Attorney A provides advice to Client C concerning the proper treatment of an item with respect to which all events have occurred on C's tax return. In preparation for providing that advice, A seeks advice regarding the proper treatment of the item from Attorney B, who is within the same firm as A. Neither Attorney A nor any other attorney within A's firm signs Client C's return as a tax return preparer. B provides advice on the treatment of the item upon which A relies. B's advice is reflected on C's tax return but no disclosure was made in accordance with §1.6694-2(d)(3). The advice constitutes preparation of a substantial portion of the return within the meaning of §301.7701-15(b)(3).

The IRS later challenges the position taken on the tax return, giving rise to an understatement of liability. Attorney B is the nonsigning tax return preparer within the firm with overall supervisory responsibility for the position giving rise to an understatement. Accordingly, B is the tax return preparer who is primarily responsible for the position on C's return giving rise to an understatement and may be subject to penalty under section 6694.

HUNDREDS of additional charts at www.andrewmitchel.com