

## Practice before the IRS

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## **Introduction to the Course**

The Internal Revenue Service routinely processes more than 240 million tax returns each year, many of them prepared by tax professionals. Not surprisingly, as tax law becomes increasingly complex, taxpayers often seek the assistance of knowledgeable professionals to represent them with respect to tax and other matters before the IRS. However, the ability to represent a client before the IRS is, with certain exceptions, extremely limited.

This course addresses the nature of practice before the IRS, identifies those permitted to engage in such practice and examines the power of attorney under which a taxpayer authorizes representation before the IRS.

## **Learning Objectives**

Upon completion of this course, you should be able to:

- Define “practice before the Internal Revenue Service”;
- Recognize the general scope of permitted enrolled agent practice responsibilities;
- Identify the extent of practice privileges possessed by individuals permitted to practice before the IRS;
- Describe the nature and function of a tax power of attorney and identify the acts that may be performed for a client under it; and
- Understand how to withdraw from and revoke an existing tax power of attorney.

# Chapter 1 – IRS Practice

## Introduction

The right to practice before the Internal Revenue Service (IRS) is generally reserved to certain professionals such as CPAs, attorneys, enrolled agents and other individuals in specifically-defined categories. While the right to engage in practice before the IRS enjoyed by various professionals includes a wide range of activities, the authorized activities may be limited or unlimited and may or may not require the submission of a written declaration to the IRS.

This chapter will define the term “practice before the IRS” and will examine the extent of practice privileges granted to various categories of individuals.

## Chapter Learning Objectives

Upon completion of this chapter, you should be able to:

- Define “practice before the Internal Revenue Service”;
- Recognize the general scope of permitted enrolled agent practice responsibilities;
- List the categories of individuals permitted to practice before the IRS; and
- Identify the extent of practice privileges possessed by individuals permitted to practice before the IRS.

## Professional Practice

Professionals—lawyers, physicians, accountants and others—often use terms that are specific to their practice. Such a term, referred to in general as a “term of art,” conveys a particular meaning within the profession and sometimes may mean little to anyone outside the profession. The term, “practice before the Internal Revenue Service,” is such a term of art.

In order to help ensure clarity and avoid confusion, this course will use the term only in the sense in which Treasury Department [Circular 230](#) defines it. Thus, when the term is used, practice before the Internal Revenue Service will refer only to a matter

...connected with the presentation to the Internal Revenue Service or any of its officers or employees relating to a taxpayer’s rights, privileges, or liabilities under laws or regulations administered by the Internal Revenue Service.

## Who is Permitted to Practice before the IRS

In the 19<sup>th</sup> century case of *McCulloch v. Maryland*, John Marshall, Chief Justice of the U.S. Supreme Court, wrote the majority opinion that contained the phrase “the power to tax is the power to destroy.” Because of the importance of the right to tax, the IRS generally limits the power to represent another person before it to those individuals who possess the requisite knowledge and skills to appropriately and professionally address the issues and help ensure a just outcome.

Accordingly, those persons authorized to represent others before the IRS may have:

- Limited practice rights; or
- Unlimited practice rights.

Regardless of whether an individual’s rights to practice before the IRS are unlimited or limited, the individual possessing such rights is subject to the provisions of Treasury Department Circular 230.

## Professionals with Limited Practice Rights

The professionals who possess limited practice rights include enrolled actuaries, enrolled retirement plan agents and registered tax return preparers. Consistent with the requirement that individuals representing other taxpayers before the IRS have the needed knowledge and skills to perform their representation appropriately, the representation that may be provided by these professionals is generally limited to their specific area of expertise.

## **Enrolled Actuaries**

The professional services performed by an enrolled actuary in representing a taxpayer before the IRS are generally restricted to providing advice and counsel with respect to:

- Whether an employee plan meets the requirements to be a qualified plan under ERISA;
- Whether the plan meets other requirements—both contractually and in its operation—including those concerning –
  - Deductibility of employer contributions,
  - Applicable funding requirements,
  - Plan definitions and other qualified plan-specific rules, and
  - Annual plan registration and periodic actuarial reports;
- Qualified plan design;
- Plan testing to ensure it meets anti-discrimination requirements;
- Reviewing and certifying plan funding valuations;
- Performing participant benefit calculations and estimates; and
- Completing required annual plan-related IRS and PBGC forms.

To engage in limited practice before the IRS as an enrolled actuary, an individual enrolled as an actuary by the Joint Board for the Enrollment of Actuaries must:

- Not currently be suspended or disbarred from practice before the IRS; and
- File a written declaration with the IRS stating that –
  - He or she is currently qualified as an enrolled actuary, and
  - He or she is authorized to represent the party for whom acting.

## **Enrolled Retirement Plan Agents**

Ensuring that qualified retirement plans comply with applicable non-actuarial requirements is a complicated job, and employers sponsoring such plans often seek the assistance of professionals to provide timely compliance with applicable laws and regulations. Among the professionals selected to provide such professional services are enrolled retirement plan agents (ERPAs).

An individual who is enrolled as a retirement plan agent and who is not under suspension nor disbarment from practice before the IRS may engage in limited practice before the IRS on matters involving:

- The Employee Plans Determination Letter program, a program that enables a retirement plan sponsor to request a determination letter from the IRS to gain assurance that its retirement plan meets the requirements to be a qualified plan and is eligible for its tax benefits;
- The Employee Plans Compliance Resolution System (EPCRS), an IRS system that permits a plan sponsor to remedy mistakes and avoid plan disqualification for failures such as –
  - Failing to properly provide minimum benefits to non-key employees under top-heavy plans,
  - Failing to satisfy the actual deferral or actual contribution test under a 401(k) plan,
  - Failing to distribute elective deferrals made in excess of the applicable limits,
  - Excluding an eligible employee from contributions or accruals under a plan,
  - Failing to timely pay required minimum distributions,
  - Failing to obtain participant or spousal consent for a plan distribution when required pursuant to the spousal consent rules, or
  - Failing to satisfy the defined contribution § 415 limits;
- The Employee Plans Master and Prototype Program (consisting of a basic plan document and an adoption agreement) and Volume Submitter (a type of individually-designed plan) Program; and
- IRS Form 5300, Application for Determination for Employee Benefit Plan, and IRS Form 5500, Annual Return/Report of Employee Benefit Plan filings.

## **Registered Tax Return Preparers**

Beginning in 2016, a return preparer who is not an attorney, CPA, or enrolled agent and who does not participate in the Annual Filing Season Program is permitted only to prepare tax returns. The return preparer is not permitted to represent clients before the IRS except in regard to returns prepared by the return preparer before January 1, 2016.

Registered tax return preparers who are participants in the Annual Filing Season Program (AFSP) and who are not currently under suspension or disbarment from practice before the IRS, however, have limited client representation rights. Pursuant to those limited representation rights, AFSP participants are limited in their representation of clients to those whose returns they prepared and signed:

- Involving initial audits;
- Regarding customer service matters; and
- Before the Taxpayer Advocate Service.

Note: To have limited representation rights for any return or claim for refund prepared and signed after December 31, 2015, return preparers must participate in the Annual Filing Season Program in both **the year of return preparation and the year of representation**.

### **Professionals with Unlimited Practice Rights**

Those professionals possessing an unlimited right to practice before the IRS practice—a category comprised of CPAs, attorneys and enrolled agents—may represent a client with respect to any matter before it.

A CPA who is not currently under suspension or disbarment may practice before the IRS by filing a written declaration with the IRS stating that he or she is:

- Currently qualified as a certified public accountant; and
- Authorized to represent the party or parties with respect to a matter before the IRS.

In a like manner, an attorney who is not currently disbarred or suspended may also practice before the IRS by filing a written declaration stating that he or she is:

- Currently qualified as an attorney; and
- Authorized to represent the party or parties concerning a matter before the IRS.

Although a CPA's or an attorney's proffering written advice to a client relating to a matter before the IRS is deemed practice before the IRS, an exception to the written declaration requirement applies to them when providing written advice. Thus, neither a CPA nor an attorney is required to file a written declaration before providing such client advice as long as they are not currently suspended or disbarred from practice before the IRS.

Enrolled agents, in contrast, are not required to file declarations like those filed by attorneys and CPAs attesting to their qualification and authorization to represent a client before the IRS. An enrolled agent not currently under suspension or disbarment from practice before the IRS likewise has unlimited practice rights. Because of those unlimited practice rights, such an enrolled agent is unrestricted as to matters before the IRS concerning:

- The taxpayers the enrolled agent may represent;
- The types of tax matters the enrolled agent is permitted to handle; or
- The IRS offices before which the enrolled agent may represent clients.

### **Other Representation**

Taxpayers may represent themselves before the IRS upon presentation of satisfactory identification or may represent a person with whom the representative has a relationship.

### **Representation Based on Taxpayer Relationship**

An individual who has neither the limited representation rights possessed by enrolled actuaries, ERPAs or AFSP participants nor the unlimited representation rights of CPAs, attorneys and enrolled agents may also represent a taxpayer before the IRS in certain circumstances.

The circumstances under which such representation before the IRS may take place are as follows:

- An individual may represent a member of his or her immediate family;
- A regular full-time employee of an individual employer may represent the employer;
- A general partner or regular full-time employee of a partnership may represent the partnership;
- An officer or regular full-time employee of a corporation (or its affiliates), association or organized group may represent the corporation, association or group;



- A regular full-time employee of a trust, receivership, guardianship or estate may represent the trust, receivership, guardianship or estate;
- An officer or regular employee of a governmental unit, agency or authority may represent the governmental unit, agency or authority in the course of his or her official duties; and
- An individual may represent any individual or entity residing outside the United States when such representation takes place outside the U.S.

In order to engage in such representation before the IRS, the representative must:

1. Present satisfactory identification;
2. Present proof of the authority to represent the taxpayer; and
3. Not be under suspension or disbarment from practice before the IRS.

### **Who may not Practice before the IRS**

Those who **may not practice** before the IRS are those persons who:

- Are not individuals, a category that includes corporations, associations and partnerships; and
- Are individuals who have lost their eligibility to practice before the IRS.

### **Loss of Eligibility**

Individuals who would otherwise be eligible to practice before the IRS lose that eligibility by:

- Failing to meet the requirements for renewal of enrollment;
- Requesting that they be placed on inactive retirement status;
- Being suspended, disbarred or determined ineligible to practice by the Office of Professional Responsibility for violating –
  - The regulations contained in Circular 230, or
  - The standards enunciated in [Revenue Procedure 81-38](#); or
- Losing a state license to practice as an attorney or CPA.

### **Failing to Meet Renewal Requirements**

Individuals who are enrolled—enrolled agents (EAs) and enrolled retirement plan agents (ERPAs), in other words—and record of completion holders, i.e. AFSP participants, who fail to comply with the requirements for renewal eligibility are notified of their noncompliance by the IRS. The IRS notice of noncompliance also:

- Explains the reason for ineligibility, and
- Gives the individual being notified of noncompliance a time-sensitive opportunity to provide information to the IRS for reconsideration of his or her ineligibility.

An enrolled agent a) who fails to respond timely to the notice of noncompliance, b) who does not timely file the application for renewal or c) who fails to satisfy the requirements of eligibility for renewal is placed on the inactive roster of enrolled individuals for a period of three years. In order to be reinstated and removed from inactive status, an enrolled agent on inactive status must:

- File an application for renewal, and
- Satisfy all renewal requirements.

