



**CODE OF ETHICS AND CONDUCT
FOR THE
CERTIFIED EXCHANGE SPECIALIST®**



-CONFIDENTIAL-

CODE OF ETHICS AND CONDUCT FOR THE CERTIFIED EXCHANGE SPECIALIST®

PREAMBLE

The Certified Exchange Specialist® ("CES®") designation exists:

- To formally recognize individuals who have demonstrated, through experience, testing, and continuing education, their knowledge of IRC Section 1031 rules and regulations pertaining to like-kind exchanges and their ability to facilitate exchanges for the general public;
- To provide a designation that will give the public confidence that they are dealing with a professional who has demonstrated knowledge of the intricacies of like-kind exchange theory and practice, and who subscribes to a Code of Ethics; and
- To encourage member exchange professionals to increase their knowledge of IRC Section 1031 Deferred Exchange Treasury Regulations and related guidance, and to maintain and expand knowledge in the subject through continuing education.

Ethical behavior and practices form and inform everything about how a CES® designee ("Designee") interacts with clients, colleagues, and those in related professions. Entrusted with sensitive information, and custodians of assets that may include title to real or personal property, cash and other proceeds from the sale of such assets, the Designee recognizes that the fiduciary nature of the industry imposes obligations beyond those of ordinary commerce. The Designee, therefore, zealously strives to maintain the standards of their profession and to share with their fellow designees a common responsibility for its integrity and honor.

Given this high purpose, it is incumbent on the Designee to uphold the following standards set forth in this Code of Ethics and Conduct for the Certified Exchange Specialist® ("Code"); to protect the integrity of the industry; to honor a client's privacy and right to fair, accurate and knowledgeable service; and to safeguard the public's trust.

It is incumbent to encourage fair and healthy competition within the industry. At the same time, it is recognized that cooperative industry relationships are critical to the industry's success.

Consequently, each Designee pledges to observe the letter and the spirit of this Code and to operate within the industry in accordance with the principles and practices advocated herein.

ARTICLE I

A Designee shall keep reasonably informed of all laws, including statutes, regulations and the interpretation thereof, legislation, the principles and rules of this Code (and any future amendments thereof), and other developments that affect IRC §1031 exchanges and the qualified intermediary profession ("Body of Knowledge").

A Designee shall conduct business in a manner displaying the highest degree of professionalism, bringing credit to the industry and the CES® designation. A Designee shall speak truthfully and act in accordance with accepted principles of honesty, integrity and fair dealing.

ARTICLE II

Protection of the public against fraud, misrepresentation, and other illegal practices in the qualified intermediary profession shall be the duty and responsibility of each Designee, and he shall not actively participate in any such fraud, misrepresentation or other illegal practices. A Designee shall not commit acts of fraud, embezzlement, misappropriation of funds, conversion of the property of another, theft, forgery or such similar acts as may be defined by local, state or federal law. A Designee who is convicted of such an act, or enters a plea of "guilty", "no contest", "nolo contendere" or similar plea in a court of law responding to a charge thereof, shall immediately notify the CES® Certification Council (the "Council") of that fact, in writing. A Designee who holds any other professional designation or license, which designation or license is suspended or revoked, or who voluntarily relinquishes such designation or license, due to activities concerning fraud, embezzlement, misappropriation of funds, conversion of the property of another, theft, forgery or any crime (misdemeanor or felony) shall immediately notify the Council, in writing of such. A Designee shall not voluntarily participate in any act which it knows to be contrary to the standard of conduct set forth in this Code, even if directed to do so by the employer, the Taxpayer, his agent, or advisor.

A Designee shall be alert to activity of his company/employer. If the Designee observes any activity which is known to be illegal or fraudulent, the Designee shall report such, or see that such is reported to company executives in accordance with the firm's applicable procedures. In the absence of established reporting procedures or in the event such procedures are compromised, then the Designee shall report such knowledge to appropriate law enforcement authorities and immediately notify the Council in writing.

ARTICLE III

It is the duty of a Designee to act in such a manner as to preserve the trust and confidence of the Taxpayer. Without prior permission from the Taxpayer, a Designee shall not reveal the contents of any exchange file to any party other than the Exchanger, or its duly authorized agent, except in the case of a subpoena being presented, or when otherwise required by law or to those parties as expressly authorized by the Taxpayer.

