



SECRETS OF ATTORNEY MARKETING

Implications Of The National Defense Authorization Act Could Pose A Threat To Attorney-Client Privilege

The issue of whether communication containing both legal and non-legal advice is subject to privilege between clients and financial professionals in the National Defense Authorization Act was before the Supreme Court last year...

Some had hoped they could tack on the “Enabler’s Act”, which proposed that all financial service providers (including tax attorneys) would adopt and maintain bank-like AML procedures to detect and prevent money laundering.

The question put before the court was whether these “gatekeepers,” (which, again, includes tax attorneys), should report suspicious transactions, establish anti-money laundering programs and due diligence policies, and more...

President Joe Biden signed the National Defense Authorization Act for Fiscal 2023 into law at the end of December 2022, but the Enablers Act will not yet fall on the doorstep of tax attorneys.

For now anyway...

What Does This Mean For You?

It doesn’t look like there is worry just yet as the Enablers Act was not part of the final bill ultimately signed into law...

However, there seems to be more noise in favor of decreased privilege and increased obligations on said gatekeepers.

If you are not already, it’s a good time to begin practicing healthy information gathering and storage hygiene.

Additionally, you might want to start thinking about how you could reach out to potentials and current clients who might be wondering how the proposed legislation could affect them.

By getting ahead of the curve, you can ensure that you are positioning your firm as an authority on the implications of ever-changing legislation.

What Do You Think?

With potential legislation affecting legal practices and procedures, the time to implement change can be subjective. Are you concerned with the direction implied by the passing of this Act? What can you do to ensure that you won't be caught flat-footed if the law does change?

Something worth exploring as we settle into the new year...

Want To Learn More? Take A Look At Our Sources:

[Key Updates in the Transparency World for Private Clients | Bilzin Sumberg - JDSupra](#)

[Changes Coming to Attorney-Client and Tax Practitioner Privilege \(bloombergtax.com\)](#)

[Biden Signs National Defense Authorization Act Into Law > U.S. Department of Defense > Defense Department News](#)

[ENABLERS Act Proposes to Expand Definition of 'Financial Institution'; Impose BSA/AML Requirements on Professional Service Providers | Insights | Greenberg Traurig LLP \(gtlaw.com\)](#)