Singapore Institute of Accredited Tax Professionals Limited

Code of Professional Conduct and Ethics

November 2010

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PREFACE

The mission of the Singapore Institute of Accredited Tax Professionals (SIATP) is to promote in the public interest the standards of tax practice and the technical competence and capability of tax professionals. It aims to be the institute for tax professionals in Singapore through the pursuit of excellence in standards, professional conduct and tax practice.

This Code of Professional Conduct and Ethics (the Code) establishes the fundamental principles of professional ethics for SIATP's accredited tax advisors, accredited tax practitioners and accredited tax practitioners (provisional). The Code is set out as a statement of principles and the Board may issue binding written guidelines for the interpretation and application of the Code from time to time.

References to the term "tax professional" in the Code refer to an accredited tax advisor, accredited tax practitioner and an accredited tax practitioner (provisional).

EFFECTIVE DATE

The Code is effective on 1 January 2011. Earlier application is encouraged.

100 Introduction and fundamental principles

100.1 A distinguishing mark of the tax profession is its acceptance of the responsibility to act in the public interest. Therefore, a tax professional's responsibility is not exclusively to satisfy the needs of an individual client or employer. In acting in the public interest, a tax professional shall observe and comply with the Code. If a tax professional is prohibited from complying with certain parts of the Code by law or regulation, the tax professional shall comply with all other parts of the Code.

100.2 The Code establishes the fundamental principles of professional conduct and ethics for tax professionals.

100.3 The use of the word "shall" in the Code imposes a requirement on the tax professional to comply with the specific provision in which "shall" has been used. Compliance is required unless an exception is permitted by the Code.

Fundamental principles

100.4 A tax professional shall comply with the following fundamental principles:

(a) *Integrity* – to be straightforward and honest in all professional and business relationships.

(b) *Objectivity* – to not allow bias, conflict of interest or undue influence of others to override professional or business judgments.

(c) *Professional competence and due care* – to maintain professional knowledge and skill at the level required to ensure that a client or employer receives competent professional services based on current developments in practice, legislation and techniques and act diligently and in accordance with applicable technical and professional standards.

(d) *Confidentiality* – to respect the confidentiality of information acquired as a result of professional and business relationships and, therefore, shall not disclose any such information to third parties without proper and specific authority, unless there is a legal or professional right or duty to disclose, nor use the information for the personal advantage of the tax professional or third parties.

(e) *Professional behaviour* – to comply with relevant laws and regulations and avoid any action that discredits the profession.

Each of these fundamental principles is discussed in more detail in sections 110 – 150.

Threats and safeguards

100.5 When a tax professional identifies threats to compliance with the fundamental principles and, based on an evaluation of those threats, determines that they are not at an acceptable level, the tax professional shall determine whether appropriate safeguards are available and can be applied to eliminate the threats or reduce them to an acceptable level. In making that determination, the tax professional shall exercise professional judgment and take into account whether a reasonable and informed third party, weighing all the specific facts and circumstances available to the tax professional at the time, would be likely to conclude that the threats would be eliminated or reduced to an acceptable level by the application of the safeguards, such that compliance with the fundamental principles is not compromised.

100.6 A tax professional shall evaluate any threats to compliance with the fundamental principles when the tax professional knows, or could reasonably be expected to know, of circumstances or relationships that may compromise compliance with the fundamental principles.

100.7 A tax professional shall take qualitative as well as quantitative factors into account when evaluating the significance of a threat.

100.8 A tax professional may inadvertently violate a provision of the Code. Depending on the nature and significance of the matter, such an inadvertent violation may be deemed not to compromise compliance with the fundamental principles provided, once the violation is discovered, the violation is corrected promptly and any necessary safeguards are applied.

100.9 When a tax professional encounters unusual circumstances in which the application of a specific requirement of the Code would result in a disproportionate outcome or an outcome that may not be in the public interest, it is recommended that the tax professional consults a member body or the relevant regulator.

