IRS OPR Alert 2026-19

Responsible AI Use In Tax Practice

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Why This Alert Matters Now

The issue is not merely AI. It is professional responsibility in tax practice.

IRS OPR Alert 2026-19 applies existing tax-practice duties to AI-assisted work. Estate planners, CPAs, EAs, tax attorneys, and advisers handling tax information may be affected.

The Alert addresses due diligence, competence, fees, written advice, firm procedures, confidentiality, and documentation.

The central question: does the Alert merely restate existing duties or **set a more demanding practical standard**?

Road Map

Suggested pacing for a technical but practical webinar.

1 Why the Alert matters

Scope, affected practitioners, recurring estate-planning and tax workflows.

2 Core Circular 230 duties

Due diligence, written advice, competence, supervision, confidentiality, and fees.

3 Where the Alert may go further

Operational mechanics, robust safeguards, documentation, and **billing language**.

4 Practical risk-management steps

Policies, engagement letters, review protocols, prompt governance, and documentation.

Suggested discussion blocks: IRS standards • ambiguity and ABA comparison • billing/confidentiality/use cases • governance checklist • closing.

Learning Objectives

By the end, participants should be able to:

Which estate planners are effected? Hint probably everyone!

Identify when AI use may implicate Circular 230 obligations.

Recognize the Alert's principal standards for AI-assisted tax work.

Distinguish the Alert's terminology from ABA-style reasonableness concepts.

Spot ethical and practical issues in AI-assisted billing, confidentiality, and written advice.

Develop a first-stage AI governance plan for a tax or estate-planning practice.

“

No 9000 computer has ever made a mistake or distorted information. We are all, by any practical definition of the words, foolproof and incapable of error.

HAL 9000, 2001: A Space Odyssey

The point is not science fiction. The point is professional reliance on confident systems.

What The Alert Says At A High Level

AI is a tool, not a substitute for professional judgment.

AI use does not eliminate duties of professional judgment, diligence, competence, confidentiality, supervision, and fair billing.

But does the Alert constrain professional judgement in the use of AI?

GAI can create fabricated outputs, bias, lack of transparency, and data-protection issues.

Practitioners must review AI output before client delivery or IRS submission.

The Alert focuses on systems used for research, drafting, summarization, calculations, documentation, written advice, and tax return work.

Who Should Care?

The Alert is not just a tax-return-preparer issue.

CPAs and EAs involved in tax return preparation, tax advice, IRS submissions, or client communications.

Tax attorneys and estate planners preparing or advising on gift, estate, GST, fiduciary income, or trust-related tax matters.

Is that pretty much every estate planning attorney?

Financial advisers who use tax returns or tax projections in planning workflows may need to evaluate whether their AI use implicates tax-practice duties.

Example: **Financial adviser who has AI analyze a tax return may be covered by the Alert**

Firms that believe they do not use AI may still rely on platforms with AI embedded in research, document, workflow, or tax tools.

Part I: The Alert’s Core Standards

A concise framework for the tax-practice rules before turning to the more difficult interpretive questions.

Circular 230 Map For AI Use

Each rule becomes more complicated when AI joins the workflow.

§10.22 Due diligence

Verify facts, citations, calculations, and representations. **Always?**

§10.27 Fees

No unconscionable fee; AI efficiencies may affect billing analysis. **Pass on cost reductions!!**

§10.35 Competence

Knowledge, skill, thoroughness, preparation, and AI literacy. **But what standards?**

§10.36 Firm procedures

Reasonable steps to establish and enforce compliance procedures. **But a reasonableness standard doesn't apply to all of the Alert**!

§10.37 Written advice

Reasonable assumptions, relevant facts, legal analysis, verified reliance.

§10.51 Conduct

Unauthorized use or disclosure of tax return information may be sanctionable. **Does this snare every adviser?**

IRC Tax return information

Sections 6713 and 7216 add civil and criminal preparer penalty concerns. **Worry in light of Alert's standards.**

Due Diligence Under §10.22

AI output should be treated like preliminary work product.