However, if the enrolled agent has not filed an application for renewal and satisfied all renewal requirements before the end of the three-year period, the enrolled agent will be removed from the roster and his or her enrollment status will be terminated.

### **Enrolled Agent Renewal Cycles**

Enrolled agents must renew during every renewal cycle. A renewal cycle is three years, and enrolled agent renewal is staggered, based on the individual's SSN or TIN so that approximately 1/3<sup>rd</sup> of enrolled agents must renew each year.

Thus, renewal must be accomplished according to the following schedule and every three years thereafter:

| SSN/TIN Ends in | Enrollment Cycle Ends | Due Date of Renewal | Effective Renewal Date |
|-----------------|-----------------------|---------------------|------------------------|
| 0               |                       |                     |                        |
| 4, 5 or 6       | December 31, 2025     | January 31, 2026    | April 1, 2026          |
| 7, 8 or 9       | December 31, 2026     | January 31, 2027    | April 1, 2027          |
| 0, 1, 2 or 3    | December 31, 2027     | January 15, 2028    | April 1, 2028          |

So, an enrolled agent whose Social Security number or tax identification number ends in 4, 5, or 6 must apply for renewal between November 1, 2025 and January 31, 2026, and the renewal period runs from April 1, 2026 through March 31, 2029. Similarly, if the enrolled agent's SSN or TIN ends in 7, 8, or 9, renewal application must be made between November 1, 2026 and January 31, 2027 in order for a three-year renewal to be effective on April 1, 2027.

Enrolled agents who receive initial enrollment after November 1<sup>st</sup> and before April 2<sup>nd</sup> of the applicable renewal period will not be required to renew their enrollment before the first full renewal period following their receipt of their initial enrollment.

Following review and approval of the individual's renewal, the Internal Revenue Service:

- Will notify the individual of the renewal, and
- Will issue the individual a card or certificate evidencing current enrolled agent status.

### **Requesting Inactive Retirement Status**

An enrolled agent who requests to be placed on inactive retirement status is ineligible to practice before the IRS. However, he or she is required to continue to adhere to all renewal requirements and can be reinstated to active and enrollment status by accomplishing **both of the following**:

- Filing an application for renewal, and
- Providing evidence of completion of the required continuing professional education hours for the enrollment cycle or registration year.

### **Suspension and Disbarment**

As noted earlier, individuals possessing the right to practice before the IRS must adhere to the provisions of Treasury Department Circular 230. Accordingly, they are also subject to disciplinary proceedings for violating any regulation in Circular 230—including incompetence and disreputable conduct (See **Incompetence and Disreputable Conduct** below)—as a result of which they may be:

- Censured,
- Suspended,
- Disbarred, or
- Subject to monetary penalty.

Suspended or disbarred practitioners are ineligible to represent taxpayers before the IRS during their period of suspension or disbarment. However, at the end of the suspension period or after five years of disbarment they may seek reinstatement from the Office of Professional Responsibility. Upon reinstatement by the Office of Professional Responsibility, they may again practice before the IRS.

Reinstatement may be granted by the Office of Professional Responsibility:

- If the practitioner's future conduct is not likely to be in violation of the regulations, and
- If granting the reinstatement would not be contrary to the public interest.

In granting reinstatement, the OPR may also impose other conditions for a reasonable period of time.

### **Incompetence and Disreputable Conduct**

Although not exhaustive, the following list of examples of conduct that would be considered disreputable and which would subject the practitioner to disciplinary proceedings is offered by the IRS:

- Being convicted of a criminal offense under the revenue laws or of any offense involving dishonesty or breach of trust;

- Knowingly giving false or misleading information in connection with a federal tax matter or participating in such an activity;
- Being convicted of a felony on account of conduct rendering the practitioner unfit to practice before the IRS;
- Soliciting employment by prohibited means, such as –
  - Using public communication or private solicitation containing a false, fraudulent, misleading, deceptive or coercive statement or claim;
  - Making an uninvited solicitation of employment in IRS matters if the solicitation violates federal or state law or other applicable rule;
  - Charging more than the rate published for at least 30 calendar days after the last date on which the schedule of fees was published;
  - Persist in attempting to contact a prospective client who has made it known to the practitioner that such solicitation is not desired;
  - Assisting or accepting assistance from a person who obtains clients or practices in a manner forbidden under Circular 230 with respect to IRS matters;
- Failing to file a federal tax return, evading or attempting to evade any federal tax or payment, or participating in such actions;
- Misappropriating, or failing to properly and promptly remit, funds received from clients for payment of taxes or other obligations due the United States;
- Directly or indirectly attempting to influence the official action of IRS employees by the use of threats, false accusations, duress, or coercion, or by offering gifts, favors, or any special inducements;
- Being disbarred or suspended from practice as an attorney, CPA, public accountant, or actuary, by the District of Columbia or any state, possession, territory, commonwealth, or any federal court, or any federal agency, body, or board;
- Aiding and abetting another person to practice before the IRS during a period of suspension, disbarment, or ineligibility of that other person;
- Willfully failing to sign a tax return prepared by the practitioner when required by federal tax laws;
- Disclosing or using a tax return in a manner not authorized by the IRS contrary to judicial order;
- Willfully failing to file a tax return on magnetic or other electronic media when required to do so;
- Preparing or signing a tax return when the practitioner does not possess a current PTIN or other prescribed identification number;
- Representing a taxpayer before the IRS when unauthorized to do so;
- Using abusive language, making false accusations and statements knowing them to be false, circulating or publishing malicious or libelous matter, or engaging in any contemptuous conduct in connection with practice before the IRS; and
- Giving a false opinion knowingly, recklessly, or through gross incompetence; or following a pattern of providing incompetent opinions in questions arising under the federal tax laws.

## Summary

The professionals permitted to practice before the IRS fall into two categories: those with **limited** rights of representation, and those with **unlimited** rights of representation. Professionals whose rights to represent taxpayers before the IRS are limited to their areas of expertise are enrolled actuaries and enrolled retirement plan agents. In addition, unenrolled return preparers who participate in the IRS annual filing season program (AFSP) enjoy limited rights of practice before the IRS. In the case of such unenrolled preparers, however, representation is limited to tax returns prepared and signed by them. In order to represent taxpayers before the IRS, unenrolled preparers must have been AFSP participants at the time of preparing the return and AFSP participants in the year the examination is conducted.

Professionals with unlimited rights to practice before the IRS include CPAs, attorneys and enrolled agents provided such professionals are neither under suspension nor disbarment from practice. CPAs and attorneys must also file a written declaration with the IRS attesting to being qualified (as a CPA or attorney, respectively) and authorized to represent the client or clients with respect to matters before the IRS.

In addition, individuals who are neither professionals with unlimited practice rights nor professionals with limited practice rights may, in specified cases, practice before the IRS. Such individuals include someone representing himself or herself before the IRS and others who, based on their relationship with the taxpayer—a family member, an officer of a corporation or other group, a partner, an employee of the taxpayer or a fiduciary—may, with appropriate proof of authority, represent the taxpayer.

Persons ineligible to represent taxpayers with respect to matters before the IRS are those persons who are not individuals—corporations, partnerships, etc.—and individuals who have lost their eligibility to practice. Individuals who have lost their eligibility to practice before the IRS include those who:

- Fail to meet enrollment renewal requirements;
- Ask to be placed on inactive retirement status;
- Are suspended, disbarred or determined ineligible by the OPR for violating Circular 230 regulations or Revenue Procedure 81-38 standards; or
- Lose a state license to practice as an attorney or CPA.

## Chapter Review

1. Which of the following are deemed to possess **unlimited** rights to practice before the IRS?
  - A. Enrolled actuaries
  - B. Enrolled agents
  - C. Unenrolled AFSP participants
  - D. Enrolled retirement plan agents
2. How soon after being disbarred from practice before the IRS may a CPA seek reinstatement from the Office of Professional Responsibility?
  - A. 18 months
  - B. At the end of a period of suspension
  - C. 5 years
  - D. Never
3. Harriet is a tax preparer whose client wants her to represent him on a matter before the IRS concerning his tax return she prepared in 2018. Although she is not an enrolled agent, CPA or attorney, she participated in the Annual Filing Season Program in the year that she prepared her client's tax return. What must she do to represent him on the matter?
  - A. She must submit a written declaration of qualification and authority to represent the client
  - B. She must be related to the client
  - C. She must participate in the AFSP program in the year of representation
  - D. She must agree to represent the client without compensation

# Chapter 2 – Representing a Client before the IRS

## Introduction

In this chapter, we will examine the documentation required to represent a client before the IRS. Accordingly, the chapter will examine:

- The nature of a power of attorney;
- When a power of attorney is needed;
- The acts that may be performed on behalf of the client by individuals with unlimited rights of representation;
- How to file and update a power of attorney; and
- How to revoke prior Powers of Attorney.

## Chapter Learning Objectives

Upon completion of this chapter, you should be able to:

- Describe the nature and function of a power of attorney;
- Discuss when a power of attorney is required and when it is not required with respect to matters before the IRS;
- Identify the acts that may be performed for a client under a power of attorney;
- Explain how to complete the necessary IRS form to name a power of attorney and where to file it; and
- Understand how to revoke an existing power of attorney.

## Power of Attorney

Individuals may authorize someone else to represent them with respect to any one or more of a wide range of activities. Giving someone the authority to act and make decisions on his or her behalf is accomplished through a power of attorney, a legal document in which a person, i.e. the “principal” gives another—known as the “agent” or “attorney-in-fact”—the right to make identified decisions or take specified actions.

The rights conferred under a power of attorney may be very broad or quite limited in either or both scope and/or duration. For example, a power of attorney may authorize the agent to act for the principal with respect to all property and financial matters but nothing else and may lapse—end automatically, in other words—if the principal is deemed incapable of making decisions for himself or herself. In contrast, a  **durable** power of attorney would remain in effect despite a principal’s declining mental or physical health. Regardless of whether a power of attorney is limited in duration or durable, the powers granted to the agent are specifically identified in the power of attorney document.

To represent a taxpayer on a matter before the IRS, an IRS power of attorney gives the taxpayer’s written authorization for the authorized professional to receive the taxpayer’s confidential tax information from the IRS and to perform certain actions on his or her behalf. If the authorization is not limited, the professional generally can perform  **all acts**  that the taxpayer can perform, except negotiating an IRS check payable to or for the benefit of the taxpayer.

A power of attorney is generally terminated if the taxpayer becomes incapacitated or incompetent. It can continue, however, in the case of the taxpayer’s incapacity or incompetency if this is authorized on line 5a “Additional acts authorized” of the Form 2848 and if taxpayer’s non-IRS durable power of attorney meets all the requirements for acceptance by the IRS.

Unlike the generally-unlimited power to represent a client before the IRS possessed by CPAs, attorneys and enrolled agents, the authority granted to enrolled retirement plan agents, enrolled actuaries and unenrolled return preparers holding records of completion is limited as discussed in Chapter 1.

## Acts Performed Under a Power of Attorney

Attorneys, CPAs and enrolled agents appropriately authorized by a taxpayer under a power of

attorney may perform the following acts with respect to matters before the IRS:

1. Represent the taxpayer before any office of the IRS;
2. Sign an offer or a waiver of restriction on assessment or collection of a tax deficiency or a waiver of notice of disallowance of claim for credit or refund;
3. Sign a consent to extend the statutory time period for assessment or collection of a tax; and
4. Sign a closing agreement.