100.10 Threats may be created by a broad range of relationships and circumstances. When a relationship or circumstance creates a threat, such a threat could compromise, or could be perceived to compromise a tax professional's compliance with the fundamental principles. A relationship or circumstance may create more than one threat, and a threat may affect compliance with more than one fundamental principle. Threats fall into one or more of the following categories:

(a) *Self-interest threat* – the threat that a financial or other interest will inappropriately influence the tax professional's judgment or behaviour;

(b) *Self-review threat* – the threat that a tax professional will not appropriately evaluate the results of a previous judgment made or service performed by him, or by another individual within the tax professional's firm or employing organisation, on which the tax professional will rely when forming a judgment as part of providing a current service;

(c) *Advocacy threat* – the threat that a tax professional will promote a client's or employer's position to the point that the tax professional's objectivity is compromised;

(d) *Familiarity threat* – the threat that due to a long or close relationship with a client or employer, a tax professional will be too sympathetic to their interests or too accepting of their work; and

(e) *Intimidation threat* – the threat that a tax professional will be deterred from acting objectively because of actual or perceived pressures, including attempts to exercise undue influence over the tax professional.

100.11 Safeguards are actions or other measures that may eliminate threats or reduce them to an acceptable level. They fall into two broad categories:

(a) Safeguards created by the profession, legislation or regulation; and

(b) Safeguards within the work environment.

100.12 Safeguards created by the profession, legislation or regulation include:

- Educational, training and experience requirements for entry into the profession.
- Continuing professional development requirements.
- Corporate governance regulations.
- Professional standards.
- Professional or regulatory monitoring and disciplinary procedures.
- External review by a legally empowered third party of the reports, returns, communications or information produced by a tax professional.

100.13 Certain safeguards may increase the likelihood of identifying or deterring unethical behaviour. Such safeguards, which may be created by the tax profession, legislation, regulation, or an employing organisation, include:

- Effective, well-publicised complaint systems operated by the employing organisation, the profession or a regulator, which enable colleagues, employers and members of the public to draw attention to unprofessional or unethical behaviour.
- An explicitly stated duty to report breaches of ethical requirements.

Ethical conflict resolution

100.14 A tax professional may be required to resolve a conflict in complying with the fundamental principles.

100.15 When initiating either a formal or informal conflict resolution process, the following factors, either individually or together with other factors, may be relevant to the resolution process:

(a) Relevant facts;

(b) Ethical issues involved;

(c) Fundamental principles related to the matter in question;

(d) Established internal procedures; and

(e) Alternative courses of action.

Having considered the relevant factors, a tax professional shall determine the appropriate course of action, weighing the consequences of each possible course of action. If the matter remains unresolved, the tax professional may wish to consult other appropriate persons within the firm or employing organisation for help in obtaining resolution.

100.16 Where a matter involves a conflict with, or within, an organisation, a tax professional shall determine whether to consult those charged with governance of the organisation, such as the board of directors or the audit committee.

100.17 It may be in the best interest of the tax professional to document the substance of the issue, the details of any discussions held, and the decisions made concerning that issue.

100.18 If a significant conflict cannot be resolved, a tax professional may consider obtaining professional advice from the relevant professional body or from legal advisors. The tax professional generally can obtain guidance on ethical issues without breaching the fundamental principle of confidentiality if the matter is discussed with the relevant professional body on an anonymous basis or with a legal advisor under the protection of legal privilege. Instances in which the tax professional may consider obtaining legal advice vary. For example, a tax professional may have encountered a fraud, the reporting of which could breach the tax professional’s responsibility to respect confidentiality. The tax professional may consider obtaining legal advice in that instance to determine whether there is a requirement to report.

100.19 If, after exhausting all relevant possibilities, the ethical conflict remains unresolved, a tax professional shall, where possible, refuse to remain associated with the matter creating the conflict. The tax professional shall determine whether, in the circumstances, it is appropriate to withdraw from the engagement team or specific assignment, or to resign altogether from the engagement, the firm or the employing organisation.

110 Integrity

110.1 The principle of integrity imposes an obligation on all tax professionals to be straightforward and honest in all professional and business relationships. Integrity also implies fair dealing and truthfulness.

110.2 A tax professional shall not knowingly be associated with reports, returns, communications or other information where the tax professional believes that the information:

(a) Contains a materially false or misleading statement;

(b) Contains statements or information furnished recklessly; or

(c) Omits or obscures information required to be included where such omission or obscurity would be misleading.

When a tax professional becomes aware of such information, the tax professional shall take steps to be disassociated from that information.

120 Objectivity

120.1 The principle of objectivity imposes an obligation on all tax professionals not to compromise their professional or business judgment because of bias, conflict of interest or the undue influence of others.

120.2 A tax professional may be exposed to situations that may impair objectivity. It is impracticable to define and prescribe all such situations. A tax professional shall not perform a professional service if a circumstance or relationship biases or unduly influences his professional judgment with respect to that service.