Review AI-created documents and language before delivery to clients or submission to the IRS. **Delivery to client of preliminary AI research labeled as such can inexpensively foster further discussion. Why should clients be denied that option?**

Verify facts, citations, and calculations produced by AI.

Do not rely solely on AI; human scrutiny and editing remain essential. **This is not reasonable in many cases and will defeat the use of AI to clients' advantage**.

The hard question is not whether review is needed. The hard question is how much review is required for different kinds of AI use.

Written Advice Under §10.37

The Alert emphasizes verification before reliance.

Written federal tax advice must be based on reasonable factual and legal assumptions.

Citations, cases, financial forecasts, inputs, and formulas should be checked when relied upon.

Blind reliance on AI may be unreasonable, especially where logic or sources are opaque.

AI may be useful as a starting point, but written advice should remain professional judgment, not edited AI text.

But what if the communication is not intended as and clearly labeled as not constituting final advice?

Competence Under §10.35

This may be the most important ambiguity in the Alert.

The Alert states that practitioners must understand both law and the technology used in client representation before the IRS.

How many tax experts have the technical expertise to understand the technology? Why should they?

It specifically references AI systems' operational mechanics, limitations, and risks.

It also requires understanding how AI develops content and recognizing bias or errors.

The concern: **the Alert does not define how much technological understanding is enough.**

Fees Under §10.27

AI efficiency may affect billing, but the Alert leaves critical gaps.

AI can reduce research and drafting time.

Billing for manual labor or time not actually spent may violate §10.27 depending on the facts. **This is contrary to sound economics, fairness to practitioners and current ABA ethics guidance on billing and will hurt clients.**

The Alert states that **cost savings should be passed on openly and fairly credited**.

The Alert does not define cost or explain how to account for AI investment, training, prompt development, cybersecurity, and governance.

Billing, value and responsible AI

Firm Procedures Under §10.36

The Alert moves from individual use to firm-level governance.

Firm leaders must take reasonable steps to maintain adequate procedures for Circular 230 compliance.

AI procedures may need to address training, secure data handling, accuracy monitoring, vendor review, and documentation.

The Alert raises but does not answer many practical questions about records, prompts, outputs, and AI-specific file documentation.

Solo and small-firm implementation burdens should not be underestimated.

How can solo and small firms cope?

Part II: The Article’s More Worried Interpretation

The core argument is not anti-AI. It is that standards should be precise, practical, and reasonableness-based.

The Article’s Central Thesis

The Alert may be read as going beyond existing ethics frameworks.

Many commentators describe the Alert as applying existing Circular 230 duties to AI.

But ask a different question: how does the Alert compare to the ABA’s technology guidance?

The concern is that the Alert uses demanding terms without a consistent reasonableness framework.

If read literally, the Alert may create uncertainty over competence, security, documentation, review, and fees.

Reasonableness Versus Undefined Precision

A key contrast for attorneys and CPAs working together.

ABA-style approach

Reasonable efforts
Sensitivity of information
Likelihood of disclosure
Cost and implementation burden
Effect on representation
Professional judgment

Alert terminology

Operational mechanics
How AI develops content
Comprehensive training
Robust confidentiality safeguards
Thorough review
Document AI usage (**do you have to save prompts?)**