As the professional representing a client under a power of attorney, you are not permitted to sign the client's income tax return unless both of the following are true:

1. The signature is permitted under the Internal Revenue Code and the related regulations<sup>1</sup> because –
  - o The taxpayer liable for making the return is unable to do so because of disease or injury;
  - o The taxpayer is unable to file the return because of continuous absence from the United States for a period of at least 60 days before the due date of the return; or
  - o The taxpayer requests and receives permission, in writing, of the IRS district director for the internal revenue district in which the taxpayer has his legal residence or principal place of business; and
2. The taxpayer specifically authorizes the agent to sign the income tax return in the power of attorney.

When a tax return is signed by an agent, it must be accompanied by a power of attorney (or copy) authorizing the agent to sign the return. The taxpayer and his agent are responsible for the return and incur liability for any penalties provided for erroneous, false, or fraudulent returns.

However, even if the taxpayer authorizes the agent to sign the return, the agent cannot negotiate a check payable to or for the benefit of the taxpayer.

### **Substituting or Delegating Authority**

An agent can substitute or delegate authority under the power of attorney to another person who would then become the representative of the taxpayer. However, the agent may substitute or delegate authority only if the substitution or delegation is specifically authorized by the taxpayer on line 5a of the power of attorney, as shown in the inset below.

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**5a Additional acts authorized.** In addition to the acts listed on line 3 above, I authorize my representative(s) to perform the following acts (see instructions for line 5a for more information): ☐ Access my IRS records via an Intermediate Service Provider;

☐ Authorize disclosure to third parties; ☒ Substitute or add representative(s); ☐ Sign a return; \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

☐ Other acts authorized: \_\_\_\_\_

\_\_\_\_\_

Following a substitution made by the original agent, only the newly recognized agent will be recognized as the taxpayer's representative. In contrast, if a delegation of power has been made, both the original agent and the agent to whom authority has been delegated will be recognized by the IRS to represent the taxpayer.

### **Agent Authorizing IRS to Disclose Returns to Others**

Similarly, as the agent for a client, you cannot give the IRS consent to disclose the client's tax return or return information to a third party unless the authority to do so is specifically delegated to you on line 5a of Form 2848.

### **When a Power of Attorney is Required**

The client should submit a power of attorney when he or she wants to authorize an individual to receive his or her confidential tax information and be represented before the IRS. Such a document should be submitted whether or not the representative is expected to perform any other act on behalf of the client. Thus, a power of attorney is most often required when a client wants to authorize you or

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<sup>1</sup> See regulations section 1.6012-1(a)(5).

another individual to perform at least one of the following acts on his or her behalf:

- To be represented at a meeting with the IRS; or
- To prepare and file a written response to an IRS inquiry.

Some clients also seek representation in areas other than as to matters before the IRS. Such clients may authorize agents to act on their behalf through non-IRS Powers of Attorney. These non-IRS Powers of Attorney are accepted by the IRS, but a completed IRS Form 2848 must be attached to the non-IRS power of attorney when mailing or faxing it to the IRS.

### **Non-IRS Power of Attorney**

If the client wants to use a document other than Form 2848 to authorize representation on matters before the IRS, the power of attorney must contain the following information:

- The client's –
  - Name and mailing address,
  - Social Security number and/or employer identification number,
  - Employee plan number, if applicable;
- Your name and mailing address as the client's agent and representative;
- The types of tax involved;
- The federal tax form number;
- The specific year(s) or period(s) involved;
- For estate tax matters, the decedent's date of death;
- A clear expression of the client's intention concerning the scope of authority granted to you as the representative; and
- The client's signature and date.

The client also must attach to the non-IRS power of attorney a signed and dated statement made by you as the client's representative. The required content of this statement, which is referred to as the Declaration of Representative, is contained in Part II of Form 2848 (shown in the inset, below).

The statement should read:

1. I am not currently under suspension or disbarment from practice before the Internal Revenue Service or other practice of my profession by any other authority;
2. I am subject to regulations contained in Circular 230 (31 C.F.R., Subtitle A, Part 10) as amended, governing practice before the Internal Revenue Service;
3. I am authorized to represent the taxpayer(s) identified in the power of attorney; and
4. I am a (naming the capacity in which representation is undertaken, as set forth in the list of eligible representatives at Part II of Form 2848.)

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#### **Part II Declaration of Representative**

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Under penalties of perjury, by my signature below I declare that:

- I am not currently suspended or disbarred from practice, or ineligible for practice, before the Internal Revenue Service;
- I am subject to regulations contained in Circular 230 (31 CFR, Subtitle A, Part 10), as amended, governing practice before the Internal Revenue Service;
- I am authorized to represent the taxpayer identified in Part I for the matter(s) specified there; and
- I am one of the following:
  - a. Attorney—a member in good standing of the bar of the highest court of the jurisdiction shown below.
  - b. Certified Public Accountant—a holder of an active license to practice as a certified public accountant in the jurisdiction shown below.
  - c. Enrolled Agent—enrolled as an agent by the Internal Revenue Service per the requirements of Circular 230.
  - d. Officer—a bona fide officer of the taxpayer organization.
  - e. Full-Time Employee—a full-time employee of the taxpayer.
  - f. Family Member—a member of the taxpayer's immediate family (spouse, parent, child, grandparent, grandchild, step-parent, step-child, brother, or sister).
  - g. Enrolled Actuary—enrolled as an actuary by the Joint Board for the Enrollment of Actuaries under 29 U.S.C. 1242 (the authority to practice before the Internal Revenue Service is limited by section 10.3(d) of Circular 230).
  - h. Unenrolled Return Preparer—Authority to practice before the IRS is limited. An unrolled return preparer may represent, provided the preparer (1) prepared and signed the return or claim for refund (or prepared if there is no signature space on the form); (2) was eligible to sign the return or claim for refund; (3) has a valid PTIN; and (4) possesses the required Annual Filing Season Program Record of Completion(s). **See Special Rules and Requirements Unenrolled Return Preparers in the instructions for additional information.**
  - i.



- k. Qualifying Student—receives permission to represent taxpayers before the IRS by virtue of his/her status as a law, business, or accounting student working in an LITC or STCP. See instructions for Part II for additional information and requirements.
  - r. Enrolled Retirement Plan Agent—enrolled as a retirement plan agent under the requirements of Circular 230 (the authority to practice before the Internal Revenue Service is limited by section 10.3(e)).
- 

## Perfecting a Power of Attorney

A power of attorney may grant significant powers to you as the agent. Accordingly, if a submitted power of attorney fails to contain all the required information to make it satisfactory to the IRS, it may need to be perfected. When used in this sense, “perfected” simply involves correcting and resubmitting a power of attorney document that contains all the required information.

The IRS will not accept a taxpayer’s non-IRS power of attorney if it does not contain all the information listed in **Non-IRS Power of Attorney** above. In order to perfect a power of attorney, the taxpayer can sign and submit a completed Form 2848 or submit a new non-IRS power of attorney that contains all the information. If the taxpayer cannot sign an acceptable replacement document, you, as the attorney-in-fact, may be able to perfect your client’s non-IRS power of attorney by using the procedure described next.

Under the following conditions, you, as the attorney-in-fact named in the taxpayer’s non-IRS power of attorney, can sign a Form 2848 on the taxpayer’s behalf to perfect an unacceptable power of attorney. In order to do that:

1. The original non-IRS power of attorney must grant you authority to handle federal tax matters (for example, general authority to perform any acts); and
2. You, as the attorney-in-fact, must attach a statement (signed under penalty of perjury) to the Form 2848 stating that the original non-IRS power of attorney is valid under the laws of the governing jurisdiction.

For example, suppose a taxpayer, signs a non-IRS durable power of attorney that names you as his attorney-in-fact. Although the power of attorney grants you the authority to perform any and all acts on the taxpayer’s behalf, it does not list the required specific tax-related information such as types of tax or tax form numbers so that it will be acceptable to the IRS.

Shortly after the power of attorney is signed, the taxpayer is declared incompetent. Subsequently, a federal tax matter arises concerning a prior year return filed by the taxpayer. Because the durable power of attorney does not contain the information required by the IRS, your attempt to represent the taxpayer before the IRS is rejected despite being otherwise eligible to practice before the IRS.

You can resolve the unacceptable power of attorney by simply a) attaching a statement (signed under the penalty of perjury) attesting that the durable power of attorney is valid under the laws of the governing jurisdiction, and b) signing a completed Form 2848 and submitting it to the IRS on the client’s behalf. If you can practice before the IRS, you can name yourself as representative on Form 2848. If you are not eligible to practice before the IRS, however, you must name another individual who can practice before the IRS.

## Processing a Non-IRS Power of Attorney

The IRS has a centralized computer database system called the CAF system. This system contains information on the authority of taxpayer representatives. Generally, when a power of attorney document is submitted to the IRS, it is processed for inclusion on the CAF system.

Entry of the power of attorney on the CAF system enables IRS personnel who do not have a copy of the client’s power of attorney to:

- Verify your authority to represent the client by accessing the CAF, and
- Automatically send copies of notices and other IRS communications to you (if the taxpayer has specified that you should receive those communications).

The taxpayer can have a non-IRS power of attorney entered on the CAF system by attaching it to a completed Form 2848 and submitting it to the IRS. The taxpayer’s signature is not required; however, you, as the attorney-in-fact, must sign the *Declaration of Representative* (see Part II of Form 2848).



## Common Reasons for IRS Rejection of a Power of Attorney

Rejection of a power of attorney by the IRS can delay resolution of matters before the IRS and may affect a professional's relationship with the client. In any case, it is always preferable to avoid such a rejection.

The IRS has identified certain common reasons for their rejection of a power of attorney, and that list of reasons should be considered a checklist to ensure the common obstacles to IRS acceptance of a power of attorney have been addressed. Principal among those common reasons for rejection are:

- The signatures and/or signature dates for the representative or the taxpayer (or both) are missing;
- The acts authorized in the power of attorney are not sufficiently specified;
- The box on IRS Form 2848, line 6, *Retention/Revocation of Prior Power(s) of Attorney*, is checked, but a copy of the power of attorney for the retained representative is not attached;
- The representative's designation and/or jurisdiction is missing on Part II;
- The bar license, certification, registration or enrollment number is missing on Part II; or
- The title of the business taxpayer signing the power of attorney (Part I, line 7) is not indicated.

Although the majority of these reasons for rejection are obvious, others may not be. So, let's briefly consider two that may call for additional explanation.

### Signatures and/or Signature Dates Missing

The signature requirement on IRS Form 2848 varies somewhat, depending upon the status of the taxpayer, i.e. whether the taxpayer is an individual, a corporation, a partnership, an estate, or an employee plan. These requirements are as follows:

- In the case of an individual, the individual taxpayer must sign and date the power of attorney. If the taxpayer filed a joint return, the taxpayer's spouse must execute his or her own power of attorney on a separate Form 2848 to designate a representative. Married taxpayers cannot jointly authorize an agent to represent them with respect to tax matters before the IRS.
- If the taxpayer is a corporation or association, an officer with the legal authority to bind the corporation or association must sign and enter his or her exact title.
- If the entity is a partnership, all partners must sign and enter their exact titles. If one partner is authorized by the partnership to act in the name of the partnership, only that partner is required to sign and enter his or her title. A partner is authorized to act in the name of the partnership if, under state law, the partner has authority to bind the partnership. If a partner has been given the authority to bind the partnership, a copy of the authorization giving the partner such authority must be attached. For purposes of executing Form 2848, the tax matters partner (TMP) is authorized to act in the name of the partnership. For dissolved partnerships, each of the former partners must execute a power of attorney. For further information on dissolved partnerships when a former partner is deceased, see [26 CFR 601.503\(c\)\(6\)](#).
- If the taxpayer is an estate and there is more than one executor, only one co-executor having the authority to bind the estate is required to sign.
- If the taxpayer is an employee plan—a pension or profit sharing plan, for example—and the plan is listed as the taxpayer on line 1, an authorized individual with the authority to bind the plan must sign and enter his or her exact title. If the trust is the taxpayer listed on line 1, a trustee having the authority to bind the trust must sign and indicate the title as "trustee." Complete and attach [Form 56, Notice Concerning Fiduciary Relationship](#), to identify the current trustee.
- If the taxpayer is a dissolved corporation, deceased individual, insolvent, or a person for whom or by whom a fiduciary (a trustee, guarantor, receiver, executor, or administrator) has been appointed, see [26 CFR 601.503\(d\)](#).