130 Professional competence and due care

130.1 The principle of professional competence and due care imposes the following obligations on the tax professional:

(a) To maintain professional knowledge and skill at the level required to ensure that clients or employers receive competent professional service; and

(b) To act diligently in accordance with applicable technical and professional standards when providing professional services.

130.2 Competent professional service requires the exercise of sound judgment in applying professional knowledge and skill in the performance of such service. Professional competence may be divided into two separate phases:

(a) Attainment of professional competence; and

(b) Maintenance of professional competence.

130.3 The maintenance of professional competence requires a continuing awareness and an understanding of relevant technical, professional and business developments. Continuing professional development enables a tax professional to develop and maintain the capabilities to perform competently within the professional environment.

130.4 Diligence encompasses the responsibility to act in accordance with the requirements of an assignment, carefully, thoroughly and on a timely basis.

130.5 A tax professional shall take reasonable steps to ensure that those working under the tax professional's authority in a professional capacity have appropriate training and supervision.

130.6 Where appropriate, a tax professional shall make clients, employers or other users of the tax professional services aware of the limitations inherent in the services.

140 Confidentiality

140.1 The principle of confidentiality imposes an obligation on the tax professional to refrain from:

(a) Disclosing outside the firm or employing organisation confidential information acquired as a result of professional and business relationships without proper and specific authority or unless there is a legal or professional right or duty to disclose; and

(b) Using confidential information acquired as a result of professional and business relationships to their personal advantage or the advantage of third parties.

140.2 A tax professional shall maintain confidentiality, including in a social environment, being alert to the possibility of inadvertent disclosure, particularly to a close business associate or a close or immediate family member.

140.3 A tax professional shall maintain confidentiality of information disclosed by a prospective client or employer.

140.4 A tax professional shall maintain confidentiality of information within the firm or employing organisation.

140.5 A tax professional shall take reasonable steps to ensure that staff under the tax professional's control and persons from whom advice and assistance is obtained respect the tax professional's duty of confidentiality.

140.6 The need to comply with the principle of confidentiality continues even after the end of relationships between a tax professional and a client or employer. When a tax professional changes employment or acquires a new client, the tax professional is entitled to use prior experience. The tax professional shall not, however, use or disclose any confidential information either acquired or received as a result of a professional or business relationship.

140.7 The following are circumstances where the tax professional is or may be required to disclose confidential information or when such disclosure may be appropriate:

(a) Disclosure is permitted by law and is authorised by the client or the employer;

(b) Disclosure is required by law, for example:

(i) Production of documents or other provision of evidence in the course of legal proceedings; or

(ii) Disclosure to the appropriate public authorities of infringements of the law that come to light; and

(c) There is a professional duty or right to disclose, when not prohibited by law:

(i) To respond to an inquiry or investigation by a member body or regulatory body;

(ii) To protect the professional interests of a tax professional in legal proceedings; or

(iii) To comply with tax regulations and ethics requirements.

140.8 In deciding whether to disclose confidential information, relevant factors to consider include:

(a) Whether the interests of all parties, including third parties whose interests may be affected, could be harmed if the client or employer consents to the disclosure of information by the tax professional;

(b) Whether all the relevant information is known and substantiated, to the extent it is practicable; when the situation involves unsubstantiated facts, incomplete information or unsubstantiated conclusions, professional judgment shall be used in determining the type of disclosure to be made, if any;

(c) The type of communication that is expected and to whom it is addressed; and

(d) Whether the parties to whom the communication is addressed are appropriate recipients.

150 Professional behaviour

150.1 The principle of professional behaviour imposes an obligation on all tax professionals to comply with relevant laws and regulations and avoid any action that the tax professional knows or should know which may discredit the profession. This includes actions that a reasonable and informed third party, weighing all the specific facts and circumstances available to the tax professional at that time, would be likely to conclude adversely affecting the good reputation of the profession.

150.2 In marketing and promoting themselves and their work, the tax professional shall not bring the profession into disrepute. Tax professionals shall be honest and truthful and not:

(a) Make exaggerated claims for the services they are able to offer, the qualifications they possess, or experience they have gained; or

(b) Make disparaging references or unsubstantiated comparisons to the work of others.

160 Provision of information to the SIATP

160.1 A tax professional must provide such information when reasonably requested by the Board of SIATP without unreasonable delay.

