

## Keeping Your Clients Out of Hot Water: Drafting Effective Tax Return Disclosures

Lawrence (Larry) Sannicandro

November 30, 2022



**Lawrence (Larry) Sannicandro** focuses his practice on federal and state tax controversies, including representation in audits, administrative appeals, collection matters, summons proceedings, criminal tax investigations and prosecutions, and litigation in the United States Tax Court, federal district and appellate courts, and state tax tribunals. He has extensive experience providing tax-related advice with respect to original tax return reporting positions on a broad range of substantive tax issues, amending tax returns, filing and litigating claims for refund, challenging civil tax penalties, reporting foreign assets and income, and making voluntary disclosures. Drawing on his unique experience as a former estate and gift tax attorney for the IRS, Larry is particularly well-versed in estate and gift tax planning techniques, as well as the valuation of closely held businesses, and defending those techniques and valuations in disputes with tax authorities.

Larry has served the American Bar Association Section of Taxation as the immediate past Chair of the Tax Collection, Bankruptcy, and Workouts Committee and as current member of the Appointments to the Tax Court *and* Pro Bono Committees. On behalf of the Tax Section, he has drafted comments to Congress, the U.S. Department of the Treasury, and the IRS on a wide range of tax issues. A dedicated pro bono advocate, Larry was awarded the 2020 Janet Spragens Pro Bono award for his team's work providing tax-related advice to wrongfully incarcerated individuals.

Prior to entering private practice, Larry served as a law clerk for the United States Tax Court. He teaches a course in tax practice and procedure at Fairleigh Dickinson University, and he lectures on legal ethics at Rutgers University School of Law. A prolific writer, Larry is a co-author of the BNA Portfolio on *IRS National Office Procedures – Rulings, Closing Agreements*, an author of the BNA Portfolio on *Innocent Spouse*, a contributing author of *Effectively Representing Your Client Before the IRS*, and a co-author of *Qualified Appraiser, Qualified Appraisal: Practice, Procedure, Legal Analysis, and Theory*, among other books and articles.

# Overview

- I. Introduction
- II. Ethical and Professional Duties Concerning Tax Disclosures
- III. Adequate Disclosure Defined
- IV. Elective Disclosures (including Best Efforts Statements)
  - A. Managing Penalties
  - B. Managing Statutes of Limitations.
- V. Mandatory Disclosures
- VI. Consequences to the Tax Return Preparer for Not Disclosing
- VII. Other Forms of Protection Compared



# Introduction

# Introduction

- Inflation Reduction Act of 2022
  - \$80 billion in additional funding provided to the IRS over 10 years
  - \$45 billion for civil and criminal tax enforcement
- For uncertain tax positions, taxpayers should increasingly look to:
  - Avoid civil tax penalties
  - Manage audit risk (with special attention on statutes of limitations)
- Options to manage uncertain tax positions
  - Private letter rulings, pre-filing agreements, etc.
  - Tax opinion letters
  - Tax insurance
  - Disclosure statements



# Ethical & Professional Duties Concerning Tax Disclosures

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

## Title search: Keeping Your Clients Out of Hot Water: Drafting Effective Tax Return Disclosures

Also available as part of the eCourse

[2022 Taxation eConference: Day 1 - Controversy](#)

First appeared as part of the conference materials for the  
70<sup>th</sup> Annual Taxation Conference: Day 1 - Controversy session

"Keeping Your Clients Out of Hot Water: Drafting Effective Tax Return Disclosures"