### Lack of Specificity as to Authorized Acts

In order for a power of attorney to be valid for purposes of appointing an agent to act for a taxpayer

with respect to matters before the IRS, the power of attorney must clearly specify the matter. Accordingly, to help avoid IRS rejection of a power of attorney, the taxpayer must enter all of the following on IRS Form 2848:

- The description of the matter,
- The tax form number (where applicable), and
- The year(s) or period(s) (where applicable).

For example, the taxpayer may list "Income, 1040" for calendar year "2018" and "Excise, 720" for "2018" (this entry covers all quarters in 2018). The taxpayer may also list consecutive multiple years or a series of inclusive periods, including quarterly periods, by using "through," "thru," or a hyphen. For example, "2008 thru 2010" or "2nd 2009 - 3rd 2010." For fiscal years, enter the ending year and month, using the YYYYMM format.

General references on IRS Form 2848 will cause the power of attorney to be rejected. So, do not use a general reference such as "All years," "All periods," or "All taxes." Representation only applies for the years or periods listed on line 3. List on line 3 only tax forms directly related to the taxpayer listed on line 1. An appropriate reference is shown in the inset below:

3. **Acts authorized (you are required to complete this line 3).** With the exception of the acts described in line 5b, I authorize my representative(s) to receive and inspect my confidential tax information and to perform acts that I can perform with respect to the tax matters described below. For example, my representative(s) shall have the authority to sign any agreements, consents, or similar documents (see instructions for line 5a for authorizing a representative to sign a return).

| Description of Matter (Income, Employment, Payroll, Excise, Estate, Gift, Whistleblower, Practitioner Discipline, PLR, FOIA, Civil Penalty, Sec. 5000A Shared Responsibility Payment, Sec. 4980H Shared Responsibility Payment, etc.) (see instructions) | Tax Form Number (1040, 941, 720, etc.) (if applicable) | Year(s) or Period(s) (if applicable) (see instructions) |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------|---------------------------------------------------------|
| <i>Income tax</i>                                                                                                                                                                                                                                        | <i>1040</i>                                            | <i>2018</i>                                             |
|                                                                                                                                                                                                                                                          |                                                        |                                                         |
|                                                                                                                                                                                                                                                          |                                                        |                                                         |

The taxpayer may also list the current year/period and any tax years or periods that have already ended as of the date the taxpayer signs the power of attorney. Although the taxpayer can list future tax years or periods, the IRS will not record future tax years or periods listed that exceed 3 years from December 31 of the year that the IRS receives the power of attorney on the CAF system. The taxpayer must enter the description of the matter, the tax form number, and the future year(s) or period(s). If the matter relates to estate tax, enter the date of the decedent's death instead of the year or period. If the matter relates to an employee plan, include the plan number in the description of the matter.

### When the Matter isn't a Tax Matter

If the matter is not a tax matter, or if the tax form number or years or periods do not apply to the matter, specifically describe the matter to which the power of attorney pertains. Examples of such matters before the IRS that aren't tax matters include representation for:

- A penalty or
- Filing –
  - A ruling request,
  - A determination letter,
  - Application for Award for Original Information under section 7623,
  - Closing Agreement on Final Determination Covering Specific Classification Settlement Program (CSP),
  - Form 8952, Application for Voluntary Classification Settlement Program (VCSP), and
  - FOIA.

## Civil Penalties

IRS Form 2848, line 5b permits the taxpayer to list specific acts the representative is not authorized to engage in on behalf of the taxpayer. Unless the taxpayer specifically provides otherwise on line 5b, the taxpayer's authorization of tax matters on line 3 of Form 2848 includes representation for penalties, payments, and interest related to a specific tax return.

In some cases, however, a penalty may not be related to a tax return. In such a case, the taxpayer should enter "Civil Penalty," "Section 4980H Shared Responsibility Payment," or otherwise describe the specific penalty or payment for which the taxpayer is authorizing representation in the "Description of Matter" column on line 3, as shown in the inset below.

- 3. Acts authorized (you are required to complete this line 3).** With the exception of the acts described in line 5b, I authorize my representative(s) to receive and inspect my confidential tax information and to perform acts that I can perform with respect to the tax matters described below. For example, my representative(s) shall have the authority to sign any agreements, consents, or similar documents (see instructions for line 5a for authorizing a representative to sign a return).

| Description of Matter (Income, Employment, Payroll, Excise, Estate, Gift, Whistleblower, Practitioner Discipline, PLR, FOIA, Civil Penalty, Sec. 5000A Shared Responsibility Payment, Sec. 4980H Shared Responsibility Payment, etc.) (see instructions) | Tax Form Number<br>(1040, 941, 720, etc.) (if applicable) | Year(s) or Period(s) (if applicable)<br>(see instructions) |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------|------------------------------------------------------------|
| <i>Section 4980H shared responsibility payment</i>                                                                                                                                                                                                       | <i>1040</i>                                               | <i>2016</i>                                                |
|                                                                                                                                                                                                                                                          |                                                           |                                                            |
|                                                                                                                                                                                                                                                          |                                                           |                                                            |

For example, suppose a taxpayer prepares IRS Form 2848 authorizing you to represent her before the IRS in connection with the examination of her 2015 and 2016 Forms 1040. You are authorized to represent the taxpayer with respect to the accuracy-related penalty and the Section 5000A shared responsibility payment that the revenue agent is proposing for the 2016 tax year.

However, suppose a taxpayer only authorizes you to represent him in connection with his Form 1040 for 2016. You are not authorized to represent him when the revenue agent proposes a trust fund recovery penalty against him in connection with the employment taxes owed by his closely-held corporation.

If the taxpayer is authorizing you to represent her *only with respect to penalties and interest due on the penalties*, enter "Civil Penalty" in the "Description of Matter" column and the year(s) or period(s) to which the penalty applies in the "Year(s) or Period(s)" column. Enter "Not Applicable" in the "Tax Form Number" column. The taxpayer does not have to enter the specific penalty, as shown below.

- 3. Acts authorized (you are required to complete this line 3).** With the exception of the acts described in line 5b, I authorize my representative(s) to receive and inspect my confidential tax information and to perform acts that I can perform with respect to the tax matters described below. For example, my representative(s) shall have the authority to sign any agreements, consents, or similar documents (see instructions for line 5a for authorizing a representative to sign a return).

| Description of Matter (Income, Employment, Payroll, Excise, Estate, Gift, Whistleblower, Practitioner Discipline, PLR, FOIA, Civil Penalty, Sec. 5000A Shared Responsibility Payment, Sec. 4980H Shared Responsibility Payment, etc.) (see instructions) | Tax Form Number<br>(1040, 941, 720, etc.) (if applicable) | Year(s) or Period(s) (if applicable)<br>(see instructions) |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------|------------------------------------------------------------|
| <i>Civil penalty</i>                                                                                                                                                                                                                                     | <i>Not applicable</i>                                     | <i>2016</i>                                                |
|                                                                                                                                                                                                                                                          |                                                           |                                                            |
|                                                                                                                                                                                                                                                          |                                                           |                                                            |

However, if the taxpayer is subject to penalties related to an individual retirement account, such as a penalty for excess contributions, "IRA Civil Penalty" should be entered on line 3.

## Filing and Updating a Power of Attorney

IRS Form 2848 may be mailed or faxed directly to the IRS to the address or fax number shown in the chart below. If the power of attorney is to be faxed to the IRS, check to be sure the office to which it is to be faxed is equipped to receive a fax.

### Where to File

| IF the taxpayer lives in...                                                                                                                                                                                                                                                                                                                                                                                                                              | THEN use this address...                                                                                           | Fax number*                                                 |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------|
| Alabama, Arkansas, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, or West Virginia                                                                                                                   | Internal Revenue Service<br>5333 Getwell Road<br>Stop 8423<br>Memphis, TN 38118                                    | 855-214-7519                                                |
| Alaska, Arizona, California, Colorado, Hawaii, Idaho, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, or Wyoming                                                                                                                                                                                                                             | Internal Revenue Service<br>1973 Rulon White Blvd. MS 6737<br>Ogden, UT 84201                                      | 855-214-7522                                                |
| All APO and FPO addresses, American Samoa, nonpermanent residents of Guam or the U.S. Virgin Islands**, Puerto Rico (or if excluding income under Internal Revenue Code section 933), a foreign country:<br>U.S. citizens and those filing Form 2555, 2555-EZ, or 4563.                                                                                                                                                                                  | Internal Revenue Service<br>International CAF Team<br>2970 Market Street<br>MS:4-H14.123<br>Philadelphia, PA 19104 | 855-772-3156<br>304-707-9785<br>(Outside the United States) |
| <p>* These numbers may change without notice. For updates, go to <a href="http://www.irs.gov/form2848">www.irs.gov/form2848</a> and search under "Recent Developments."</p> <p>**Permanent residents of Guam should use Guam Department of Revenue and Taxation, P.O. Box 23607, GMF, GU 96921; permanent residents of the U.S. Virgin Islands should use V.I. Bureau of Internal Revenue, 6115 Estate Smith Bay, Suite 225, St. Thomas, V.I. 00802.</p> |                                                                                                                    |                                                             |

If Form 2848 is for a specific use—such as a request for a private letter ruling or FOIA request, for example—mail or fax it to the office handling that matter. See **[Specific Use Not Recorded on Centralized Authorization File – Line 4](#)** below for more information on specific use. You can file Form 2848 electronically via the IRS website. For more information, go to [www.irs.gov](http://www.irs.gov) and under the Tax Professionals tab, click on e-services–Online Tools for Tax Professionals.

If you e-file the client's tax return, attach Form 2848 to Form 8453, U.S. Individual Income Tax Transmittal for an IRS e-file Return, and mail it to the address listed in the instructions for Form 8453. If you file a paper return for the client, attach Form 2848 to the return.

Submit any update or modification to an existing power of attorney in writing. The taxpayer's signature (or the signature of the individual authorized to sign on the taxpayer's behalf) is required. Do this by sending the updated Form 2848 or non-IRS power of attorney to the IRS office where the original was previously sent, including the center where the related return was filed or will be filed.

As a recognized representative, you may substitute or delegate authority if the taxpayer specifically authorizes you to substitute or delegate representation in the original power of attorney. To make a substitution or delegation, you must file the following items with the IRS office(s) where the power of attorney was filed:

1. A written notice of substitution or delegation signed by the recognized representative; and
2. A written declaration of representative made by the new representative.

## Retention/Revocation of Prior Power(s) of Attorney

A newly filed power of attorney concerning the same matter will revoke a previously filed power of attorney. However, the new power of attorney will not revoke the prior power of attorney if it specifically states it does not revoke such prior power of attorney and either of the following are attached to the new power of attorney.