160.2 A tax professional must promptly inform the Board of SIATP if he:

(a) Is convicted of a criminal offence;

(b) Is notified of disciplinary action begun against him by another professional body to which the tax professional belongs;

(c) Has a bankruptcy order made against him;

(d) Enters into a voluntary arrangement with his creditors; or

(e) Is disqualified as a director, or enters into a disqualification undertaking.

170 Compliance with the disciplinary process and orders from the Disciplinary Board

170.1 A tax professional is subject to the disciplinary process of the Disciplinary Committee in respect of a complaint against him. A tax professional must comply with any order from the Disciplinary Committee including orders in respect of costs and fines. Failure to comply with such an order will in itself be a disciplinary matter.

200 Guidance on dealings with the tax authorities

200.1 A tax professional shall ensure that his actions comply with the law. He needs to comply with any direct obligation imposed upon him by statute or common law to do or refrain from particular actions. He shall not assist his client in the commission of any act which breaches the client's legal obligations (for example, the provision of inaccurate accounts or misleading representations on transactions). Subject to that overriding duty, he owes a contractual duty to carry out the tasks that he has agreed to do with the requisite skill and care.

200.2 The tax professional will need to advise his client of the client's obligations under the relevant tax legislation and the consequences of non-compliance. If however, the client decides not to act in accordance with the tax professional's advice as to his obligations, then the tax professional must ensure that he does not take any steps which assist the client in that non-compliance because that would be in breach of the tax professional's duty not to assist in what is likely to be an unlawful act and would in itself be an unlawful act.

200.3 Subject to the foregoing the tax professional owes his client a duty to act in his best interests in carrying out his client's instructions.

200.4 A tax professional is to comply with the appropriate legislation and the common law when dealing with a matter which is governed by tax law on behalf of a client. A tax professional must act honestly and do nothing that might mislead the tax authorities.

200.5 A tax professional may disclose information to the tax authorities without his client's consent only when required to do so by law. Such obligations, which are mainly imposed by statute, override the contractual duty of confidentiality and loyalty which a tax professional owes to his client.

210 Overseas taxes

210.1 The tax professional shall apply the principles set out in these guidelines in dealing with issues relating to overseas taxes, unless he is subjected to different confidentiality or disclosure obligations of foreign tax jurisdictions.

220 Relationship with the client

220.1 The contractual relationship between an individual providing tax services and his client shall be governed by an appropriate letter of engagement in order that the scope of both the tax professional's and the client's responsibilities are made clear.

220.2 Every contractual relationship shall be covered; if the tax professional acts for a partnership and also for one or more of the partners, then the partnership and each partner acted for are separate clients for the purposes of these guidelines. Likewise, if the tax professional acts for a husband and wife, each is a separate client.

220.3 If the client is a body corporate, the client is the company and not the directors. Where a default of any kind is discovered, the matter shall be raised at the appropriate level in the client organisation. Where the directors' actions have resulted in the company defrauding the tax authorities, references in these guidelines to the 'client' shall be regarded in the first instance as referring to the directors. For example, where the tax professional has to advise a client to make a full disclosure to the tax authorities, the advice shall be addressed to the directors. If it is believed that this advice will not be brought to the attention of the board as a whole, it shall be given to each director, and then, if appropriate, to shareholders.

220.4 A tax professional shall deal with taxation work only on the basis that the client is prepared to make full disclosure to him. Such disclosures are governed by confidentiality as an implied contractual term.

220.5 The tax professional shall consider whether to continue to act for the client if a client refuses to act in accordance with the tax professional's advice, for example where the client has unreasonably delayed either the production of information needed for the preparation of returns or accounts or full disclosure of irregularities.

220.6 If a tax professional believes that a relationship with a client has been or is likely to be terminated by either party, the tax professional needs to take extra care to make clear to the client in writing what matters within the terms of the engagement have been dealt with and what remains to be done, and by what date it shall be done, and also what further action the tax professional will, or will not, take.

220.7 A tax professional is advised to keep detailed notes (preferably typed) of meetings and telephone conversations with his clients, the tax authorities and any other third parties regarding his clients' affairs in the event of a subsequent dispute over what was said at the time. The tax professional shall consider ensuring that notes of important meetings and conversations are signed and dated by the originator.