The “Operational Mechanics” Problem

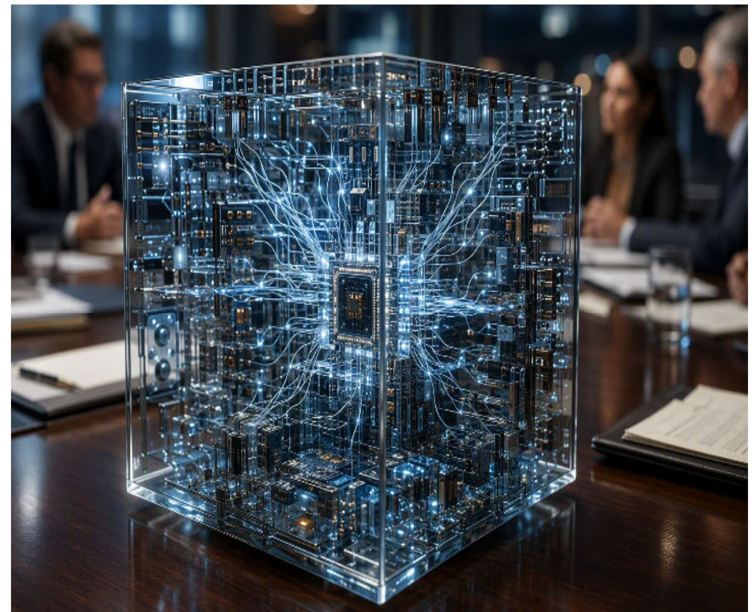
A phrase that may create more questions than answers.

Does the practitioner need practical AI literacy or technical architecture knowledge?

Could vendor documentation, CLE/CPE, internal training, or consultation with specialists satisfy the standard?

AI tools change rapidly, so a static understanding may not be reliable.

The Alert does not define the level of understanding required or how compliance can be documented.



Technical ambiguity

The Calibration Problem

One standard may not fit all AI uses.

Administrative drafting may be low risk if no client data or tax advice is involved.

Client-file analysis may be higher risk because conclusions may rest on facts extracted from documents and the alert appears to require that all such facts be confirmed by a human.

This will preclude valuable reviews that clients may be willing to pay for accepting the risks involved versus the cost of human reviews (or human completion of the entire project) which a client may refuse because of costs.

IRS submissions and written tax advice should receive more rigorous review.

The Alert does not clearly adopt a materiality-and-risk framework for different AI activities.

Categorize AI Uses Before Writing A Policy

A workable governance plan starts with the workflow, not the software.

Level	Category	Examples
Low	**Administrative**	Grammar, formatting, generic drafting, non-client-specific content.
Medium	**Internal research**	Citation lists, preliminary summaries, non-final brainstorming.
High	**Client analysis**	Tax returns, client files, factual summaries, calculations, planning recommendations.
Highest	**IRS / written advice**	Final work product, return positions, submissions, formal tax memoranda.

Practical point: policies should vary with data sensitivity, intended use, reliance, and consequence of error. But even so, the standards suggested in the Alert may be difficult to meet and will preclude engagements that are palatable to clients because of the lower cost.

When Clients Limit The Scope Of Review

The Alert may make practical client-service questions harder.

AI may make limited-scope review economically feasible where manual review would be too costly.

Example: using AI to search a large file for ownership percentages or inconsistent documents.

If the client declines full manual verification, what disclosure is sufficient?

Ask whether a clear limitation of reliance should matter under the Alert.

Prompts Are A Governance Issue

Prompt quality affects output quality and billing economics.

Prompt design influences facts considered, authorities searched, assumptions stated, and contrary authority identified.

