agree with the results and was informed by the examiner that he could Appeal the findings to the Appeals Division. Kevin decided he would rather have his case heard in Tax Court and bypass the Appeals Division. What must Kevin do?
- When Kevin receives the proposed adjustments (30-day letter), he must file a petition with the United States Tax Court.
 - Kevin should file a petition with the United States Tax Court immediately after he advises the examiner that he wants to go to Tax Court.
 - Kevin must wait to receive the Statutory Notice of Deficiency (90-day) letter before he can petition the United States Tax Court.
 - Kevin must pay the tax before he can file a petition with the United States Tax Court.
55. There are two categories of records, basic and specific. Of the items listed below, which records are **not** considered basic records?
- Sales slips, invoices, receipts, cancelled checks or other proof of payment.
 - Brokerage statements, mutual fund statements, Form 1099, Form 2439.
 - Separation agreement, casualty and theft losses, child care credit, contributions.
 - Closing statements, purchase and sales invoices, proof of payment, insurance records.
56. Dave, single and age 40, is covered by a pension plan at work. For 2003 Dave could have contributed and deducted \$3,000, but could only afford to contribute \$1,000, which he did on April 14, 2004. After April 15, 2004 Dave contributed \$3,000 for tax year 2004. Since his Modified AGI for 2004 was over \$45,000, Dave computed that his reduced IRA deduction for 2004 was \$600. Which of the following is **not** an option available for Dave?
- He can deduct \$2,600 in 2004 since he had a carryover from the immediately preceding tax year.
 - He can withdraw the non-deductible \$2,400 contribution by April 15, 2005.
 - He can leave the entire contribution in the IRA and elect to treat the entire \$3,000 as a non-deductible contribution.
 - He can leave the entire contribution in the IRA as a \$600 deductible contribution and a \$2,400 non-deductible contribution.
57. Larry, age 35, made an excess contribution to his traditional IRA in 2004 of \$1,000, which he withdrew by April 15, 2005. At the same time he withdrew the \$50 income that was earned on the \$1,000. Which of the following statements are true?
- Larry must include the \$50 in his gross income in 2004.
 - Larry would have to pay the 6% excise tax on the \$1,050.
 - Larry would have to pay the 10% additional tax on the \$50 as an early distribution.
 - Both A. & C.
58. Which of the following would be an allowable investment for a traditional IRA?
- Stamps which have been issued by the United States Postal Service.
 - An oil painting certified by an art expert as being an authentic original by a Dutch Master.
 - One-ounce silver coins minted by the Treasury Department.
 - All of the above.
59. Of the organizations listed below, which organization could **not** receive approval for tax-exempt status under Internal Revenue Code section 501(C)(3)?
- A local chapter of the Salvation Army
 - A partnership for scientific research
 - A college alumni association
 - A local boys club
60. If you don't agree with the Internal Revenue Service examination conclusion you may take your case to which of the following:
- United States Tax Court
 - United States Court of Federal Claims
 - United States District Court
 - All of the above

61. After assessment, as a general rule, the Internal Revenue Service has the authority to collect outstanding federal taxes for which of the following:
- Three years.
 - Five years.
 - Ten years.
 - Twenty years.
62. Which of the following may the Internal Revenue Service settle by accepting an **Offer in Compromise** for less than the full amount of the balance due?
- There is doubt as to whether or not the assessed tax is correct.
 - There is doubt as to the collectibility.
 - Both **A.** and **B.** as stated above.
 - A tax deficiency plus accrued interest, but not penalties.
63. In some cases, a spouse will be relieved of the tax, interest, and penalties on a joint return. Which of the following types of relief is not relief from a joint tax return?
- Innocent spouse relief.
 - Separation of liability.
 - Equitable relief.
 - Injured spouse relief.
64. Leslie Oak, an Enrolled Agent, prepared the 2004 tax return for Ms. Barbara Smith. The Form 1040 tax return of Ms. Smith contained capital gains and losses (Schedule D), wages (Form W-2) and Rental Income (Schedule E). Ms. Smith signed a Form 8453, U.S. Individual Income Tax Declaration for an Internal Revenue Service *e-file* Return, which allowed Leslie to electronically file Mr. Smith's tax return. Based upon the information in the 2004 tax return of Ms. Smith, which statement below best describes the documents that Leslie Oak is required to maintain for Ms. Smith's 2004 electronically filed tax return?
- Leslie Oak must retain two signed copies of Form 8453.