220.8 It would be prudent for a tax professional either to write to the client confirming oral advice as a matter of course or at least to make a note on file of advice given and he shall consider sending a copy of that note to the client for his information and comment. This will allow the client a chance to correct any mistaken assumptions set out in the note and to have a written record of the advice given.

220.9 The tax professional shall consider seeking help from a specialist if he has to advise on matters which require specialist knowledge and which are beyond his own level of competence.

230 Tax avoidance

230.1 Taxpayers are not prohibited to minimise their liability to tax within the provisions of the law. However, the tax professional shall consider carefully the merits of arrangements which may be considered artificial by the tax authority concerned. Such schemes shall be considered in the light of the client's wider interests because of the risk that they may be challenged by the tax authorities. A scheme which depends fundamentally on concealment from the tax authorities may very well amount to tax evasion, or at least may be viewed in that light by the tax authorities.

240 Disclosure

240.1 The tax professional must act in good faith in dealings with the tax authorities and must take reasonable care when making statements or asserting facts on behalf of a client. The tax professional's duty is to try to ensure that the information provided is accurate and that relevant facts are not withheld can be challenging, especially if the client does not co-operate.

240.2 The tax professional shall keep copies of documents and organise his working papers to separate matters such as the preparation of accounts and tax returns from those on which audit and other opinions may be expressed, because the latter are normally protected from disclosure.

250 Responses to official requests

250.1 A tax professional owes his client a contractual duty of confidentiality. It is wise to obtain the client's consent expressly if there is a real doubt about the information which the tax professional proposes to disclose. When doing so, the tax professional will normally be able to advise the clients whether it is in the client's best interests to disclose such information.

250.2 A tax professional must be able to distinguish between an informal request for information and statutory requests for information which are made in exercise of a power to require the provision of the information requested. In general, only the latter form of request is capable of overriding the tax professional's contractual duty of confidentiality to his client.

250.3 Informal requests may be merely forerunners of statutory requests compelling the disclosure of such information. Consequently, it will normally be sensible for the client to comply with such requests or persuade the tax authority that a more limited request would be appropriate. The tax professional shall advise the client as to the reasonableness of the informal request and likely consequences of non-compliance and let the client make his decision. With regard to statutory requests addressed to the client, the tax professional shall advise the client about rights of appeal.

250.4 For statutory requests, a distinction shall be drawn between requests addressed to the client and those addressed to the tax professional. Requests addressed to the tax professional are capable of overriding the tax professional's contractual duty of confidentiality while requests addressed to the client impose duties on the client and not on the tax professional. The tax professional shall provide the client with advice concerning the validity of the request, appropriate methods of complying with the request and the serious consequences of non-compliance for the latter type of requests. Normally, the client in receipt of such advice will consent to the tax professional providing such information on his behalf.

250.5 A statutory request addressed to the tax professional, if valid, imposes a set of legal obligations directly upon the tax professional. Failure to comply with such obligations can expose the tax professional to serious civil and criminal penalties. A tax professional can and shall decide how he complies with a valid information request without requiring the consent of his client, except for requests in relation to limited categories of information (for example information covered by legal professional privilege). Normally, he will be able to discuss such matters with the client, although certain powers may preclude communication between the tax professional and the client.

250.6 With regard to statutory requests, it will normally be helpful to examine the following factors:

(a) Whether the notice issued was valid and whether the officer making the request had the necessary authority to issue the notice and had acted in accordance with the various procedural safeguards?

(b) Whether parts of the information requested are within the ambit of the power authorising the request?

Given the complexity of the some of the rules relating to the scope of particular information powers, it may be appropriate to take specialist legal advice.

250.7 The tax professional remains under a duty to preserve the confidentiality of his client on matters falling outside the ambit of a statutory request.

250.8 The tax professional remains subject to the duty of confidentiality even after he has ceased to act for a client. The tax professional shall refer the enquirer either to the former client or his new agent for general and statutory requests which are addressed to the former client. In relation to statutory requests addressed to the tax professional, the termination of his professional relationship with the client does not affect his duty to comply with that request.

250.9 The tax professional usually does not need to disclose to the tax authorities advice provided to his client, unless it is relevant to the tax treatment of the underlying transaction.

260 Irregularities and errors

260.1 The tax professional shall inform his client immediately, normally in writing, once he is aware of irregularities or errors in the client's tax affairs. Tact may be required and immediate corrective action may be difficult but the tax professional shall be seen to have acted correctly at the outset.