

**ETHICS OPINION NUMBER 198
OF THE MISSISSIPPI BAR
RENDERED APRIL 11, 1992
AMENDED APRIL 6, 2013**

FIRM NAMES AND LETTERHEADS – It is proper for a law firm to list on its letterhead the name of an out-of-state attorney as “of counsel” if that attorney is a member in good standing of the Mississippi Bar and there is a close, regular and personal relationship between the attorney and the law firm, but the firm may not list the attorney as “tax counsel.”

The Ethics Committee of The Mississippi Bar has been requested to render an opinion on the following facts:

A partner in a law firm is withdrawing from the law firm and moving out of state where he will maintain a law practice. The attorney has a L.L.M. in Taxation, and the firm from which he is withdrawing anticipates maintaining a continuing professional relationship in which the attorney is referred taxation questions for research and document drafting. The attorney will maintain his membership in The Mississippi Bar and will comply with all of the requirements thereof.

The Ethics Committee has been requested to opine as to whether the law firm from which the attorney has withdrawn can list the attorney as "Of Counsel" on its letterhead, and further, whether the attorney may be designated "Tax Counsel" on the law firm's letterhead.

M.R.P.C. 7.5(a) states that: A lawyer shall not use a firm name, letterhead or other professional designation that violates Rule 7.1. Rule 7.1 prohibits an attorney from making a false, deceptive or misleading communication about the lawyer or the lawyer's services.

In Ethics Opinion Number 180 (December 7, 1990), this Committee determined that it was ethically permissible for two law firms to list each other as "Of Counsel" as long as the relationship between the two firms is close, regular and personal, and the usage of the title is not otherwise false or misleading. Assuming the relationship between the withdrawing attorney and the firm from which he is withdrawing meets the above criteria, and the attorney maintains his membership in good standing in The

Mississippi Bar, it would be permissible for the firm to list the attorney as "Of Counsel".

However, listing the attorney as "Tax Counsel" would not be permissible unless made in compliance with Rule 7.6(a), MRPC, which provides that a lawyer may communicate the fact that he or she is certified in a field of law by a named organization or authority if certification is granted by an organization accredited by the American Bar Association. A lawyer may also indicate certification in a field of law by an organization not accredited by the American Bar Association if that fact is disclosed and if it is further disclosed that Mississippi has no procedure for approving, certifying, or designating organizations and authorities. In the absence of a certifying body, the listing of "Tax Counsel" would be improper as it indicates a certification not recognized under the rules.

However, *Ibanez v. Fla. Dept. of Bus.*, 512 U.S. 136 (1994) permits the use of an earned degree or title derived therefrom indicating an attorney's training in law, and therefore the firm may list the attorney as holding an L.L.M. in Taxation.