

Committee Opinion
November 30, 1990

LEGAL ETHICS OPINION 1385

ADVERTISING AND SOLICITATION –
SPECIALTY PRACTICE: NOTING
BOARD CERTIFICATION IN TAX LAW
BY FLORIDA BAR.

You have informed the Committee that you are a member of the Florida, Virginia, and District of Columbia Bars and that you are recognized as a Board Certified Tax Lawyer by the Florida State Bar, which status requires 150 CLE hours in tax every three years. You request the Committee's opinion as to the propriety of your noting the fact of this certification on your Virginia letterhead and business card.

The appropriate and controlling disciplinary rules relevant to your inquiry are DR:2-104(A), which holds, in pertinent part, that “a lawyer shall not hold himself out publicly as . . . a recognized or certified specialist except in accordance with . . . DR:2-102. . .”; and DR:2-102(A), which instructs, in pertinent part, that “a lawyer or law firm may use or participate in the use of a professional card . . . letterheads . . . or a similar professional notice or device unless it includes a statement or claim that is false, fraudulent, misleading, or deceptive.” In addition, the Committee has earlier opined that it is not improper for an attorney to designate on his letterhead the fact that he has been certified as a Civil Trial Advocate by the National Board of Trial Advocacy. (See LE Op. 456; see also LE Op. 395, LE Op. 923, LE Op. 979.)

The Committee is of the opinion that indications on your letterhead and business card that you are a Board Certified Tax Lawyer would not be improper provided that: (1) such indications are not false, fraudulent, misleading or deceptive; (2) such status remains currently valid; and (3) all such indications specify that the certification has been granted by the Bar of a state other than Virginia. (See *Peel v. Attorney Disciplinary Commission of Ill.*, 496 U.S. 91, (1990))

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Legal Ethics Committee Notes. – Rule 7.4(d) requires that the advertisement explain that Virginia has no procedure for approving certifying organizations.