

# **Tax Ethics in a Nutshell**

## **Allegheny Tax Society**

**Joe Nicola**

**[jpnicola@Sisterson.com](mailto:jpnicola@Sisterson.com)**

**March 18, 2024**

## AICPA Statements on Standards for Tax Services **SSTS No. 1.1 Advising on Tax Positions**

Sets forth the applicable standards for members when **taking a tax position**.

A tax position is a **conclusion** reached when applicable **tax law, regulations, case law**, or other regulatory or recognized **guidance is applied to a particular transaction, a specific set of facts and circumstances, or a controversy**.

A member should **determine and comply with the standards**, if any, that are imposed by the applicable taxing authority. **Circular 230 (31 C.F.R. Sub A Part 10) Section 10.37 is in accord**.

## AICPA Statements on Standards for Tax Services

### SSTS No. 1.1 Advising on Tax Positions

The member must have a **good-faith belief** that the position has at least a **realistic possibility** of being sustained administratively or judicially on its merits, if challenged.

If the **applicable taxing authority** has **written standards that exceed the realistic possibility standard (such as substantial authority)**, the member must comply.

## AICPA Statements on Standards for Tax Services

### **SSTS No. 1.1 Advising on Tax Positions**

Notwithstanding the foregoing, a member may take a position that has a **reasonable basis** and is **adequately disclosed**.

A member should **exercise due diligence and professional judgment** when advising on tax positions for a particular situation, but a member also has a **right to be an advocate**.

## AICPA Statements on Standards for Tax Services

### **SSTS No. 1.1 Advising on Tax Positions**

A member may consider a well-reasoned construction of the applicable statute and related regulations of that jurisdiction, if any.

In addition, **well-reasoned articles, treatises**, or guidance issued by the applicable taxing authority (regardless of whether such sources would be treated as authority under Section 6662) and the regulations thereunder may also be considered.

## AICPA Statements on Standards for Tax Services

### SSTS No. 1.1 Advising on Tax Positions

**Reasonable basis** is defined in Regulation Section 1.6662-3(b)(3) as a “**a relatively high standard of tax reporting**, that is, significantly higher than not frivolous or not patently improper.”

The reasonable basis standard is **not** satisfied by a return position that is **merely arguable** or that is merely a **colorable** claim.

## AICPA Statements on Standards for Tax Services

### **SSTS No. 1.1 Advising on Tax Positions**

If a tax position is reasonably based on **one or more of the authorities** set forth in Regulation Section 1.6662-4(d)(3)(iii) (taking into account the relevance and persuasiveness of the authorities, and subsequent developments), the position will **generally satisfy the reasonable basis standard even though it may not satisfy the substantial authority standard** as defined in Regulation Section 1.6662-4(d)(2).

## **AICPA Statements on Standards for Tax Services**

### **SSTS No. 1.1 Advising on Tax Positions**

Regulation Section 1.6662-4(d)(3)(iii) provides the **sources of substantial authority** as the following:

- Internal Revenue Code.
- Proposed, temporary and final regulations.
- Revenue rulings and revenue procedures.
- Tax treaties.



## **AICPA Statements on Standards for Tax Services**

### **SSTS No. 1.1 Advising on Tax Positions**

- Case law.
- Congressional intent as reflected in committee reports.
- Joint explanatory statements of managers included in conference committee reports.
- Floor statements made prior to enactment by one of a bill's managers.

## **AICPA Statements on Standards for Tax Services**

### **SSTS No. 1.1 Advising on Tax Positions**

- Blue Book.
- Private letter rulings and technical advice memoranda issued after October 31, 1976.
- Actions on decisions and general counsel memoranda issued after March 12, 1981.
- IRS information or press releases.
- IRS notices, announcements and other administrative pronouncements.

# **AICPA Statements on Standards for Tax Services**

## **SSTS No. 1.1 Advising on Tax Positions**

**Conclusions reached in treatises, legal periodicals, legal opinions or opinions rendered by tax professionals are not authority.**

## AICPA Statements on Standards for Tax Services

### SSTS No. 1.1 Advising on Tax Positions

Regulation Section 1.6662-4(d)(2) says that the **substantial authority standard is less stringent than the more likely than not standard** (the standard that is met when there is a greater than 50-percent likelihood of the position being upheld), but more stringent than the reasonable basis standard.