ARTICLE IV

A Designee who is not licensed to practice law, accountancy, or other licensed or regulated profession shall not engage in activities which constitute such practice. The Designee shall recommend in all cases that the parties involved in an exchange transaction seek tax and legal counsel.

ARTICLE V

If recommending products or services to the Taxpayer, the Designee shall disclose to the Taxpayer that it may receive a financial benefit, such as a commission or referral fee, as a result of such recommendation. The Designee shall not recommend or suggest to a Taxpayer the use of services of another organization or business entity in which they or their employer have a direct or indirect interest without full disclosure of such interest at the time of recommendation or suggestion. At no time shall a Designee accept any illegal payment of any kind whatsoever.

It is the duty of a Designee to disclose to its Taxpayers those circumstances, relationships, and interests, if any, which might constitute a conflict of interest. This disclosure shall be made when the Designee knows or learns of the conflict of interest.

ARTICLE VI

A Designee shall act in the best interest of the Taxpayer. The Designee shall diligently and honestly pursue the Taxpayer's legitimate objectives, and shall perform all reasonable, necessary, and appropriate acts in a timely manner.

The Designee, consistent with his position within the qualified intermediary firm (the "QI Firm") and subject to his knowledge of the qualified intermediary company policies, shall have the duty to provide and follow fully integrated, written exchange documents which shall clearly explain the fees to be charged and any interest to be paid to the Taxpayer; provide copies of all exchange documents including documents received from the closing agent to the Taxpayer or to the Taxpayer's designated authorized representative.

If the Designee has knowledge of, or if he has a position within the QI Firm where he, directly or indirectly, handles exchange funds, the Designee shall have the duty: to keep the exchange proceeds in a stable financial institution or other reliable investment program unless the Taxpayer expressly requests an alternative investment; ensure the value or marketability of any promissory notes or other property held by the Designee as "exchange credits" are not compromised by the actions of the Designee; ensure that the exchange funds are liquid and immediately available to the Taxpayer when needed by the Taxpayer as a part of the 1031 exchange transaction; and give a full accounting of funds to which the Taxpayer is entitled at the end of the exchange.

ARTICLE VII

A Designee shall cooperate with other Designees in all matters affecting the exchange industry as a whole. This includes, but is not limited to, the sharing of knowledge and experience through active participation in CES® educational programs, reporting violations of the Code to the Council's Ethics and Discipline Committee in writing, and active participation in CES® activities.

ARTICLE VIII

A Designee shall hold the exchange industry in the highest esteem and shall avoid criticizing or denigrating the industry as a whole. A Designee shall avoid defaming other Designees or QI Firms, whether directly or through innuendo. A Designee shall not compete in a manner that damages the cooperative relationships within the industry as a whole and particularly among Designee designees. A Designee shall not compete in a way that brings disrepute to the industry or to the designation.

The Designee shall, when having the opportunity, promote the industry as a whole and promote the CES® designation program. Such actions may include but are not limited to participation in education programs, broadening of the Body of Knowledge within the CES® community when possible, support of and participation in the Council, and reporting violations of the Code to the Council's Ethics and Discipline Committee. The Designee will conduct his business in such a manner as to promote higher business standards and practices and the higher ethical standards of the profession.

ARTICLE IX

The Designee shall maintain his competence through continuous professional education as appropriate to job requirements and that meets the continuing education requirement of the designation; and shall promote continuous advancement in the skills, knowledge, development, and competence of other Designees in their own professional careers.

ETHICS AND DISCIPLINE COMMITTEE ARTICLE X

The Council has established an Ethics and Discipline Committee ("Ethics and Discipline Committee"). Upon approval of the Council's Executive Committee, the Ethics and Discipline Committee may issue ethics advisory opinion letters based on hypothetical and/or actual situations with due care to the privacy for any individual raising the issue upon which such ethics advisory opinion letter(s) may have been based. Such hypothetical and/or actual ethics advisory opinion letters may be disseminated on the "members only" section of the CES® website and at CES® meetings and conferences.

ARTICLE XI

The use of any particular gender (masculine, feminine or neuter) and any particular number (singular or plural) herein is for convenience, only. No inference is to be drawn therefrom. The correct gender and number should be freely substituted throughout as the context may dictate.