- A copy of the unrevoked prior power of attorney, or
- A statement signed by the taxpayer listing the name and address of each representative authorized under the prior unrevoked power of attorney.

The filing of Form 2848 will not revoke any Form 8821 (Tax Information Authorization) that is in effect.

## Revocation of Power of Attorney/Withdrawal of Representative

A power of attorney may cease as a result of either:

- Revocation by the taxpayer, or
- Withdrawal by the representative.

If the taxpayer wants to revoke a previously-executed power of attorney and doesn't wish to name a new representative, the taxpayer must write "REVOKE" across the top of the first page of the Form 2848 with a current signature and date immediately below this annotation. (See inset below.) Then, the taxpayer must mail or fax a copy of the power of attorney with the revocation annotation to the IRS office shown in the *Where To File Chart*, above. However, if the power of attorney is for a specific matter it should be sent or faxed to the IRS office handling the matter.

|                                                                                                                                                                   |                                                                |  |                         |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------|--|-------------------------|
| <i>Revoke</i>                                                                                                                                                     |                                                                |  |                         |
| <i>Cynthia Taxpayer</i>                                                                                                                                           |                                                                |  |                         |
| <i>12/13/20xx</i>                                                                                                                                                 |                                                                |  |                         |
| <b>Form 2848</b><br>(Rev. 1/January 2021)<br>Department of the Treasury<br>Internal Revenue Service                                                               | <b>Power of Attorney<br/>and Declaration of Representative</b> |  | OMB No. 1545-0150       |
| ◆ Information about Form 2848 and its instructions is at <a href="http://www.irs.gov/form2848">www.irs.gov/form2848</a> .                                         |                                                                |  | <b>For IRS Use Only</b> |
| <b>Part I Power of Attorney</b>                                                                                                                                   |                                                                |  | Received by:            |
| <b>Caution:</b> A separate Form 2848 must be completed for each taxpayer. Form 2848 will not be honored for any purpose other than representation before the IRS. |                                                                |  | Name _____              |
|                                                                                                                                                                   |                                                                |  | Telephone _____         |
|                                                                                                                                                                   |                                                                |  | Function _____          |
|                                                                                                                                                                   |                                                                |  | Date     /     /        |

A representative's withdrawal is handled similarly. If you, as the representative, want to withdraw from representation, you must write "WITHDRAW" across the top of the first page of the Form 2848 with a current signature and date immediately below the annotation. (See inset below.) Then, you must mail or fax a copy of the power of attorney with the withdrawal annotation to the IRS office shown in the *Where To File Chart*, above. If you don't have a copy of the power of attorney you wish to withdraw, you should send the IRS a signed and dated statement of withdrawal that:

- Indicates the authority granted by the power of attorney is withdrawn,
- Lists the matters and years/periods, and
- Lists the name, TIN, and address (if known) of the taxpayer.

|                                                                                                                                                                                                      |                                                                                                                           |                                                                |                                                                                                                                           |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Withdraw</i><br><i>Phyllis Representative</i><br><i>12/15/20xx</i>                                                                                                                                |                                                                                                                           | <b>Power of Attorney<br/>and Declaration of Representative</b> | OMB No. 1545-0150<br><b>For IRS Use Only</b><br>Received by: _____<br>Name _____<br>Telephone _____<br>Function _____<br>Date     /     / |
| Form <b>2848</b><br>(Rev. January 2021)<br>Department of the Treasury<br>Internal Revenue Service                                                                                                    | ♦ Information about Form 2848 and its instructions is at <a href="http://www.irs.gov/form2848">www.irs.gov/form2848</a> . |                                                                |                                                                                                                                           |
| <b>Part I Power of Attorney</b><br><b>Caution:</b> A separate Form 2848 must be completed for each taxpayer. Form 2848 will not be honored for any purpose other than representation before the IRS. |                                                                                                                           |                                                                |                                                                                                                                           |

## Preparing IRS Form 2848

Preparing IRS Form 2848 for submission to the IRS is fairly straightforward. However, keeping in mind the principal reasons for rejection of Form 2848, the following line-by-line instructions may provide some additional clarity if required when preparing the form for a client's signature.

### Taxpayer Information – Line 1

The taxpayer information to be entered on line 1 depends on the type of taxpayer authorizing the power of attorney. Thus, the information required may vary based on whether:

- The taxpayer is an individual,
- The taxpayer is a corporation, partnership or association,
- The taxpayer is an exempt organization,
- The taxpayer is a trust,
- The taxpayer is a deceased individual,
- The taxpayer is an estate,
- The matter involves a gift, or
- The taxpayer is an employee plan.

### The Individual Client

When preparing a power of attorney to represent an individual client, the information provided on Form 2848 line 1 must include the taxpayer's:

- Name,
- Social Security Number (SSN), individual taxpayer identification number (ITIN), and/or employer identification number (EIN), if applicable (See **Clients Filing 1040 Schedule C** below), and
- Street address or post office box.

Be sure to enter the taxpayer's address or post office box on line 1 rather than yours as the taxpayer's representative.

### Clients Filing 1040 Schedule C

If the taxpayer files a tax return that includes a sole proprietorship business—i.e. the taxpayer files an IRS Form 1040 (Schedule C)—and only if you are authorized to represent the taxpayer with respect to both individual and business tax matters, enter the taxpayer's SSN or ITIN *and* the taxpayer's business EIN in the space for the Taxpayer identification number(s).

### Clients Filing a Joint Return

If the taxpayer's spouse or former spouse is also executing a power of attorney in connection with a joint return filed by the taxpayer, a separate IRS Form 2848 must be submitted by each spouse even if they are both authorizing the same representative(s) to provide representation.

### Corporate, Partnership or Association Clients

When you are preparing a power of attorney to represent a client that is corporation, a partnership or

an association, the information provided on Form 2848 line 1 must include the taxpayer's:

- Name,
- EIN, and
- Business address.

### **Corporate Clients Filing Consolidated Tax Returns**

If Form 2848 is being prepared for a corporation filing a consolidated tax return (Form 1120) *and* the representation that will be provided concerns matters related only to the consolidated return, enter only the taxpayer information for the parent corporation on line 1. In such a case, do not attach a list of subsidiaries to the form. Also, on Form 2848 line 3 you should list only Form 1120 in the "Tax Form Number" column.

A separate Form 2848 must be filed separately for a subsidiary with respect to returns that must be filed separately from the consolidated return, such as:

- Form 720, Quarterly Federal Excise Tax Return,
- Form 940, Employer's Annual Federal Unemployment (FUTA) Tax Return, and
- Form 941, Employer's QUARTERLY Federal Tax Return.

### **Exempt Organization Clients**

When preparing a power of attorney to represent a client that is an exempt organization, the information provided on Form 2848 line 1 must include the exempt organization's:

- Name,
- Employer identification number (EIN), and
- Address.

### **Trust Clients**

When preparing a power of attorney to represent a client that is a trust, the information provided on Form 2848 line 1 must include the trust's EIN and the trustee's:

- Name,
- Title, and
- Address.

### **Representing a Decedent**

When preparing a power of attorney to represent a client that is a decedent with respect to Form 1040, the information provided on Form 2848 line 1 must include the:

- Decedent's name,
- Decedent's SSN or ITIN, and
- Decedent's executor's or personal representative's –
  - Name,
  - Title, and
  - Address.

### **Estate Clients**

When preparing a power of attorney to represent a client that is an estate, the information provided on Form 2848 line 1 must include the:

- Name of the decedent, and
- Decedent's executor's or personal representative's –
  - Name,
  - Title, and
  - Address

If the representation is with respect to IRS Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return, enter the decedent's SSN or ITIN in the space calling for the taxpayer identification number. If the representation concerns other IRS forms, enter the estate's EIN for the taxpayer identification number, or, if the estate does not have an EIN, enter the decedent's SSN (or ITIN).



### When the Matter is a Gift

When preparing a power of attorney to represent a client before the IRS with respect to a gift, the information provided on Form 2848 line 1 must include the donor's:

- Name,
- Address, and
- SSN (or ITIN).

### Employee Plan Clients

When preparing a power of attorney to represent an employee plan before the IRS, the information provided on Form 2848 line 1 must include the:

- Plan sponsor's –
  - Name,
  - Address, and
  - EIN or SSN, and
- The plan's three-digit plan number.

If the employee plan's trust is also under examination, separate Forms 2848 must be prepared and submitted even if both the plan and trust are authorizing the same representative.

### Representative – Line 2

You may represent a taxpayer on a matter before the IRS only if you are eligible to practice before the IRS as a representative. (See **Who is Permitted to Practice before the IRS** above.) If you are eligible, the representative information to be entered on Form 2848 line 2 must include your:

- Full name as the representative, and
- Mailing address.

### Multiple Representatives

If more than four representatives are to be named, write "See attached for additional representatives," in the space to the right of line 2 and attach an additional Form 2848 for each representative named. If you, as the client's representative, will be authorized to receive copies of notices and communications sent to the client by the IRS, you must check the box that is provided under the representative's name and address. **Note: the IRS will furnish copies of notices and communications sent to the taxpayer by the IRS to no more than two representatives.**

However, in no case will representatives receive forms, publications, and other related materials with the copies of taxpayer correspondence sent to them.

### Centralized Authorization File (CAF) Number

You must also enter your nine-digit Centralized Authorization File (CAF) number in the space to the right of your name and address on Form 2848 and the CAF number for each additional representative in the space to the right of the representative's name and address. A CAF number is a unique nine-digit identification number assigned to a representative the first time a third party authorization is filed with the IRS.

If the IRS has not assigned a CAF number to you or to another representative of the client, enter "None" as appropriate, and the IRS will issue one directly to the representative. Once assigned by the IRS, you should use the assigned CAF number on all future powers of attorney. The IRS will not assign CAF numbers for employee plan status determinations or exempt organization application requests.

### Preparer Tax Identification Number (PTIN)

Also enter your Preparer Tax Identification Number (PTIN), if applicable, for yourself and the applicable PTIN for each representative. If you have applied for a PTIN but the IRS has not yet assigned one, write "applied for" on the line next to PTIN.

**Note: If you are an unenrolled return preparer you must possess a valid PTIN to represent a taxpayer before the IRS and must have been eligible to sign the return or claim for refund under examination.**

Check the appropriate box to indicate if the representative's address, telephone number, or fax



number is new since the IRS issued the CAF number.

The postemployment restrictions contained in 18 U.S.C. 207 and in Circular 230, section 10.25, apply to a representative who is a former employee of the federal government. The Treasury Inspector General for Tax Administration may enforce criminal penalties for violations of the restrictions, and the Office of Professional Responsibility may take disciplinary action against the practitioner.

### **Students in Low Income Taxpayer Clinics (LITCs) and Student Tax Clinic Program (STCP)**

If you are a student in a Low Income Taxpayer Clinic (LITC) or a Student Tax Clinic Program (STCP), you must receive permission to represent taxpayers before the IRS by virtue of your status as a law, business, or accounting student working in a Low Income Taxpayer Clinic or the Student Tax Clinic Program under section 10.7(d) of Circular 230. If you have received such permission, you must attach a copy of the letter from the Taxpayer Advocate Service authorizing practice before the IRS.

Students who have been granted the ability to practice by a special appearance authorization under section 10.7(d) of Circular 230 may, subject to any limitations set forth in the letter from the Taxpayer Advocate Service, fully represent taxpayers before any IRS office and are eligible to perform any and all acts listed on a properly executed Form 2848.