## AICPA Statements on Standards for Tax Services

### SSTS No. 1.1 Advising on Tax Positions

Regulation Section 1.6662-4(d)(3)(i) says that there is **substantial authority** for the tax treatment of an item **only if the weight of the authorities supporting the treatment is substantial in relation to the weight of authorities supporting contrary treatment.**

## **AICPA Statements on Standards for Tax Services** **SSTS No. 1.2 Knowledge of Errors**

A member should **promptly inform a taxpayer** upon becoming **aware** of:

- The taxpayer's **failure to file** a required return.
- An **error in a previously filed return**.
- An error in a return that is the subject of an administrative proceeding.

## AICPA Statements on Standards for Tax Services

### SSTS No. 1.2 Knowledge of Errors

- An **error in an administrative filing** (such as a ruling request, **accounting method change**, and so on).
- An error in a tax representation engagement.
- An **error in advice** provided **if discovered** by the member **while providing services** for the taxpayer.

## AICPA Statements on Standards for Tax Services

### SSTS No. 1.2 Knowledge of Errors

A member also should advise the taxpayer of the **potential consequences** of the error and advise on **corrective measures** to be taken.

Circular 230, Section 10.21 is in accord.



## **AICPA Statements on Standards for Tax Services** **SSTS No. 1.2 Knowledge of Errors**

It is the **taxpayer's responsibility** to decide whether to correct an error.

**If a member prepares a tax return for the current year** or a prior tax year, and the **taxpayer has not taken appropriate** action to **correct** an error related to a tax return position in a tax return for a prior year, the member should **consider whether to withdraw** from preparing the current return and whether to continue a professional or **employment relationship** with the taxpayer.

## AICPA Statements on Standards for Tax Services

### SSTS No. 1.2 Knowledge of Errors

A member is **not allowed to inform a taxing authority of an error** without the taxpayer's permission, except when required by law.

The member should **advise the taxpayer to disclose** the error to the taxing authority.

## AICPA Statements on Standards for Tax Services

### SSTS No. 1.2 Knowledge of Errors

If a member believes that a taxpayer may face possible exposure to allegations **of fraud or other criminal misconduct**, the member should promptly **advise the taxpayer to consult with an attorney** before the taxpayer takes any action.

The member should also consider consulting with the **member's legal counsel** before deciding whether to provide advice to the taxpayer and whether to continue a professional or employment relationship with the taxpayer.

## **AICPA Statements on Standards for Tax Services SSTS Nos. 1.3 and 1.4, Data Protection and Reliance on Tools**

A member should make **reasonable efforts to safeguard taxpayer data**, including data transmitted or stored electronically.  
*Cf. Section 7216.*

A member should **consider applicable privacy laws** when collecting and storing taxpayer data.

In developing safeguards, members should also consider steps to be taken in the event of a **data breach**, including compliance with notification obligations.

## AICPA Statements on Standards for Tax Services SSTS Nos. 1.3 and 1.4, Data Protection and Reliance on Tools

A member should **exercise appropriate professional judgment and professional care when relying on a tool**. A member may reasonably rely on tools used in providing tax services to a taxpayer.

Use of a tool **does not absolve the member of professional obligations** under AICPA or other applicable ethical standards.

## **AICPA Statements on Standards for Tax Services SSTS Nos. 1.3 and 1.4, Data Protection and Reliance on Tools**

It is generally a best practice of a member to rely on such tools to a certain extent to improve efficiency and client service.

Tools (such as **artificial intelligence**) should be used to enhance or improve the member's understanding of a tax issue, not to supplant the member's professional judgment.

## AICPA Statements on Standards for Tax Services

### SSTS No. 2.1 Tax Return Positions

A **tax return position** is a tax position that is **reflected on a tax return** prepared by a member or for which a member **signs as preparer**.

