



**ILLINOIS STATE
BAR ASSOCIATION**

ISBA Advisory Opinion on Professional Conduct

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This Opinion was AFFIRMED by the Board of Governors in May 2010. Please see the 2010 Illinois Rules of Professional Conduct 1.7, 1.11, and 7.2(b). This opinion was affirmed based on its general consistency with the 2010 Rules, although the specific standards referenced in it may be different from the 2010 Rules. Readers are encouraged to review and consider other applicable Rules and Comments, as well as any applicable case law or disciplinary decisions.

**Opinion No. 92-16
January 22, 1993**

Topic: Solicitation; Conflict of Interest; Fees

Digest: Attorney practicing before Internal Revenue Service may not give reductions in fees to IRS agent before whom attorney practices in exchange for agent "doing what he could to further career of attorney."

Ref.: Illinois Rules of Professional Conduct, Rules 1.7(b), 1.11(a) and (b), and 7.2(b)

FACTS

An Attorney "L" was formerly employed with the Internal Revenue Service Process Office in City A and is now representing taxpayers before that IRS office. L is now representing taxpayers before the IRS and before L's former co-workers and friends at the IRS acting on behalf of the IRS. L agreed, in writing, to reduce attorney's fees charged to family members of a certain IRS agent in exchange for the agent "doing what he could to further the career" of L.

QUESTION

May an attorney who is practicing before the Internal Revenue Service have an agreement with an IRS agent employed by the IRS office before which the attorney practices that the IRS agent and his family shall receive reductions in attorney fees in exchange for the IRS agent "doing what he could

to further the career of the lawyer."

OPINION

Rule 7.2(b) of the Illinois Rules of Professional Conduct provides that "A lawyer shall not give anything of value to a person for recommending or having recommended the lawyer's services..." The reduction in attorney fees to family members of the IRS agent is something "of value" as that term is used in Rule 7.2(b). Assuming that "doing what he could to further the career of the lawyer in private practice" includes recommending the attorney's services, such reduction in attorney fees by L would violate Rule 7.2(b).

The Committee does not have sufficient information to express an opinion as to whether, if the IRS agent referred to is an attorney, the action taken by such agent in furthering the career of Attorney L would constitute a violation of the Illinois Rules of Professional Conduct.

With regard to Attorney L's practice before the IRS, the Committee draws Attorney L's attention to Rule 1.11(a) and (b) of the Illinois Rules of Professional Conduct relating to successive government and private employment.

The situation presented might give rise to a violation of Rule 1.7(b) of the Illinois Rules of Professional Conduct if the representation by Attorney L of clients before the IRS agent with whom Attorney L has the agreement referred to above is materially limited by Attorney L's "own interests" in preserving the good will of such IRS agent.

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