

## **I.R.E. 515. Accountant-Client Privilege.**

Idaho Rules of Evidence Rule 515. Accountant-Client Privilege.

(a) Definitions. As used in this rule:

(1) Client. A "client" is a person, public officer, or corporation, association, or other organization or entity, either public or private, who is rendered professional accounting services by an accountant, or who consults an accountant with a view to obtaining professional accounting services from the accountant.

(2) Representative of the client. A "representative of the client" is one having authority to obtain professional accounting services, or an employee of the client who is authorized to communicate information obtained in the course of employment to the accountant of the client.

(3) Accountant. An "accountant" is any licensed public accountant or certified public accountant authorized, or reasonably believed by the client to be authorized, to engage in the practice of accounting in any state or nation.

(4) Representative of the accountant. A "representative of the accountant" is one employed by the accountant to assist the accountant in the rendition of professional accounting service.

(5) Confidential communication. A communication is "confidential" if not intended to be disclosed to third persons other than those to whom disclosure is made in furtherance of the rendition of professional accounting services to the client or those reasonably necessary for the transmission of the communication.

(b) General rule of privilege. A client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of facilitating the rendition of professional accounting services to the client which were made (1) between the client or the client's representative and the accountant or the accountant's representative, (2) between the accountant and the accountant's representative, or (3) by the client or the client's representative or the client's accountant or a representative of the accountant to an accountant or a representative of an accountant representing another concerning a matter of common interest, (4) between representatives of the client or between the client and a representative of the client, or (5) among accountants and their representatives representing the same client.

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(c) Who may claim the privilege. The privilege may be claimed by the client or for the client through the client's lawyer, accountant, guardian or conservator, or by the personal representative of a deceased client, or the successor, trustee, or similar representative of a corporation, association, or other organization, whether or not in existence. The person who was the accountant or the accountant's representative at the time of the communication may claim the privilege but only on behalf of the client. The authority of the accountant or the accountant's representative to do so is presumed in the absence of evidence to the contrary.

(d) Exceptions. There is no privilege under this rule:

(1) Furtherance of crime or fraud. If the services of the accountant were sought or obtained to enable or aid anyone to commit or plan to commit what the client knew or reasonably should have known to be a crime or fraud;

(2) Claimants through same deceased client. As to a communication relevant to an issue between parties who claim through the same deceased client, regardless of whether the claims are by testate or intestate succession or by inter vivos transaction;

(3) Breach of duty by an accountant or client. As to a communication relevant to an issue of breach of duty by the accountant to the client or by the client to the accountant;

(4) Document attested by an accountant. As to a communication relevant to an issue concerning an attested document to which the accountant is an attesting witness;

(5) Joint clients. As to a communication relevant to a matter of common interest between or among two or more clients if the communication was made by any of them to an accountant retained or consulted in common, when offered in an action between or among any of the clients.

(6) Shareholder actions. As to a communication between a corporation and its accountant or a representative of the accountant, which was not made for the purpose of facilitating the rendition of professional accounting services to the corporation during the litigation and concerning the litigation in which the privilege is asserted: (A) in an action by a shareholder against the corporation which is based on a breach of fiduciary duty; or (B) in a derivative action by a shareholder on behalf of the corporation, provided that disclosure of privileged communications under either subpart (A) or (B) of this exception shall be required only if the party asserting the right to disclosure shows good cause for the disclosure and provided further that the court may use in camera inspection or oral examination and may grant protective orders to prevent unnecessary or unwarranted disclosure.

(Adopted January 8, 1985, effective July 1, 1985.)

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