A member should **determine and comply with the standards**, if any, that are imposed by **the applicable taxing authority** with respect to preparing or signing a tax return.

# AICPA Statements on Standards for Tax Services

## SSTS No. 2.1 Tax Return Positions

The member must have a **good-faith belief** that the return position has at least a **realistic possibility** of being sustained administratively or judicially. on its merits if challenged.



## **AICPA Statements on Standards for Tax Services** **SSTS No. 2.1 Tax Return Positions**

If the applicable taxing authority has **written standards that exceed the realistic possibility** standard, such as **substantial authority**, then those must be applied.

However, a member is permitted to sign a return with a position that has **reasonable basis** and is **adequately disclosed**.

## **AICPA Statements on Standards for Tax Services**

### **SSTS Nos. 2.2 and 2.3 Tax Return Questions and Reliance on Information**

Before signing as preparer, a member should take reasonable steps to obtain from the taxpayer the information necessary to provide appropriate answers to all required questions on a tax return.

## AICPA Statements on Standards for Tax Services

### SSTS Nos. 2.2 and 2.3 Tax Return Questions and Reliance on Information

When preparing or signing a return, or a portion of a return, a member may, in **good faith, rely on information furnished, without verification**, by the taxpayer or by third parties.

## **AICPA Statements on Standards for Tax Services**

### **SSTS Nos. 2.2 and 2.3 Tax Return Questions and Reliance on Information**

However, a member should not ignore the implications of information furnished and should make reasonable inquiries if the information furnished **appears to be incorrect.**

## **AICPA Statements on Standards for Tax Services**

### **SSTS Nos. 2.2 and 2.3 Tax Return Questions and Reliance on Information**

Before signing as preparer, a member should take reasonable steps to obtain from the taxpayer the information necessary to provide appropriate answers to all required questions on a tax return.

## **AICPA Statements on Standards for Tax Services** **SSTS Nos. 2.2 and 2.3 Tax Return Questions and** **Reliance on Information**

The preparer's declaration on a tax return often states that the information contained therein is **true, correct, and complete to the best of the preparer's knowledge** and belief based on all information known by the preparer.

The preparer's declaration **does not require a member to examine or verify supporting data.**

## AICPA Statements on Standards for Tax Services

### SSTS No. 2.4 Use of Estimates

Unless prohibited by statute, administrative rule, or judicial holdings, a member may use **estimates** in the preparation of a tax return if it is **not practical to obtain exact data** and if the member determines that the **estimates are reasonable**.

Accounting requires the exercise of **professional judgment** and, in many instances, the use of approximations based on judgment.

# AICPA Statements on Standards for Tax Services

## SSTS No. 2.4 Use of Estimates

When **records are missing** or precise information about a transaction is not available at the time the return must be filed, a member may prepare a tax return using a taxpayer's estimates of the missing data



## **AICPA Statements on Standards for Tax Services**

### **SSTS No. 3.1 Tax Consulting**

A member should use **professional judgment and be competent** to take on a consulting engagement.

A member may communicate tax advice **orally or in writing**.

## **AICPA Statements on Standards for Tax Services**

### **SSTS No. 3.1 Tax Consulting**

When communicating tax advice in writing, a member should comply with relevant taxing authorities' standards, if any, applicable to written tax advice.

A member should **assume** that tax advice provided to a taxpayer will affect the manner in which the matters or transactions considered would be **reported or disclosed on the taxpayer's tax returns.**

# **AICPA Statements on Standards for Tax Services**

## **SSTS No. 4, Tax Representation**

A member must ensure competence before representing a taxpayer.

Requires procedural and substantive competence.

## AICPA ET Section 1.400.200

### Records Requests

A member is required to provide a client *or former client* with certain records at the client's request. Some requests must be fulfilled within no later than 45 days (but as soon as practicable).

- A member must return all **client-provided records**.

## AICPA ET Section 1.400.200

### Records Requests

- A member must deliver client records prepared by the member ("**member-prepared records**") as long as **the fees have been paid**.
- A member must supply the **final engagement products** ("**member's work products**"), as long as they are **complete, the fees for the product have been paid, and their delivery is not prohibited** by professional standards issues or litigation.