If you are a student in a LITC or STCP, you must list the lead attorney or CPA as a representative. List the lead attorney or CPA first on Form 2848, line 2, and then list your own information on the next line.

At the end of 130 days after the taxpayer's signature date, the CAF will automatically purge the student practitioner as the taxpayer's representative.

### **Acts Authorized – Line 3**

It was noted earlier that there are some common reasons why a power of attorney would be rejected by the IRS. One of those reasons is related to the acts the client authorizes you to perform on his or her behalf, the acts that need to be described on Form 2848, line 3.

A key to avoiding power of attorney rejection is specificity in a) describing the matter to be addressed, b) the number of any tax form involved—a Form 1040 or Form 706, for example—and c) the applicable time period(s). If the taxpayer wants to authorize you to represent him or her with respect to all tax issues that are before the IRS, line 3 of the power of attorney must indicate:

- Each tax matter the representative is authorized to address—income, employment, estate, gift, etc.—must be specifically listed in the left column (Description of Matter). If the power of attorney identifies a more general topic, such as all taxes, the power of attorney will be rejected for failing to be sufficiently specific;

If the matter is not a tax matter, or if the tax form number or years or periods do not apply to the matter (for example, representation for a penalty or filing a ruling request or a determination letter, or Application for Award for Original Information under section 7623, Closing Agreement on Final Determination Covering Specific Classification Settlement Program (CSP), Form 8952, Application for Voluntary Classification Settlement Program (VCSP), or FOIA), specifically describe the matter to which the power of attorney pertains (including, if applicable, the name of the employee benefit plan) and enter “Not Applicable” in the appropriate column(s).

If the matter relates to an employee plan, include the plan number in the description of the matter.

- Each tax form the representative is authorized to discuss with the IRS should be listed in the center column (Tax Form Number). Only tax forms directly related to the taxpayer shown on line 1 should be listed; and

Each period the representative is authorized to discuss should be listed in the right column (Years or Period(s)). If the matter relates to estate tax, enter the date of the decedent's death instead of the year or period in the right column. Although using the general statement “all years” would be sufficient cause for the IRS to reject the power of attorney on the basis of lack of specificity, the IRS permits you to list consecutive multiple years or a series of inclusive

periods, including quarterly periods, by using “through,” “thru,” or a hyphen as illustrated below:

| Description of Matter (Income, Employment, Payroll, Excise, Estate, Gift, Whistleblower, Practitioner Discipline, PLR, FOIA, Civil Penalty, Sec. 5000A Shared Responsibility Payment, Sec. 4980H Shared Responsibility Payment, etc.) (see instructions) | Tax Form Number<br>(1040, 941, 720, etc.) (if applicable) | Year(s) or Period(s) (if applicable)<br>(see instructions) |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------|------------------------------------------------------------|
|                                                                                                                                                                                                                                                          |                                                           | <i>2011</i>                                                |
|                                                                                                                                                                                                                                                          |                                                           | <i>2nd 2009 - 3rd 2010</i>                                 |
|                                                                                                                                                                                                                                                          |                                                           | <i>2010 thru 2012</i>                                      |

**Note: If the period involves fiscal years, you should enter the ending year and month in the right column using the YYYYMM format.**

#### **Specific Use Not Recorded on Centralized Authorization File – Line 4**

As noted earlier, the IRS normally records powers of attorney on its Centralized Authorization File (CAF) system, a system that gives IRS personnel quicker access to authorization information. However, in some cases—those involving a power of attorney granting authority on a one-time or specific-issue basis—no CAF recording is done.

Thus, if the power of attorney only grants such limited authority, check the box on Form 2848, line 4. If the box on line 4 is checked, you should mail or fax the power of attorney to the IRS office handling the matter. If you don’t mail or fax the power of attorney to the appropriate IRS office, you should bring a copy of the power of attorney to each meeting with the IRS.

The IRS offers various examples of specific uses that would cause the power of attorney to NOT be recorded in the CAF. Although not exhaustive, the examples given include:

- Requests for a private letter ruling or technical advice,
- Claims filed on Form 843, Claim for Refund and Request for Abatement,
- Corporate dissolutions,
- Circular 230 Disciplinary Investigations and Proceedings,
- Requests to change accounting methods or periods,
- Request for a determination of the qualified status of an employee benefit plan (Forms 5300, 5307, 5316, or 5310),
- Applications for –
  - An EIN,
  - Recognition of exemption under sections 501(c)(3), 501(a), or 521 (Forms 1023, 1024, or 1028),
  - An ITIN filed on Form W-7, Application for IRS Individual Taxpayer Identification Number,
  - An exemption from self-employment tax filed on Form 4361, Application for Exemption From Self-Employment Tax for Use by Ministers, Members of Religious Orders and Christian Science Practitioners,
  - Award for Original Information under section 7623,
- Voluntary submissions under the Employee Plans Compliance Resolution System (EPCRS), and
- Freedom of Information Act (FOIA) requests.

#### **Additional Acts Authorized – Line 5a**

If your client authorizes you, as the representative, to perform additional acts on his or her behalf, Form 2848, line 5a should be used to identify the additional authorized acts. Simply check the appropriate box and provide any applicable details in the space provided. Such additional authorized acts may involve:

- Substituting or adding a representative - You cannot substitute or add another representative without your client’s written permission unless the authority to do so has been specifically delegated to you by the client via a check in the box on Form 2848 line 5a. If you are authorized to substitute another representative, the new representative can send in a new

Form 2848 with a copy of the Form 2848 authorizing you to substitute, and the client does not need to sign the new Form 2848;

- Authorizing disclosure of returns to a third party - Similarly, you cannot execute consents that will allow the IRS to disclose the client's tax return or return information to a third party unless the client specifically delegates this authority to you by checking the box on line 5a;
- Authority to sign the client's return - Treasury Regulations permit another person to sign an income tax return for a taxpayer only in the following circumstances:
  - a) Disease or injury,
  - b) Continuous absence from the United States (including absence from Puerto Rico) for a period of at least 60 days prior to the date required by law for filing the return, or
  - c) Specific permission is requested of and granted by the IRS for other good cause. In such circumstances, the IRS may grant authority to sign the taxpayer's income tax return to –
    - You, as the taxpayer's representative, or
    - An agent other than you.

If the client wants to authorize you, i.e. the client's representative, to sign the income tax return, check the box on line 5a next to "Sign a return." The following statement should be made on the lines provided:

"This power of attorney is being filed pursuant to 26 CFR 1.6012-1(a)(5), which requires a power of attorney to be attached to a return if a return is signed by an agent by reason of [enter the specific reason listed under a), b), or c) above]."

For example, if the client is injured, the proper statement would be as shown below:

**5a Additional acts authorized.** In addition to the acts listed on line 3 above, I authorize my representative(s) to perform the following acts (see instructions for line 5a for more information): ☐ Access my IRS records via an Intermediate Service Provider;

☐ Authorize disclosure to third parties; ☐ Substitute or add representative(s); ☒ Sign a return;

This power of attorney is being filed pursuant to 26 CFR 1.6012-1(a)(5), which requires a power of attorney to be attached to a return if a return is signed by an agent by reason of the taxpayer's injury.

☐ Other acts authorized:

If the client wants to authorize an agent **other than** the client's representative to sign the income tax return,

- Complete Form 2848 lines 1-3,
- Check the box on line 4,
- Check the box on line 5a titled "Sign a return," and
- Write the following statement on the lines provided:

"This power of attorney is being filed pursuant to 26 CFR 1.6012-1(a)(5), which requires a power of attorney to be attached to a return if a return is signed by an agent by reason of [enter the specific reason listed under (a), (b), or (c) above]. **No other acts on behalf of the taxpayer are authorized.**"

For example, if the taxpayer is continuously absent from the United States for a period of at least 60 days prior to the date required by law for filing the return, the statement on line 5a would be as shown below:

**5a Additional acts authorized.** In addition to the acts listed on line 3 above, I authorize my representative(s) to perform the following acts (see instructions for line 5a for more information): ☐ Access my IRS records via an Intermediate Service Provider;

☐ Authorize disclosure to third parties; ☐ Substitute or add representative(s); ☒ Sign a return;

This power of attorney is being filed pursuant to 26 CFR 1.6012-1(a)(5), which requires a power of attorney to be attached to a return if a return is signed by an agent by reason of the taxpayer's continuous absence from the United States for a period of at least 60 days prior to the date required by law for filing the return. No other acts on behalf of the taxpayer are authorized.

☐ Other acts authorized:

- Authority to perform any other acts the taxpayer wants you, as his or her representative, to perform - If the client wishes to authorize other acts with respect to your representation on a matter before the IRS, he or she would check the box on line 5a "Other acts authorized" and identify the additional act or acts authorized.

### Specific Acts not Authorized – Line 5b

In addition to the client's prohibition against an agent's endorsement or negotiation of a check or other payment issued to the client by the government—language prohibiting such negotiation being preprinted on line 5b—line 5b also permits the client to identify any other specific acts not authorized that would otherwise be authorized in the power of attorney. Any such acts should simply be identified and listed on Form 2848 line 5b.

### Retention/Revocation of Prior Power(s) of Attorney – Line 6

When a power of attorney is submitted other than to grant a representative the authority to address a one-time or specific issue before the IRS, it is recorded on the IRS CAF system. However, when it is recorded, the IRS will generally revoke any previously-recorded power of attorney for the same matter and years or periods covered by the power of attorney being recorded. In like manner, if the power of attorney for which the current Form 2848 is being prepared is for a specific use or is not to be recorded on the CAF it will only revoke an earlier power of attorney on file with the same office and for the same matters.

If a prior power of attorney is not to be revoked, both of the following must be done:

- The box on line 6 must be checked, and
- A copy of the earlier power(s) of attorney that should remain in effect must be attached.

### Taxpayer's Signature – Line 7

Power of attorney may be granted by various persons, natural and nonnatural. Thus, the signature and other requirements may vary, depending on the nature of the taxpayer.

If the person executing the power of attorney is:

- An individual, then the individual taxpayer must sign and date the IRS Form 2848. If the taxpayer filed a joint return, the spouse must execute a separate power of attorney **on a separate Form 2848** even if both spouses authorize the same representative.
- A corporation or an association, then an officer with the legal authority to bind the corporation or association must sign and enter his or her exact title.
- A partnership, then all partners must sign and enter their exact titles. However, if one partner is authorized to act in the name of the partnership to perform various acts on behalf of the partnership, only that partner is required to sign and enter his or her title. A partner is authorized to act in the name of the partnership if, under state law, the partner has authority to bind the partnership. A copy of such authorization must be attached to Form 2848. For purposes of executing Form 2848, the TMP is authorized to act in the name of the partnership. For additional information on partnership signatures, see [26 CFR 601.503\(c\)\(6\)](#).
- An estate executor, then the executor must sign and date the form. If there is more than one executor, only one co-executor having the authority to bind the estate is required to sign. For additional information on executor signature requirements, see [26 CFR 601.503\(d\)](#).
- An employee plan and the plan is listed as the taxpayer on line 1, then an individual with the

authority to bind the plan must sign and enter that individual's exact title. If the trust is the taxpayer listed on line 1, a trustee having the authority to bind the trust must sign with the title of trustee entered. Complete and attach [Form 56, Notice Concerning Fiduciary Relationship](#), to identify the current trustee.