CHARGES OF MISCONDUCT AND ENFORCEMENT

- A. The Council will respond to allegations made against a Designee for purported violations of the Code of Ethics when the complaint is made in the following manner:
- In writing;
 - Signed by the person making the complaint (the "Complainant"), along with the Complainant's contact information, for use in the event the Ethics and Discipline Committee requires additional information or otherwise needs to contact the Complainant;
 - Using the form attached hereto as Exhibit B
 - Addressed to the Council at the following address: 100 North 20th Street, 4th Floor, Philadelphia, Pa. 19103-1443;
 - Specifically identifying the Designee thereof involved in the purported violation of the Code of Ethics;
 - Describing in as much detail as possible the conduct that allegedly is a violation of the Code of Ethics
 - Accompanied by all relevant documentation that is readily available to the Complainant;

The Complainant is urged to maintain confidentiality and privacy to the extent practical. Delivery of a complaint by the complainant to the Designee is discouraged.

- B. The Ethics and Discipline Committee Chair shall provide the other members of the Ethics and Discipline Committee with a copy of the complaint and any attachments thereto. Within two (2) weeks of receipt of the complaint, the Chair of Ethics and Discipline Committee, as determined by the Council, ("Chair of the Ethics and Discipline Committee") shall provide the accused Designee ("Respondent") with a copy thereof, which shall be sent by certified mail or other similar means, to the address of the Respondent on file with the Council. The Ethics and Discipline Committee shall notify the Respondent by way of a transmittal letter sent with the above referenced copy of the complaint, whether a response is required, or whether the complaint is being summarily dismissed because it is clearly without merit. A copy of said transmittal letter shall be provided to the Complainant, unless no address was provided, by certified mail or other similar means.
- C. No party is required to be represented by counsel at any stage in the proceedings. However, any party may be so represented at their own discretion, and at their own cost. At no time will any investigation or other portion of the process be delayed by more than thirty (30) days so that a party may obtain such representation.
- D. A Respondent shall have thirty (30) days from receipt of the complaint to file a preliminary response to the Ethics and Discipline Committee Chair. An extension of up to fifteen (15) days may be granted by the Ethics and Discipline Committee upon written request and showing of

good cause, provided such request is received by the Committee Chair within the thirty (30) day period. Failure to make a timely preliminary response shall constitute a failure to cooperate with the Ethics and Discipline Committee's investigation admittance of all material facts and allegations as set forth in the complaint. Additionally, such failure to cooperate may form the basis of a separate complaint and violation, and any member of the Ethics and Discipline Committee with personal knowledge of this failure to cooperate may file a complaint regarding such actions or inactions.

The preliminary response shall include: all relevant documentation; the names, addresses, telephone numbers and other means of contacting any witnesses to the events and a statement of all relevant facts and circumstances that would reasonably be relied upon to contradict the allegations as set forth in the complaint. The Chair of the Ethics and Discipline Committee will forward a copy of the preliminary response to the Complainant by certified mail or similar means, allowing the Complainant fifteen (15) additional days to further response. There shall be no further submissions from either party except upon the specific, written request of the Ethics and Discipline Committee.

- E. Upon receipt of the written submissions of the parties, the Ethics and Discipline Committee shall determine if any further investigation is necessary. If the Ethics and Discipline Committee determines that further investigation is necessary, it may appoint one of its members to conduct such further investigation on behalf of the full Committee. The Respondent must cooperate with such investigation, and shall encourage others with relevant information, including but not limited to its employees, to do so as well.
- F. Upon receipt of the written submissions of the parties, and the results of any further investigation, the Ethics and Discipline Committee shall have up to thirty (30) calendar days to conduct its review and prepare its report to the Council. The report shall contain a narrative stating: the specific section(s) of the Code alleged to have been violated; a review of the documentation that sets out the facts that were not in dispute; a review of the submissions and testimony submitted by the parties; and a recommendation of action to be taken by the Council.
- G. The Council shall make a decision regarding the matter within thirty (30) calendar days of receipt of the Ethics and Discipline Committee Report. The Council shall notify the Complainant and Respondent in writing of its decision by certified mail or similar means. The decision of the Council shall be the final determination of the matter. Shown as Appendix A is a chart outlining the time elapsed for the process described in these procedures. Resolution of the matter may be accomplished, if feasible, in a shorter time frame.
- H. Upon a finding by the Council that the Respondent has failed to meet the standards of conduct imposed by the Code of Ethics and Conduct, the Council shall impose a penalty or penalties from among the following: (i) private letter of reprimand, not to be made part of the Respondent's file; (ii) private letter of reprimand to be made part of the Respondent's file, which file shall not be disseminated to the public without appropriate Court Order; (iii) public reprimand to be listed on a publicly accessible portion of the CES® website, and to be made part of the Respondent's file; (iv) suspension of the Respondent's credentials as a Designee including any and all rights and privileges associated therewith, said suspension to be listed on a publicly accessible portion of the CES® website and to be made part of the Respondent's file