## AICPA ET Section 1.400.200

### Records Requests

- Workpapers ("**member's working papers**") are the property of the member and are **not required to be provided to the client.**
- A member is not required to provide the client with any formulas used in the records, unless the engagement included the formulas as part of the completed work product or if the formulas are integral to the client's accounting records.

## **AICPA ET Section 1.400.200**

### **Records Requests**

- A member is not required to provide the client with any formulas used in the records, unless the engagement included the formulas as part of the completed work product or if the formulas are integral to the client's accounting records.
- State boards of accountancy or state or federal statutes and regulations may have more restrictive provisions. A member must follow the more stringent rule regarding client records or risk an ethics violation.

## AICPA ET Section 1.400.200

### Records Requests

**Member-prepared records** are accounting or other records that the member was not specifically engaged to prepare but **are necessary to produce the final work product.**

The member is the **only source for these records**. Without these documents, the client's financial information would be incomplete. Examples would be **consolidating journal entries and supporting schedules.**



## AICPA ET Section 1.400.200

### Records Requests

**Member's work products** are the deliverables of the engagement, **such as a tax return.**

The member is permitted to charge the client **a reasonable fee** for the time and expense required to gather and reproduce these records.

## Circular 230 Client Records

Section 10.28 provides that, in general, a practitioner **must**, at the **request of a client, promptly return any and all records** of the client that are **necessary** for the client to comply with his or her **Federal tax obligations**.

The existence of a **dispute over fees** generally **does not relieve** the practitioner of his or her responsibility under this section.

## Circular 230 Client Records

**The practitioner must also return all records of the client** include all documents or materials **provided to the practitioner**, or obtained by the practitioner in the course of the practitioner's representation of the client.

The term also includes **materials that were prepared by the client or a third party.**

## **Syed v. Commissioner** **Practitioner Negligence?**

In *Syed v. Commissioner*, T.C. Memo 2017-226 (November 16, 2017), the taxpayer claimed that she was a real estate professional.

- Tax preparer assumed SALY.
- She actually failed the tests.

## **Syed v. Commissioner**

### **Practitioner Negligence?**

- IRS assessed taxes and penalties.
- Taxpayer accepted the tax assessment, but argued reasonable cause against the penalties: Reliance on CPA.

## **Syed v. Commissioner**

### **Practitioner Negligence?**

- Court said that CPA must be competent for taxpayer to prevail.
- Since CPA did not obtain log of hours and did not require responses to other pertinent questions in the organizer, the taxpayer could not prove that the CPA was competent.

## **Syed v. Commissioner**

### **Practitioner Negligence?**

**“Unquestioning acceptance . . . , in the absence of any contemporaneous participation records, did not inspire confidence [in the CPA].”**

## **United States v. Adams**

### **Circular 230**

**Be careful of the content of your emails,  
including internal emails re IRS and clients.  
*United States v. Adams*, 2018-2 U.S.T.C.  
¶50,471 (D. Minn. October 27, 2018).**



## Revenue Procedure 2022-19

### S Elections

In Revenue Procedure 2022-19, I.R.B. 2022-41, 282 (October 11, 2022), the IRS issued guidance regarding certain invalid and inadvertently terminated S elections.

This Procedure was designed to reduce the paperwork requesting relief under the second-class-of-stock prohibition of Subchapter S, among other things.

It allows self-correction of the second-class-of-stock issue, and also confirms that disproportionate distributions do not create a second class of stock.

## Revenue Procedure 2022-19

### S Elections

When an LLC makes an S election, the **operating agreement is typically not changed** in such a way as to avoid the second class of stock issue.

## Revenue Procedure 2022-19

### S Elections

An S corporation can only have one class of stock. Section 1361(b)(1)(D).

An S corporation is treated as having only one class of stock if all outstanding shares of stock confer identical rights to distribution and liquidation proceeds. Reg. Section 1.1361-(l)(1).