- A dissolved corporation, deceased individual, insolvent, or a person for whom or by whom a fiduciary (a trustee, guarantor, receiver, executor, or administrator) has been appointed, see [26 CFR 601.503\(d\)](#).

## **Declaration of Representative – Part II**

As the client's representative, you must sign and date the declaration and enter the appropriate letter indicating your designation, i.e. a through r, under which you are authorized to practice before the IRS in the column headed "Designation – Insert above letter (a-r)." If the client has named more than one representative, each named representative must indicate the appropriate designation and sign in the same order in which he or she is listed on line 2.

In addition, you must list the following in the columns titled "Licensing jurisdiction (state) or other licensing authority" and "Bar, license, certification, registration, or enrollment number":

- a Attorney—Enter the two-letter abbreviation for the state (for example, "NY" for New York) in which admitted to practice and associated bar or license number, if any.
- b Certified Public Accountant—Enter the two-letter abbreviation for the state (for example, "CA" for California) in which licensed to practice and associated certification or license number, if any.
- c Enrolled Agent—Enter the enrollment card number in the block provided.
- d Officer—Enter the title of the officer (for example, President, Vice President, or Secretary).
- e Full-Time Employee—Enter title or position (for example, Comptroller or Accountant).
- f Family Member—Enter the relationship to the taxpayer (must be a spouse, parent, child, brother, sister, grandparent, grandchild, step-parent, step-child, step-brother, or step-sister).
- g Enrolled Actuary—Enter the enrollment card number issued by the Joint Board for the Enrollment of Actuaries.
- h Unenrolled Return Preparer—Enter your PTIN.
- k Qualifying Student—Enter LITC or STCP.
- r Enrolled Retirement Plan Agent—Enter the enrollment card number issued by the Return Preparer Office.

## **Summary**

A taxpayer should submit a power of attorney when wishing to authorize an individual to receive his or her confidential tax information and be represented on a matter before the IRS. A power of attorney is a legal document that grants another person, i.e. an "agent," the authority to act for and make decisions on one's behalf. A tax power of attorney—conferred upon acceptance by the IRS of Form 2848—empowers another person to represent a taxpayer with respect to matters before the IRS, receive confidential taxpayer information and perform other duties. The scope and duration of the agent's right to act on behalf of the principal may be very broad or quite limited. An unlimited authorization to represent a taxpayer before the IRS would generally permit the professional to perform any acts the taxpayer could perform, except negotiate a check payable to or for the benefit of the taxpayer. A power of attorney generally terminates upon the taxpayer's incapacity or incompetence but can continue if specifically authorized in a durable power of attorney if it meets all the requirements for acceptance by the IRS.

Not all persons are permitted to represent taxpayers before the IRS. Unlike the generally-unlimited power to represent a client before the IRS possessed by CPAs, attorneys and enrolled agents, the

authority granted to enrolled retirement plan agents, enrolled actuaries and unenrolled return preparers holding records of completion is limited.

Once granted a power of attorney, an agent—if authorized—can substitute or delegate authority under the power of attorney to another person. Similarly, an agent can authorize the IRS to disclose the client's tax return or return information to a third party only if he or she is specifically authorized in the power of attorney to do so.

If the client has executed a non-IRS power of attorney, representing the client on matters before the IRS requires that a signed and dated statement be made by you and attached to the non-IRS power of attorney. The statement required is the Declaration of Representative, contained in Part II of Form 2848.

The IRS may reject a power of attorney. Common reasons for rejection include:

- The signatures and/or signature dates for the representative or the taxpayer (or both) are missing;
- The acts authorized in the power of attorney are not sufficiently specified;
- The box on IRS Form 2848, line 6, *Retention/Revocation of Prior Power(s) of Attorney*, is checked, but a copy of the power of attorney for the retained representative is not attached;
- The representative's designation and/or jurisdiction is missing on Part II;
- The bar license, certification, registration or enrollment number is missing on Part II; or
- The title of the business taxpayer signing the power of attorney (Part I, line 7) is not indicated.

The failure to provide appropriate signatures and/or be sufficiently specific on Form 2848 can be causes for the power of attorney to be rejected by the IRS. The taxpayer signature requirement on Form 2848 varies, depending upon whether the taxpayer is an individual, a corporation, a partnership, an estate, or an employee plan. In order for a power of attorney to be valid for purposes of appointing an agent to act for a taxpayer with respect to matters before the IRS, it must clearly and specifically identify the matter by a) describing it, b) specifying any applicable tax form number and c) stating the applicable years or periods. General references on IRS Form 2848 are unacceptable and may result in rejection. When completed, IRS Form 2848 may be mailed or faxed directly to the IRS.

A newly filed power of attorney concerning the same matter as a previously-filed power of attorney will revoke the earlier power of attorney unless the new power of attorney specifically states it does not revoke such prior power of attorney **and** a copy of the unrevoked prior power of attorney or a statement signed by the taxpayer listing the name and address of each representative authorized under the prior, unrevoked power of attorney is attached to the new power of attorney.

A taxpayer can revoke a previously-executed power of attorney without naming a new representative by writing "REVOKE" on the top of the first page of Form 2848, signing and dating it immediately below. The form must then be mailed or faxed to the appropriate IRS office.

You may withdraw as the agent for a taxpayer in similar fashion by writing "WITHDRAW" on the top of the first page of Form 2848, sign it, date it and mail or fax a copy of the power of attorney to the appropriate IRS office. If you don't have a copy of the power of attorney to be withdrawn, send the IRS a signed and dated statement of withdrawal indicating the authority of the power of attorney is withdrawn, listing the matters and years to which the power applied along with the taxpayer's name, address and TIN.

## Chapter Review

1. Carol, an enrolled agent, possesses an unlimited power of attorney. Which of the following acts is she UNAUTHORIZED to perform on behalf of the taxpayer?
  - A. Represent the taxpayer before an office of the IRS
  - B. Negotiate an IRS check payable to the taxpayer
  - C. Sign a consent to extend the statutory time period for assessment or collection of a tax
  - D. Sign a closing agreement

2. Under what circumstances may an enrolled agent with a power of attorney give consent to the IRS to disclose a client's tax return to a third party?
  - A. Only if the authority is specifically delegated to the enrolled agent on Form 2848
  - B. Only if the tax return is not being audited
  - C. Only if the enrolled agent has an unlimited power of attorney
  - D. Never
3. Harry, a CPA, is authorized by his client to represent her under an unlimited non-IRS power of attorney. What, if anything, should normally accompany the non-IRS power of attorney when submitted to the IRS to enable him to represent her on a matter before the IRS?
  - A. A letter from the client specifically authorizing him to represent her before the IRS
  - B. A document sent by the IRS to the client identifying the matter before the IRS
  - C. IRS Form 56, Notice Concerning Fiduciary Relationship
  - D. A completed IRS Form 2848
4. Harry files a joint tax return and is completing Form 2848, Power of Attorney and Declaration of Representative, authorizing Sarah, an enrolled agent, to represent him on a matter before the IRS. Which of the following must sign the Form 2848?
  - A. Sarah, the enrolled agent
  - B. Both Harry and his spouse
  - C. Harry only
  - D. Harry's executor

# Answers to Chapter Review Questions

## Chapter 1

### Question 1 Feedback

- A. Your answer is incorrect. An enrolled actuary in representing a taxpayer before the IRS is normally limited to providing advice and counsel with respect to various issues involving qualified plans, such as whether it meets qualified plan requirements, the design of the plan, plan testing, participant benefit calculations and completing various IRS and PBGC forms. Please try again.
- B. Your answer is correct. An enrolled agent not currently under suspension or disbarment from practice before the IRS has unlimited practice rights. Because of those unlimited practice rights, such an enrolled agent is unrestricted as to matters before the IRS concerning the taxpayers represented, the type of tax matters handled and the IRS offices before which clients are represented.
- C. Your answer is incorrect. Tax return preparers who are participants in the Annual Filing Season Program (AFSP) and who are not currently under suspension or disbarment from practice before the IRS have limited client representation rights which permit them to represent clients whose returns they prepared and signed involving initial audits, customer service matters and matters before the Taxpayer Advocate Service. Please try again.
- D. Your answer is incorrect. An enrolled retirement plan agent (ERPA) who is not under suspension or disbarment from practice before the IRS may engage in limited practice before the IRS on matters involving the Employee Plans Determination Letter program, the Employee Plans Compliance Resolution System (EPCRS), the Employee Plans Master and Prototype Program and Volume Submitter Program and qualified plan IRS Forms. Please try again.

### Question 2 Feedback

- A. Your answer is incorrect. Although a disbarred practitioner may seek reinstatement from the OPR, the waiting period before reinstatement may be sought is not 18 months. Please try again.
- B. Your answer is incorrect. If a practitioner is suspended, he or she may seek reinstatement at the conclusion of the suspension period. However, disbarment is a more serious sanction, and there may or may not be an additional period of suspension. Please try again.
- C. Your answer is correct. Disbarred practitioners are ineligible to represent taxpayers before the IRS during their period of disbarment. However, after five years of disbarment they may seek reinstatement from the Office of Professional Responsibility. Upon reinstatement by the Office of Professional Responsibility, they may again practice before the IRS.
- D. Your answer is incorrect. Although disbarment of a practitioner is serious and suggests a measure of permanency, practitioners who have been disbarred may seek reinstatement. Please try again.

### Question 3 Feedback

- A. Your answer is incorrect. Although a CPA or attorney seeking to represent a client before the IRS must submit a written declaration of qualification and authority to represent the client, such a written declaration is not ordinarily required by a preparer in connection with a tax return prepared by him or her. Please try again.
- B. Your answer is incorrect. While individuals may represent a member of his or her immediate family before the IRS, a familial relationship is not necessary in the case of a tax preparer. Please try again.
- C. Your answer is correct. To have limited representation rights for any return or claim for refund prepared and signed after December 31, 2015, return preparers must participate in the Annual Filing Season Program in both the year of return preparation and the year of representation.
- D. Your answer is incorrect. A tax preparer's compensation is not an issue with respect to his or her ability to represent the client before the IRS. Please try again.



## Chapter 2

### Question 1 Feedback

- A. Your answer is incorrect. Attorneys, CPAs and enrolled agents appropriately authorized by a taxpayer under a power of attorney may represent the taxpayer before any office of the IRS. Please try again.
- B. Your answer is correct. To represent a taxpayer on a matter before the IRS, an IRS power of attorney gives the taxpayer's written authorization for the authorized professional to receive the taxpayer's confidential tax information from the IRS and to perform certain actions on his or her behalf. If the authorization is not limited, the professional generally can perform **all acts** that the taxpayer can perform, except negotiating a check payable to or for the benefit of the taxpayer.
- C. Your answer is incorrect. Carol, as an enrolled agent appropriately authorized by a taxpayer under a power of attorney may sign a consent to extend the statutory time period for assessment or collection of a tax. Please try again.
- D. Your answer is incorrect. As an enrolled agent appropriately authorized by a taxpayer under a power of attorney, Carol is authorized to sign a closing agreement. Please try again.

### Question 2 Feedback

- A. Your answer is correct. Despite being the taxpayer's agent, an enrolled agent cannot give the IRS consent to disclose the client's tax return or return information to a third party unless the authority to do so is specifically delegated to the enrolled agent on line 5a of Form 2848.
- B. Your answer is incorrect. That the taxpayer's return is not being audited does not give the taxpayer's agent authority to consent to IRS release of a taxpayer's return to a third party. Please try again.
- C. Your answer is incorrect. Although an unlimited power of attorney gives the agent wide latitude in performing acts for the taxpayer, an unlimited power of attorney alone is insufficient to enable the agent to authorize IRS release of the taxpayer's return to a third party. Please try again.
- D. Your answer is incorrect. In some cases an agent for a taxpayer may consent to the IRS release of the taxpayer's return. Please try again.