(such suspension may include conditions imposed by the Council for reinstatement; or (v) permanent revocation of the Respondent's credentials as a CES® Designee, said revocation to be listed on a publicly accessible portion of the CES® website and to be made part of the Respondent's file.

- I. To the extent that the Ethics and Discipline Committee determines, after adequate investigation, that the Respondent may be guilty of criminal activity, the Ethics and Discipline Committee shall immediately report such determination to the Council. To the extent that the Council determines that the Respondent may be guilty of criminal activity, the Council may report its findings to the appropriate authorities.
- J. In the event a Respondent continues to claim to be a credentialed Designee after suspension or revocation, the Council may, at its option, pursue such other legal remedies as may be available to it in any or all of the jurisdictions in which the Respondent maintains offices, or in the home jurisdiction of the Council, or in such other venues as permitted by law.

Appendix A

| Description | Time | Cumulative time elapsed if no extension | Cumulative time elapsed if extension applies |
|----------------------------------------------------------------------------------------------------|---------|-----------------------------------------------|-------------------------------------------------------|
| Receipt of Complaint by Ethics and Discipline Committee | Start | | |
| Ethics and Discipline Committee disseminates the Complaint to Committee Members and the Respondent | 2 weeks | 2 weeks | |
| Respondent files response | 2 weeks | 4 weeks | |
| Respondent request an extension to respond | 2 weeks | | 6 weeks |
| Ethics and Discipline Committee prepares report for Council | 2 weeks | 6 weeks | 8 weeks |
| Council makes decision and communicates to Complainant and Respondents | 4 weeks | 10 weeks | 12 weeks |



Appendix B

CERTIFIED EXCHANGE SPECIALISTS®

**COMPLAINT OF VIOLATION OF THE CODE OF
ETHICS AND CONDUCT**

This form may be used to submit a complaint to the Ethics and Discipline Committee that alleges a violation of the CES® Code of Ethics and Conduct by a Designee.

**Send completed form to: Ethics and Discipline Committee
Certified Exchange Specialists® Certification Council
100 North 20th Street, Fourth Floor
Philadelphia, PA 19103-1443**

| |
|-------------------------------------------------|
| <i>Information about the Complainant</i> |
| Name of complainant: |
| Address: |
| Daytime phone number: |

| |
|------------------------------------------------------------------------|
| <i>Identify the Person who is the Subject of your Complaint</i> |
| Name of person who is the subject of your complaint: |
| Address: |
| Office held: |

Identify the Provision of the Code of Ethics and Conduct Believed to have been Violated

You may find the complete text of the CES® Code of Ethics and Conduct on the Certified Exchange Specialists® website at www.1031ces.org/ethics. You may also obtain a copy of the CES® Code of Ethics and Conduct by calling the CES® Certification Council at (215) 673-2554.

Code provision(s) believed to have been violated:

Nature of the Complaint

Provide a statement of the facts known or believed by you to be true that form the basis of the complaint, including the approximate dates of the acts alleged. You may attach your statement on a separate sheet(s) of paper. Any further information that might support your allegations should be submitted with this complaint, including but not limited to, the names and addresses of other persons with personal knowledge of the facts alleged, documents or other evidentiary material.

Certification

I affirm that the facts stated in this complaint are true to the best of my knowledge.

Signature of

Date

Investigation of Complaints by the Ethics and Discipline Committee

Any person may submit a complaint to the CES® Ethics and Discipline Committee alleging a violation of the CES® Certification Council's Code of Ethics and Conduct by a Designee. The Council may not consider any alleged violation wherein the Complaint Form is not signed, or is anonymous, illegible, or otherwise provides insufficient information on which the Committee may act.

The procedures to be followed by the Ethics and Discipline Committee are available online along with the CES® Code of Ethics and Conduct.

You may obtain a copy of the CES® Code of Ethics and Conduct online at www.1031ces.org/ethics.