## Revenue Procedure 2022-19

### S Elections

As a governing document, the operating agreement violates the second class of stock rule by providing for, among other things, liquidating distributions in accordance with positive capital accounts (per the Section 704(b) safe harbor), as well as special allocations, including curative allocations required under Section 704(c).

## Sarvak v. Commissioner

### S Corporations Distributions aka Advances

In *Sarvak v. Commissioner*, T.C. Memo 2018-68 (May 21, 2018), the taxpayer owned all the stock of an S corporation, which made **distributions to him in excess of AAA and stock basis.**

## Sarvak v. Commissioner

### S Corporations Distributions aka Advances

By journal entry, the distributions were reclassified as advances to the taxpayer. The corporation then wrote off the advances and claimed a bad debt deduction.

The IRS objected on exam, finding that the advances were, in fact, distributions in excess of AAA and stock basis. The IRS also denied the bad debt deductions. The parties could not agree, and the matter was litigated.

## **Sarvak v. Commissioner**

### **S Corporations Distributions aka Advances**

The Court started by stating that Section 166(a)(1) allows a deduction for any debt that becomes wholly worthless within the taxable year.

## Sarvak v. Commissioner

### S Corporations Distributions aka Advances

To deduct a business bad debt, the taxpayer must establish the existence of a valid debtor-creditor relationship, that the debt was created or acquired in connection with a trade or business, the amount of the debt, the worthlessness of the debt, and the year that the debt became worthless. The Court cited *Davis v. Commissioner*, 88 T.C. 122 (1987), *aff'd*, 89-1 U.S.T.C. ¶9158 (6th Cir. 1989).



## **Sarvak v. Commissioner**

### **S Corporations Distributions aka Advances**

The Court agreed with the IRS, finding that there was no valid debtor-creditor relationship.

The Court found that the taxpayer failed to establish that the advances constituted a bona fide debt and that the parties intended to create a bona fide debtor-creditor relationship.

## **Sarvak v. Commissioner**

### **S Corporations Distributions aka Advances**

According to the Court, a debtor-creditor relationship exists if the debtor genuinely intends to repay the advance and the creditor genuinely intends to enforce repayment.

## **Sarvak v. Commissioner**

### **S Corporations Distributions aka Advances**

In the instant case, there was no intent to repay.

Therefore, the advances to the shareholder were, in fact, distributions in excess of AAA and basis, and the bad debt deductions were denied.

In addition, the taxpayer was required to report taxable capital gain.

## United States v. Hill

### Tax Preparer Crimes

In *United States v. Hill*, 5:17-CV-366-D (E.D. N.C. January 8, 2019), the defendant owned a tax preparation business, **Hillboy's Entertainment**, which did business as Hill's Tax Service.

## **United States v. Hill** **Tax Preparer Crimes**

During 2010, 2011, and 2012, Hill and his employees, acting at his direction, prepared and filed federal income tax returns that reported:

- False income information.
- Improper deductions and exemptions.
- False child tax credits.
- Exaggerated or false earned income tax credit claims.
- Other fraudulent representations.

## United States v. Hill

### Tax Preparer Crimes

Hill admitted that, over the three-year period that he operated the fraud, he filed **over 2,800 federal income tax returns** that claimed approximately **\$14.4 million in federal income tax refunds.**

## **United States v. Hill** **Tax Preparer Crimes**

Hill often collected a “tax preparation fee” from the false tax refunds (between \$500 and \$1,000 per return), gave a “small portion” to his clients, and kept the remainder.

The Internal Revenue Service audited 72 tax returns that Hill prepared, and determined that every return failed to report taxable income accurately.

## **United States v. Hill**

### **Tax Preparer Crimes**

Hill pleaded guilty to one count of conspiracy to defraud the United States and one count of filing false tax returns.

Hill received a sentence of 100 months' imprisonment and was ordered to pay nearly \$5,000,000 in restitution.



## **United States v. Hill**

### **Tax Preparer Crimes**

After Hill's conviction, Hill refused to agree to a permanent injunction that would prohibit him from preparing or filing federal income tax returns after his release.