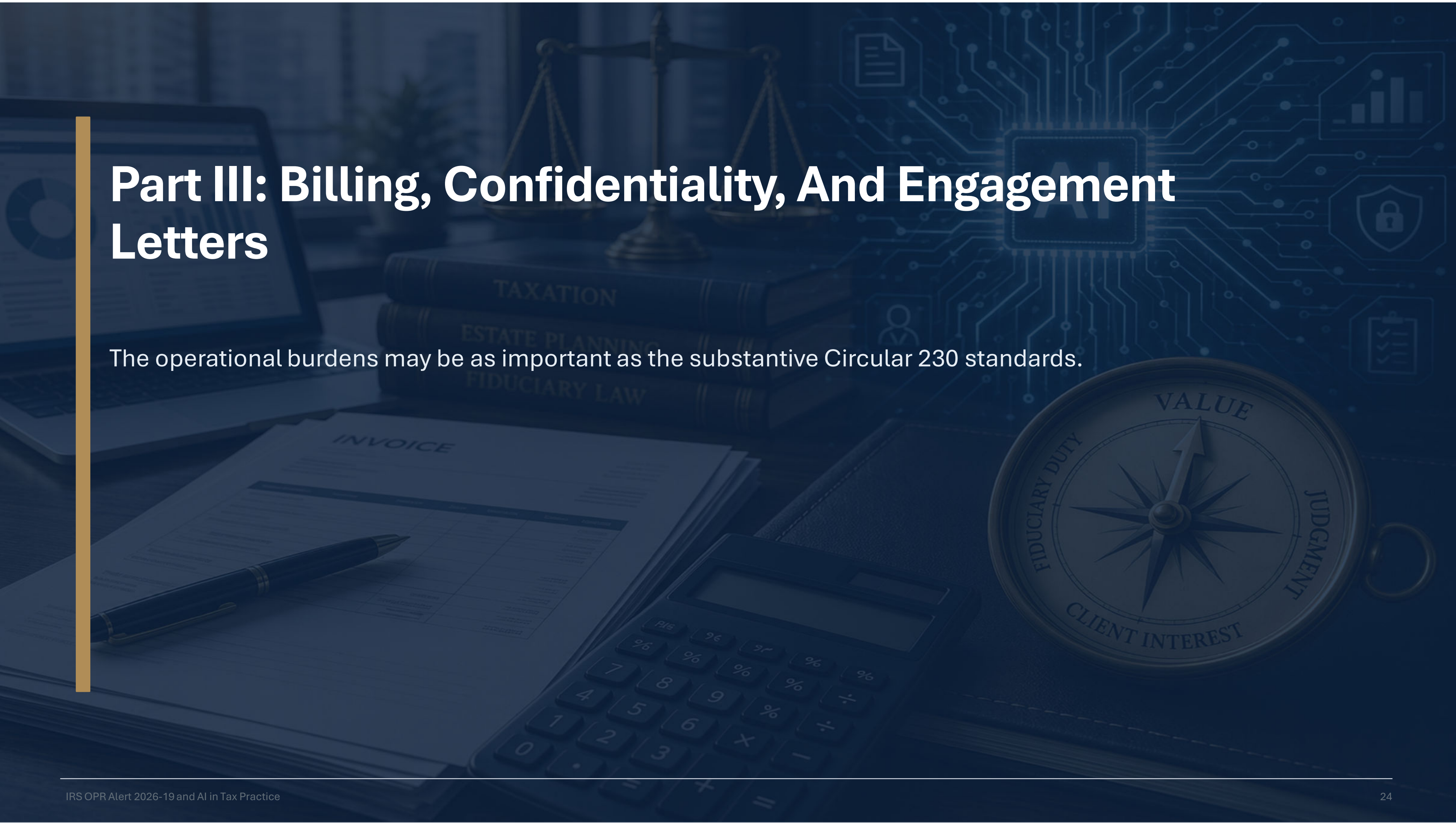
Standard prompts may increase consistency but still require tailoring to the client matter.

Prompt development may become a valuable firm asset, like forms, templates, and research systems.

The Alert does not directly address prompts, but they are central to responsible AI use.

Part III: Billing, Confidentiality, And Engagement Letters

The operational burdens may be as important as the substantive Circular 230 standards.



Billing Tension: Efficiency Versus Investment

The Alert's fee language is more complicated than "AI saved time."

Billing for time not worked or double billing should be avoided. The Alert may be read to prohibit this.

But responsible AI adoption can require substantial investment in training, policies, prompts, vendor review, and supervision. **What of this time investment?**

If all apparent matter-level savings must be passed through, firms may have less incentive to invest in responsible AI systems.

Value billing and fixed-fee approaches may require clearer engagement letter language. **Might practitioners have to adopt fix fee minimums in addition to hourly billing to recoup costs**?

Billing Example: Two Very Different AI Workflows

The same client result may reflect very different professional investment.

A **"Button" AI**

Lower-level staff enters facts into a platform input window and reviews the output.