 - Leslie Oak does not have to retain any of the documents used in preparation of Ms. Smith's return. Leslie should secure from Ms. Smith a list of all the documents used in preparation of the return and that they were all returned to Ms. Smith. (Form 8454, Return Of Documents Used In Preparation of Electronically Filed Returns).
 - Leslie Oak must retain a copy of the signed Form 8453 and paper copies of all Forms W-2.
 - Leslie Oak must only retain one copy of the signed Form 8453.
65. Which of the following statements is **correct** with respect to the limited practice of an unenrolled return preparer:
- An unenrolled return preparer may represent the taxpayer, before certain types of Internal Revenue Service personnel, with respect to an examination regarding the return that he or she prepared.
 - An unenrolled return preparer is permitted to appear as a taxpayers' representative before any function of the Internal Revenue Service as long as he or she prepared the return.
 - If authorized by the taxpayer, an unenrolled return preparer can sign consents to extend the statutory period for assessment or collection of tax.
 - An unenrolled preparer may receive a refund check on behalf of the taxpayer if permission has been granted to the unenrolled preparer with a Form 8821.
66. Samantha Sharp, an Enrolled Agent, prepares and electronically files Form 1040 tax returns. Samantha prepared the 2003 tax return for Tom, her client. Tom elects to use Form 8453 as his method of signing the return. On March 1st Samantha electronically filed Tom's tax return, which was a refund return. On March 3rd, Samantha received acknowledgement from the Internal Revenue Service that Tom's return had been accepted. On March 10th, Tom received his refund. By what date must Samantha mail the executed Form 8453 to the IRS?
- By March 13th, (within three (3) business days after Tom receives his refund).
 - By March 5th, (within five (5) business days after the return was electronically filed).
 - By March 6th, (within three (3) business days after the return is acknowledged as accepted by the IRS).
 - By March 31st (All Forms 8453 signed during the month must be sent to the IRS by the last day of the month).
67. Which of the following retirement plans **does not** have a salary reduction (elective deferral) component to it?
- Simplified Employee Pension Plan (SEP)
 - SIMPLE IRA Plan
 - SIMPLE 401(k) Plan
 - Qualified 401(k) Plan

68. Frank Maple, a Certified Public Accountant, represents his brother Joe Maple and Joe's business partner Bill Smith. Joe Maple and Bill Smith are equal shareholders in the Joe & Bill Corporation. The Internal Revenue Service examined the corporation and determined that one of the shareholders committed fraud, but could not determine which shareholder it was. Frank has made an appointment with the Internal Revenue Service to determine which partner was guilty. Which of the following statements reflects what Frank should do in accordance with Circular 230?
- Frank should meet with the Internal Revenue Service and try to convince the examiner that each shareholder is equally guilty.
 - Advise Joe & Bill that they should dissolve the corporation thereby making it difficult for the Internal Revenue Service to pursue the issue.
 - Advise Joe & Bill that he cannot represent them because there is a conflict of interest.
 - Advise Joe & Bill on creating documents that will convince the Internal Revenue Service that neither shareholder is guilty of fraud.
69. Which of the following correctly states the maximum allowable **catch up** contribution only for a participant age 50 or over for the year 2004?
- \$3,000 for a 401(k) plan.
 - \$1,000 for a SIMPLE plan.
 - \$1,000 for a traditional IRA.
 - \$3,500 for a Roth IRA.
70. If you don't agree with the Internal Revenue Service examination conclusion you may take your case to the United States Tax Court for the following:
- State income tax examination.
 - Federal income tax examination.
 - Federal estate tax examination.
 - Both B. and C.
71. Stuart Light, an Enrolled Agent, received a complaint from the Office of Professional Responsibility for disreputable conduct. Which one of the following items was **not** required to be listed in the complaint:
- A demand for an answer to the charges
 - The unit and employee of the Internal Revenue Service that recommended the action against Stuart.
 - The specific sanctions that are recommended against Stuart
 - The charges against Stuart
72. Sara Birch became an Enrolled Agent on March 12, 2005. Sara is ordering business cards and advertising for her accounting and tax practice. Of the following presentations listed below, which one will violate the Circular 230 rules for advertising?
- Sara Birch, Enrolled Agent, Certified to practice before the Internal Revenue Service.
 - Sara Birch, Enrolled Agent, representing taxpayers before the Internal Revenue Service.
 - Sara Birch, enrolled to represent taxpayers before the Internal Revenue Service.
 - Sara Birch, EA, admitted to practice before the Internal Revenue Service.
73. When figuring compensation for purposes of determining the amount of an allowable contribution to a traditional IRA, which of the following is an **incorrect** statement?