## **United States v. Hill** **Tax Preparer Crimes**

The Court denied Hill's motion that would have allowed him to continue to prepare tax returns.

The Court's order prohibited him from:

- Preparing tax returns.
- Giving any tax advice.

## **United States v. Hill** **Tax Preparer Crimes**

- Preparing any tax document.
- Providing trust tax advice.
- Engaging in any other conduct that violates the tax law.

## **United States v. Hill**

### **Tax Preparer Crimes**

The Court ordered:

- Hill to file with the court and the IRS a complete list of clients, including demographic information, within 75 days.
- Hill to send a copy of the case to each of his clients within 75 days
- Hill to provide evidence of his compliance with all the foregoing requirements.
- Hill to permit the IRS to monitor his compliance.

# United States v. Adekunle Adetayo Adeolu, a/k/a Archie

## Preparer Crimes

In *United States v. Adekunle Adetayo Adeolu, a/k/a Archie*, 2016-2 U.S.T.C. ¶50,407 (3<sup>rd</sup> Cir. 2016), Adeolu partly owned, managed, and operated an accounting firm in Philadelphia, Pennsylvania.

The firm employed approximately 14 accountants, and focused on tax preparation services.

# **United States v. Adekunle Adetayo Adeolu, a/k/a Archie**

## **Preparer Crimes**

Between 2011 and 2013, when a client owed federal taxes, Adeolu and his employed accountants/tax preparers would sell that client the stolen name and social security number of a child in order to claim that person as a dependent, or to allow the earned income tax credit or child tax credit.

# **United States v. Adekunle Adetayo Adeolu, a/k/a Archie**

## **Preparer Crimes**

For example, Felicia Jones testified that she purchased a fraudulent dependent from a tax preparer at Adeolu's office for \$1,000.

Another individual, Lassey Mensah, testified that he purchased a dependent for \$800.

# **United States v. Adekunle Adetayo Adeolu, a/k/a Archie**

## **Preparer Crimes**

Additionally, during an undercover investigation, an IRS special agent told Adeolu that she did not have any dependents, but Adeolu nonetheless suggested that if she could claim a minor as a dependent, it would eliminate her tax burden.

So he prepared a return for her, and sold her a dependent.



# **United States v. Adekunle Adetayo Adeolu, a/k/a Archie**

## **Preparer Crimes**

The District Court in Philadelphia found Adeolu guilty of conspiracy to defraud the United States and of aiding and abetting the preparation of materially false tax returns, and sentenced him to 56 months.

# **United States v. Adekunle Adetayo Adeolu, a/k/a Archie**

## **Preparer Crimes**

In computing the sentence, the District Court applied a four-level leadership enhancement, which is applied “[i]f the defendant was an organizer or leader of a criminal activity that involved five or more participants or was otherwise extensive.”

# **United States v. Adekunle Adetayo Adeolu, a/k/a Archie**

## **Preparer Crimes**

The District Court also applied the “vulnerable victim” sentencing enhancement based upon Adeolu's fraudulent use of young children's personal information.

# United States v. Adekunle Adetayo Adeolu, a/k/a Archie

## Preparer Crimes

### §2T4.1. Tax Table

	<u>Tax Loss</u> (Apply the Greatest)	<u>Offense Level</u>
(A)	\$2,500 or less	6
(B)	More than \$2,500	8
(C)	More than \$6,500	10
(D)	More than \$15,000	12
(E)	More than \$40,000	14
(F)	More than \$100,000	16
(G)	More than \$250,000	18
(H)	More than \$550,000	20
(I)	More than \$1,500,000	22
(J)	More than \$3,500,000	24
(K)	More than \$9,500,000	26
(L)	More than \$25,000,000	28
(M)	More than \$65,000,000	30
(N)	More than \$150,000,000	32
(O)	More than \$250,000,000	34
(P)	More than \$550,000,000	36.