B **Developed prompt**

Practitioner develops, tests, improves, and tailors a multi-page prompt for recurring matters.

C **Policy question**

Should both be billed the same if the client-facing time appears similar?

Suggested discussion: distinguish improper fictitious hours from permissible pricing that reflects judgment, responsibility, complexity, investment, and value. **But will this meet the standards of the new Alert?**

Engagement Letters May Need Updating

The Alert may affect disclosures, billing descriptions, and scope limits.

Consider disclosing that AI or technology-assisted tools may be used in accordance with firm policy and confidentiality safeguards.

Explain how technology affects charges: hourly, fixed fee, project fee, or value-based arrangement.

Consider whether AI-assisted limitations should be stated in client deliverables or engagement documents.

How can or should this be done. Is it required in all instances? Will clients be more likely to challenge bills as after all you said "AI helped." What should engagement letters indicate?

Avoid static details that may become outdated as AI tools and workflows change.

Public AI Scenario: Sanitized Facts May Not Be Enough

A client name is not the only sensitive information.

A unique fact pattern can identify a client even if names and identifying numbers are omitted. **This could be a real issue for any staff working out of the office.**

Client tax information may include family, disability, financial, business, estate, trust, or medical-related facts.

Firm policy should prohibit client-related use of unapproved public AI tools. **Can practitioners control clients? No. Clients may feel a practitioner telling them not to use AI is trying to bill more.**

Staff should know how to report accidental uploads and what remediation steps follow. **How can firms convince staff to openly report infractions? Who in the firm should be designated to receive those reports? What policies will govern how that person is to respond?**

Enterprise AI Is Not A Magic Answer

Approved systems reduce risk only if governance accompanies them.

Review terms of service (TOS), retention, training use, access controls, security documentation, and breach procedures.

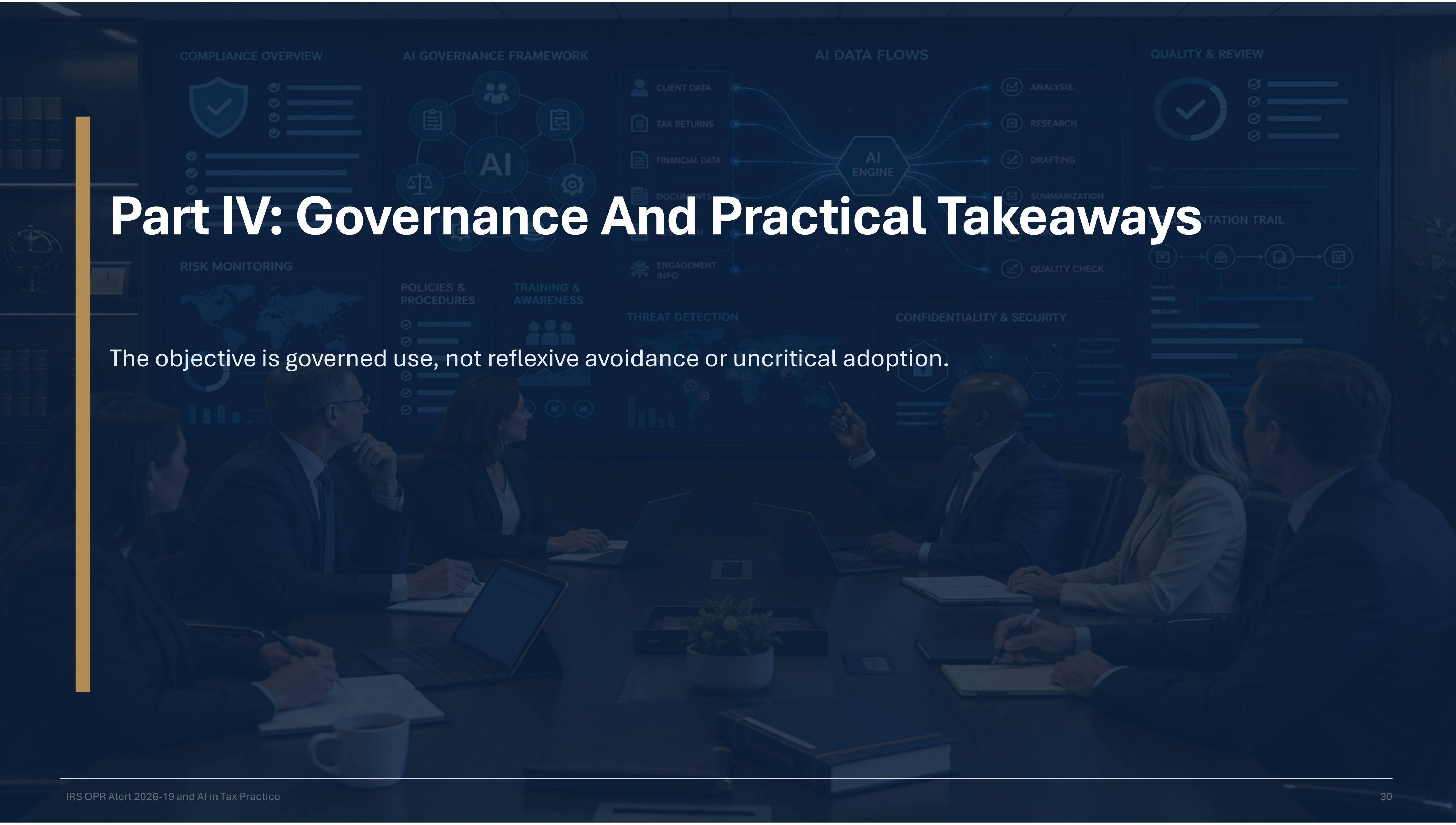
Have you ever read a TOS? Some are 50 pages of dense techno language.

