Insights: Publications

5 Key Takeaways | Tax Ethics and Professional Responsibilities: Technological Advances Around AI and Advocacy

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Kilpatrick's **David Hughes** recently spoke on the topic of "**Tax Ethics and Professional Responsibilities: Technological Advances Around AI and Advocacy**" at the American Bar Association's Fall Tax Meeting in Minneapolis. He addressed the ethical challenges and professional responsibilities that arise with the integration of AI in tax practices.

David's key takeaways from his presentation include:

1. Strict Confidentiality Rules for Lawyers on Social Media
Lawyers must not disclose any information related to client representation on social media, even if that information is public, without the client's informed consent. The ABA's recent Formal Opinion 511 emphasizes that the scope of confidentiality is broad, covering all information connected to a representation, regardless of its source or public availability.

2. Distinction Between Malpractice and Ethics Violations
Ethics violations, while serious, are generally enforced by professional bodies through censure or loss of license, not through monetary damages to clients. Malpractice, in contrast, is a tort action that can result in civil liability; however, ethics violations may be used as evidence in malpractice cases, underscoring the importance of compliance with ethical standards.

3. Artificial Intelligence: Opportunities and Risks in Legal Practice
The adoption of generative AI—such as ChatGPT and similar tools—offers transformative opportunities fo efficiency, research, and content creation in the legal field. However, AI systems are prone to errors ("hallucinations") and can misstate legal rules, making careful human oversight essential to maintain ethical standard.

4. Jurisdictional Responses to AI in Law
Multiple state bar associations have issued opinions and guidance on the ethical use of AI by legal professionals. Additionally, some courts are implementing rules that require attorneys to certify human review of AI-generated legal documents, reflecting an expanding landscape of regulatory oversight over AI in the practice of law.

5. The Growing Importance of Technological Competence
The proposed revisions to Treasury Circular 230 and other regulatory updates emphasize that maintaining technological competence—including an understanding of AI and its implications—is now an essential duty for lega practitioners. Staying informed about both technological advancements and evolving ethical standards is critical to avoiding professional discipline and ensuring effective client representation.

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