- Pension or annuity income is not considered as compensation for an IRA plan.
 - Earnings and profits from property, such as rental income, are considered compensation.
 - Interest and dividend is not considered as compensation for an IRA plan.
 - Any amount you exclude from income is not considered as compensation for an IRA plan.
74. Which of the following is **not** a true statement regarding a direct rollover option distribution to another qualified retirement plan?
- To be a direct eligible rollover, you must pay withholding tax on the amount being rolled over.
 - On a direct eligible rollover, no tax will be withheld from any part of the distribution.
 - You may choose to have any part or all of an eligible rollover distribution paid directly to another retirement plan.
 - If an eligible rollover distribution is paid to you generally there will be tax withheld.
75. Nancy, a calendar year taxpayer, filed her Federal Income Tax return for tax year 2002, which was due on April 15, 2003, on May 1, 2003. Nancy did not request, and therefore did not receive, an extension of time to file her 2002 Federal Income Tax return. Nancy paid the amount due as shown on the 2002 return on June 30, 2003. Based on these facts, the last day for the IRS to assess additional tax with respect to Nancy's 2002 return is:
- June 20, 2005
 - April 15, 2006
 - May 1, 2006
 - June 20, 2006
76. Michael Young, an Authorized Internal Revenue Service e-file Provider, prepared and electronically transmitted the Form 1040 return of Vivian Blue to the Internal Revenue Service. The Internal Revenue Service notified Michael that the electronic portion of Vivian's return was rejected for processing. Which statement listed below best explains what Michael must do?
- Michael must advise the taxpayer that the return may never be filed electronically. Vivian must return to the office, sign a paper copy of Form 1040 and mail it to the Service.
 - If Michael cannot correct the error with the information in his possession, he must take reasonable steps to inform the taxpayer of the rejection within 24 hours and provide the taxpayer with the reject code(s) accompanied by an explanation.
 - Michael must mail a paper copy of the return to the IRS with the original Form 8453 that Vivian signed.
 - If Michael cannot correct the error with the information in his possession, he must take reasonable steps to inform the taxpayer of the rejection by the return due date or within 1 week, whichever date is earlier.

77. Nancy received a **Notice of Tax Due and Demand for Payment** in the amount of \$25,000 as a result of an examination of her 2003 Form 1040, U. S. Individual Income Tax Return. She is not able to pay the entire amount at this time and would like to set up an installment agreement. Which of the following statements are true regarding setting up an installment agreement?
- Installment agreements generally require equal monthly payments.
 - Nancy must file all tax returns that are required to be filed, and make current estimated tax payments (if required).
 - Nancy will be charged a \$43 user fee to set up an installment agreement.
 - All of the above.
78. Dave, age 40, had a traditional IRA with a \$40,000 balance at the beginning of 2004. All of Dave's contributions have been tax deductible. On July 1, 2004, Dave borrowed \$20,000 from the IRA account. Which of the following would be a correct statement regarding the effects of this transaction?
- This would not be a prohibited transaction provided that the loan called for periodic payments and an interest rate at least equal to the applicable federal rate (AFR).
 - Dave would be required to include \$20,000 in income as a distribution in 2004.
 - Dave would be required to include \$40,000 in income as a distribution in 2004.
 - Dave would not have to include the \$20,000 in income if it were used for qualified higher education expenses.
79. Rich, an enrolled agent, is currently representing Dana before the Internal Revenue Service. Mike, Dana's former business partner, asks Rich to represent him before the Internal Revenue Service. Notwithstanding the existence of a conflict of interest between Dana and Mike, Rich may still represent Mike before the Internal Revenue Service if certain requirements are met. Which of the following statements is **not** a requirement that Rich has to satisfy before he can represent Mike?
- Dana and Mike must each give informed consent, confirmed in writing, to Rich.
 - Rich must reasonably believe that he will be able to provide competent and diligent representation to both Dana and Mike.
 - Rich must immediately notify the Office of Professional Responsibility in writing that he is representing both Dana and Mike.
 - The representation of Dana must not be prohibited by law.
80. Which of the following statements is **correct** with respect to a client's request for records of the client that are necessary for the client to comply with his or her Federal tax obligations?
- The practitioner may never return records of the client to the client even if the client requests prompt return of the records.
 - The existence of a dispute over fees always relieves the practitioner of his or her responsibility to return records of the client to the client.
 - The practitioner must, at the request of the client, promptly return the records of the client to the client unless applicable state law provides otherwise.
 - The practitioner must, at the request of the client, return the records of the client to the client within three months of receiving the request.

End of Part 4