Distinguish internal firm-data search from public model submission.

Consider whether prior client material can be used to create new work product and what sanitization/review is required.

The Alert seems to restrict the use of AI output from one client for another client. Why is this different then the old paper file days?

Document approved tools and prohibited uses.



Part IV: Governance And Practical Takeaways

The objective is governed use, not reflexive avoidance or uncritical adoption.

A Practical AI Governance Architecture

A policy should be useful enough to follow and flexible enough to survive change.

1 Inventory tools

Identify where AI is used and which people can access which tools.

2 Classify data

Separate public information, non-client content, confidential client data, and tax return information.

3 Approve use cases

Define prohibited, limited, and approved uses by risk level.

4 Review output

Set citation, calculation, factual, and written-advice review protocols.

5 Document material use

Keep records proportionate to risk and reliance. **How can you tell? Perhaps higher standards should be used across the board.**

6 Train and update

Provide periodic training as tools, threats, and guidance evolve. **AI is constantly evolving training may need to be say every 2 months?**

7 Update engagements

Address AI use, scope limits, fees, and client-generated AI materials.

What To Document

The Alert calls for documentation but does not define how much.

For low-risk administrative uses: general policy and training may be sufficient.

For confidential client data: identify approved tool and confirm compliance with restrictions.

For written advice: retain evidence that material facts, citations, assumptions, calculations, and projections were reviewed.

For IRS submissions: consider clearer documentation of review and final professional judgment.

Suggested 90-Day Action Plan

A manageable starting point for tax and estate-planning firms.

30 **Days 1-30**

Inventory tools; stop public AI for client data; designate responsible person; identify current use cases.

60 **Days 31-60**

Review vendors; draft AI policy; create prompt and output-review protocols; update engagement letter language.

90 **Days 61-90**

Train staff; test workflow documentation; refine billing descriptions; create incident-response process.

The plan should be scaled to practice size, risk profile, types of tax work, and available internal resources.

Audience Discussion Prompts

Useful questions for CPAs and tax attorneys.

What AI tools are already embedded in the firm’s research, tax, document, or workflow systems?

Which client tax information is being uploaded, summarized, or stored by AI systems?

