

IRS Circular 230 Disclosure

To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. federal tax advice contained in or accompanying this document, unless otherwise specifically stated, is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code, or (ii) promoting, marketing, or recommending to another party any transaction or matter that is contained in or accompanying this document.

Important Notice Regarding Rules on Written Federal Tax Advice Circular 230 is a U.S. Department of Treasury regulation that regulates the conduct of tax professionals who are admitted to practice before the Internal Revenue Service. Circular 230 requirements must be followed when tax practitioners provide written advice regarding Federal tax issues. Despite Treasury statements that the focus of Circular 230 is on tax shelter transactions, Circular 230 language is expansive and broad enough to cover advice given in connection with legitimate business transactions that are structured in a tax-efficient manner.

The Circular 230 requirements apply to all written forms of Federal tax advice, including written advice contained in faxes, emails, private offering memoranda, draft contracts, letters, memos and other documents. Most of the written Federal tax advice that WBC provides needs to comply with the requirements contained in Circular 230. Practitioners who fail to comply with the requirements of the Circular 230 provisions may be prevented from practicing before the Internal Revenue Service, be publicly censured or be fined.

Circular 230 generally requires that written tax advice take the form of a complete and detailed opinion regarding all Federal tax matters affecting a transaction (a “reliance opinion”) or state explicitly that it is not such an opinion and thus cannot be relied upon for the purpose of avoiding penalties provided in the Internal Revenue Code. Preparing a reliance involve considerable time and expense. Tax practitioners are required to provide a detailed recital and an exhaustive analysis of the relevant facts, assumptions and Federal tax issues surrounding the transaction to which the opinion relates.

With certain exceptions, Circular 230 gives practitioners the option, in lieu of issuing a reliance opinion, of including a legend in the written advice that clearly states that the written advice is not intended by the practitioner, and cannot be relied upon by the taxpayer, for the purpose of avoiding penalties resulting from Federal tax positions taken by the taxpayer in connection with the tax matter or transaction. Accordingly, faxed transmittals, e-mail messages, client memos and letters sent by WBC contain a legend to the effect that any written Federal tax advice contained in the document cannot be relied upon by the recipient for the purpose of avoiding penalties.

General articles that we prepare that provide tax news items or legitimate tax planning opportunities also need to comply with Circular 230. These documents will state that the tax advice was written to support the promotion or marketing of the tax matter, opportunity, or transaction described therein, and will urge individual recipients of the document to seek tax advice based on their particular circumstances from an independent tax advisor.