# United States v. Adekunle Adetayo Adeolu, a/k/a Archie

**SENTENCING TABLE**  
(in months of imprisonment)

Offense Level	Criminal History Category (Criminal History Points)					
	I (0 or 1)	II (2 or 3)	III (4, 5, 6)	IV (7, 8, 9)	V (10, 11, 12)	VI (13 or more)
1	0-6	0-6	0-6	0-6	0-6	0-6
2	0-6	0-6	0-6	0-6	0-6	1-7
3	0-6	0-6	0-6	0-6	2-8	3-9
<b>Zone A</b> 4	0-6	0-6	0-6	2-8	4-10	6-12
5	0-6	0-6	1-7	4-10	6-12	9-15
6	0-6	1-7	2-8	6-12	9-15	12-18
7	0-6	2-8	4-10	8-14	12-18	15-21
8	0-6	4-10	6-12	10-16	15-21	18-24
9	4-10	6-12	8-14	12-18	18-24	21-27
<b>Zone B</b> 10	6-12	8-14	10-16	15-21	21-27	24-30
11	8-14	10-16	12-18	18-24	24-30	27-33
<b>Zone C</b> 12	10-16	12-18	15-21	21-27	27-33	30-37
13	12-18	15-21	18-24	24-30	30-37	33-41
14	15-21	18-24	21-27	27-33	33-41	37-46
15	18-24	21-27	24-30	30-37	37-46	41-51
16	21-27	24-30	27-33	33-41	41-51	46-57
17	24-30	27-33	30-37	37-46	46-57	51-63
18	27-33	30-37	33-41	41-51	51-63	57-71
19	30-37	33-41	37-46	46-57	57-71	63-78
20	33-41	37-46	41-51	51-63	63-78	70-87
21	37-46	41-51	46-57	57-71	70-87	77-96
22	41-51	46-57	51-63	63-78	77-96	84-105
23	46-57	51-63	57-71	70-87	84-105	92-115
24	51-63	57-71	63-78	77-96	92-115	100-125
25	57-71	63-78	70-87	84-105	100-125	110-137
26	63-78	70-87	78-97	92-115	110-137	120-150
27	70-87	78-97	87-108	100-125	120-150	130-162
<b>Zone D</b> 28	78-97	87-108	97-121	110-137	130-162	140-175
29	87-108	97-121	108-135	121-151	140-175	151-188
30	97-121	108-135	121-151	135-168	151-188	168-210
31	108-135	121-151	135-168	151-188	168-210	188-235
32	121-151	135-168	151-188	168-210	188-235	210-262
33	135-168	151-188	168-210	188-235	210-262	235-293
34	151-188	168-210	188-235	210-262	235-293	262-327
35	168-210	188-235	210-262	235-293	262-327	292-365
36	188-235	210-262	235-293	262-327	292-365	324-405
37	210-262	235-293	262-327	292-365	324-405	360-life
38	235-293	262-327	292-365	324-405	360-life	360-life
39	262-327	292-365	324-405	360-life	360-life	360-life
40	292-365	324-405	360-life	360-life	360-life	360-life
41	324-405	360-life	360-life	360-life	360-life	360-life
42	360-life	360-life	360-life	360-life	360-life	360-life
43	life	life	life	life	life	life

# **United States v. Adekunle Adetayo Adeolu, a/k/a Archie**

## **Preparer Crimes**

Adeolu appealed to the Third Circuit, and his only argument pertained to the vulnerable victim enhancement.

He argued that the children were not vulnerable victims because they did not experience “actual” harm.

# **United States v. Adekunle Adetayo Adeolu, a/k/a Archie**

## **Preparer Crimes**

The Third Circuit rejected this argument, indicating that a showing of actual harm is not required under the vulnerable victim sentencing enhancement.

# **United States v. Adekunle Adetayo Adeolu, a/k/a Archie**

## **Preparer Crimes**

Rather, the Court indicated that the existing test for the application of this enhancement requires a “nexus” between the victim's vulnerability and the crime's success, a requirement that the Court clearly felt was satisfied met in this case.



**United States v. Adekunle Adetayo Adeolu,  
a/k/a Archie**

**Preparer Crimes**

The Court affirmed the sentence.