When should AI output be treated as preliminary research versus client advice? **And what should be disclosed to clients? The Alert appears to limit a practitioners judgement and even client wishes on using AI for cost savings to explore a matter as full review may be required.**

How should fees reflect both efficiency and the investment required for responsible AI use? **Does the Alert permit this?**

What level of AI literacy should be sufficient for competent tax practice? **Carefully evaluate the standards that some readings of the Alert impose.**

What This Presentation Does Not Argue

This is a governance critique, not an anti-AI position.

It does not defend billing for fictitious hours or double billing.

It does not oppose verification of material AI-generated facts, citations, or calculations when and as appropriate in the professional's judgement.

It does not suggest entering confidential taxpayer data into public AI tools. To the contrary this should never be done.

It does not dispute that AI can improve client service when governed and reviewed. **But the Alert seems to mandate this in all instances even if client wishes and professional judgement suggest otherwise.**

It argues that practitioners need clearer, scalable, reasonableness-based guidance and the Alert on important points does not appear to provide these.

Key Takeaways

Conservative, practical, and client-focused.

Identify AI use before claiming that AI is not used in the practice. **And whatever you determine may change in a few months or sooner.**

Use public AI only for non-client, non-confidential tasks, if at all. **Better is not ever.**

Treat AI output as preliminary work product requiring review proportionate to reliance and risk. **But as discussed above this may be an unfair limitation, increase cost and reduce important steps to help clients.**

Update engagement letters and billing approaches before disputes arise.
Document material AI use, verification, and professional judgment.
Monitor future IRS guidance because several important terms remain undefined.

Part V: Client Tax Data Confidentiality Framework

Circular 230 complemented by statute, government regulation, professional self regulation and IT best practices.

Confidentiality and Privacy Law & Regulation

The Alert treats public or unsecured AI as a serious danger zone.

IRC §§6713 and 7216(a), impose civil and criminal penalties on income tax return preparers, for unauthorized use or /disclosure of return information.

Client consent can authorize. Form 1040 disclosure requires special wording.

Few consent exceptions under Reg § 301.7216-2 include use of return prep. Software. AI not included even if from the return prep. software vendor.

1999 Gramm Leach Bliley - FTC "Safeguards Rule" for "Financial Institutions", under Bank Holding Company Act of 1956 including tax preparation firms.

Must develop, implement and maintain client written information security plan (WISP) appropriate for firm size, complexity and similar factors. Related IRS Pub. 4557 "Safeguarding Client Data" and Pub 5708, "Creating a Written Information Security Plan".

Tax information and confidentiality

Confidentiality and Privacy Professional Self-Regulation

Complementing Circular 230 and the related framework.

ABA Model Rules requiring **reasonable** technical competence, **reasonable** care selecting technology vendors, understanding where data is stored, use of **reasonable** security and regularly reassessing risks.

AICPA Statement of Standards in Tax Practice 1.3 – **Reasonable** efforts to safeguard client data, including electronic storage and transmission. “Appropriate safeguards” based on current “recommended practices.” Vendor due diligence.

Select AI Confidentiality & Privacy Best Practices for Due Diligence

Best practices are derived from combination of law and regulation, plus the experience gained by IT professionals over time, too much learned the "hard way".

AI platform SOC2 (System and Organization Controls) Report.

Written vendor security program ("WISP") to support tax practitioner's required WISP.

Contractual guarantees, including:
US-only data processing, storage, backups and failover (redundancy).
No use of client data to train AI models.
Data encryption, audit logs.
Either auto-delete or practitioner complete control of deleting uploads.
No vendor human review of prompts, client files, etc. unless necessary for support from personnel trained and subject to confidentiality obligations.
No comingling of firm/client data.

Other cybersecurity guarantees and practices, beyond those just related to AI.

Cybersecurity Horror Story: [When Identity Thieves Hack Your Accountant – Krebs on Security]

Questions And Discussion

AI may be a powerful tool in tax practice, but the practical answer is governed use, documented judgment, and professional responsibility principles that remain workable.

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