### Question 3 Feedback

- A. Your answer is incorrect. A letter from the client along with a non-IRS power of attorney is insufficient to enable the CPA to represent the client on a matter before the IRS. Please try again.
- B. Your answer is incorrect. A document that identifies the matter before the IRS would not, of itself, be enough to give the CPA the right to represent the client before the IRS. Please try again.
- C. Your answer is incorrect. IRS Form 56, Notice Concerning Fiduciary Relationship, is normally used in connection with representation of a trust. Please try again.
- D. Your answer is correct. Non-IRS Powers of Attorney are accepted by the IRS if a completed IRS Form 2848 is attached to the non-IRS power of attorney when mailing or faxing it to the IRS.

### Question 4 Feedback

- A. Your answer is incorrect. Although Treasury Regulations permit Sarah to sign Harry's *income tax return* in instances involving the taxpayer's illness, continuous absence from the U.S. for 60 or more days or if specific permission is granted by the IRS for other good cause, she is not authorized to sign IRS Form 2848 giving her the authority to represent him. Please try again.
- B. Your answer is incorrect. If the taxpayer filed a joint return, the taxpayer's spouse must execute his or her own power of attorney on a separate Form 2848 to designate a

representative. Married taxpayers cannot jointly authorize an agent to represent them with respect to tax matters before the IRS. Please try again.

- C. Your answer is correct. Since Harry is the taxpayer named as such on IRS Form 2848, he must sign and date the power of attorney in order to be represented on a matter before the IRS.
- D. Your answer is incorrect. If Harry is a decedent and his estate is being represented, an executor would sign the Form 2848. However, since Harry is alive and completing the Form 2848, he does not yet have an executor. Please try again.

# Glossary

|                                                  |                                                                                                                                                                                                                                                                                                                                                                                                      |
|--------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Centralized Authorization File (CAF) number      | A CAF number is a unique nine-digit identification number assigned to a representative the first time a third party authorization is filed with the IRS.                                                                                                                                                                                                                                             |
| Enrolled actuary                                 | An enrolled actuary is an individual enrolled as an actuary by the Joint Board for the Enrollment of Actuaries whose authority to practice before the IRS is generally limited to qualified plan design, determining whether a qualified plan meets ERISA requirements, reviewing and certifying plan valuations, performing participant benefit calculations, and similar qualified plan functions. |
| Enrolled retirement plan agents                  | An enrolled retirement plan agent is an individual whose authority to practice before the IRS is generally limited to ensuring that qualified retirement plans comply with applicable non-actuarial requirements.                                                                                                                                                                                    |
| IRS Power of Attorney                            | Power of Attorney and Declaration of Representative, IRS Form 2848.                                                                                                                                                                                                                                                                                                                                  |
| Limited practice rights                          | The professionals who possess limited practice rights include enrolled actuaries, enrolled retirement plan agents and registered tax return preparers, who are limited with respect to representation limited to their specific area of expertise.                                                                                                                                                   |
| Perfecting a POA                                 | Perfecting a power of attorney involves correcting and resubmitting a power of attorney document that contains all the required information.                                                                                                                                                                                                                                                         |
| Power of attorney                                | A document authorizing a third party, known as an agent or attorney in fact, to represent a principal with respect to any one or more of a wide range of activities.                                                                                                                                                                                                                                 |
| Practice before the IRS                          | Practice before the Internal Revenue Service refers only to a matter connected with the presentation to the Internal Revenue Service or any of its officers or employees relating to a taxpayer's rights, privileges, or liabilities under laws or regulations administered by the Internal Revenue Service.                                                                                         |
| Registered tax return preparers                  | Registered tax return preparers are individuals who are participants in the Annual Filing Season Program (AFSP) may represent clients whose returns they prepared and signed in connection with initial audits, customer service matters and matters before the Taxpayer Advocate Service.                                                                                                           |
| Substituting or delegating authority under a POA | An agent can substitute or delegate authority under a power of attorney to another person who would then become the representative of the taxpayer.                                                                                                                                                                                                                                                  |



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## Appendix

Form **2848**(Rev. January 2021)  
Department of the Treasury  
Internal Revenue Service**Power of Attorney  
and Declaration of Representative**▶ Go to [www.irs.gov/Form2848](http://www.irs.gov/Form2848) for instructions and the latest information.

OMB No. 1545-0150

**For IRS Use Only**

Received by:

Name \_\_\_\_\_

Telephone \_\_\_\_\_

Function \_\_\_\_\_

Date \_\_\_\_/\_\_\_\_/\_\_\_\_

**Part I Power of Attorney****Caution:** A separate Form 2848 must be completed for each taxpayer. Form 2848 will not be honored for any purpose other than representation before the IRS.**1 Taxpayer information.** Taxpayer must sign and date this form on page 2, line 7.

Taxpayer name and address \_\_\_\_\_

Taxpayer identification number(s) \_\_\_\_\_

Daytime telephone number \_\_\_\_\_

Plan number (if applicable) \_\_\_\_\_

hereby appoints the following representative(s) as attorney(s)-in-fact:

**2 Representative(s)** must sign and date this form on page 2, Part II.

Name and address \_\_\_\_\_

CAF No. \_\_\_\_\_

PTIN \_\_\_\_\_

Telephone No. \_\_\_\_\_

Fax No. \_\_\_\_\_

**Check if to be sent copies of notices and communications** ☐Check if new: Address ☐ Telephone No. ☐ Fax No. ☐

Name and address \_\_\_\_\_

CAF No. \_\_\_\_\_

PTIN \_\_\_\_\_

Telephone No. \_\_\_\_\_

Fax No. \_\_\_\_\_

**Check if to be sent copies of notices and communications** ☐Check if new: Address ☐ Telephone No. ☐ Fax No. ☐

Name and address \_\_\_\_\_

CAF No. \_\_\_\_\_

PTIN \_\_\_\_\_

Telephone No. \_\_\_\_\_

Fax No. \_\_\_\_\_

**(Note: IRS sends notices and communications to only two representatives.)**Check if new: Address ☐ Telephone No. ☐ Fax No. ☐

Name and address \_\_\_\_\_

CAF No. \_\_\_\_\_

PTIN \_\_\_\_\_

Telephone No. \_\_\_\_\_

Fax No. \_\_\_\_\_

**(Note: IRS sends notices and communications to only two representatives.)**Check if new: Address ☐ Telephone No. ☐ Fax No. ☐

to represent the taxpayer before the Internal Revenue Service and perform the following acts:

**3 Acts authorized (you are required to complete line 3).** Except for the acts described in line 5b, I authorize my representative(s) to receive and inspect my confidential tax information and to perform acts I can perform with respect to the tax matters described below. For example, my representative(s) shall have the authority to sign any agreements, consents, or similar documents (see instructions for line 5a for authorizing a representative to sign a return).

| Description of Matter (Income, Employment, Payroll, Excise, Estate, Gift, Whistleblower, Practitioner Discipline, PLR, FOIA, Civil Penalty, Sec. 4980H Shared Responsibility Payment, etc.) (see instructions) | Tax Form Number<br>(1040, 941, 720, etc.) (if applicable) | Year(s) or Period(s) (if applicable)<br>(see instructions) |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------|------------------------------------------------------------|
|                                                                                                                                                                                                                |                                                           |                                                            |
|                                                                                                                                                                                                                |                                                           |                                                            |
|                                                                                                                                                                                                                |                                                           |                                                            |

**4 Specific use not recorded on the Centralized Authorization File (CAF).** If the power of attorney is for a specific use not recorded on CAF, check this box. See Line 4. *Specific Use Not Recorded on CAF* in the instructions . . . . . ☐**5a Additional acts authorized.** In addition to the acts listed on line 3 above, I authorize my representative(s) to perform the following acts (see instructions for line 5a for more information): ☐ Access my IRS records via an Intermediate Service Provider;☐ Authorize disclosure to third parties; ☐ Substitute or add representative(s); ☐ Sign a return; \_\_\_\_\_\_\_\_\_\_  
\_\_\_\_\_☐ Other acts authorized: \_\_\_\_\_\_\_\_\_\_  
\_\_\_\_\_

- b Specific acts not authorized.** My representative(s) is (are) not authorized to endorse or otherwise negotiate any check (including directing or accepting payment by any means, electronic or otherwise, into an account owned or controlled by the representative(s) or any firm or other entity with whom the representative(s) is (are) associated) issued by the government in respect of a federal tax liability.

List any other specific deletions to the acts otherwise authorized in this power of attorney (see instructions for line 5b):

- 6 Retention/revocation of prior power(s) of attorney.** The filing of this power of attorney automatically revokes all earlier power(s) of attorney on file with the Internal Revenue Service for the same matters and years or periods covered by this form. If you **do not** want to revoke a prior power of attorney, check here ☐

**YOU MUST ATTACH A COPY OF ANY POWER OF ATTORNEY YOU WANT TO REMAIN IN EFFECT.**

- 7 Taxpayer declaration and signature.** If a tax matter concerns a year in which a joint return was filed, each spouse must file a separate power of attorney even if they are appointing the same representative(s). If signed by a corporate officer, partner, guardian, tax matters partner, partnership representative (or designated individual, if applicable), executor, receiver, administrator, trustee, or individual other than the taxpayer, I certify I have the legal authority to execute this form on behalf of the taxpayer.

**► IF NOT COMPLETED, SIGNED, AND DATED, THE IRS WILL RETURN THIS POWER OF ATTORNEY TO THE TAXPAYER.**

|            |                                                             |                       |
|------------|-------------------------------------------------------------|-----------------------|
| Signature  | Date                                                        | Title (if applicable) |
|            |                                                             |                       |
| Print name | Print name of taxpayer from line 1 if other than individual |                       |

## Part II Declaration of Representative

Under penalties of perjury, by my signature below I declare that:

- I am not currently suspended or disbarred from practice, or ineligible for practice, before the Internal Revenue Service;
- I am subject to regulations in Circular 230 (31 CFR, Subtitle A, Part 10), as amended, governing practice before the Internal Revenue Service;
- I am authorized to represent the taxpayer identified in Part I for the matter(s) specified there; and
- I am one of the following:
  - a** Attorney—a member in good standing of the bar of the highest court of the jurisdiction shown below.
  - b** Certified Public Accountant—a holder of an active license to practice as a certified public accountant in the jurisdiction shown below.
  - c** Enrolled Agent—enrolled as an agent by the IRS per the requirements of Circular 230.
  - d** Officer—a bona fide officer of the taxpayer organization.
  - e** Full-Time Employee—a full-time employee of the taxpayer.
  - f** Family Member—a member of the taxpayer's immediate family (spouse, parent, child, grandparent, grandchild, step-parent, step-child, brother, or sister).
  - g** Enrolled Actuary—enrolled as an actuary by the Joint Board for the Enrollment of Actuaries under 29 U.S.C. 1242 (the authority to practice before the IRS is limited by section 10.3(d) of Circular 230).
  - h** Unenrolled Return Preparer—Authority to practice before the IRS is limited. An unenrolled return preparer may represent, provided the preparer (1) prepared and signed the return or claim for refund (or prepared if there is no signature space on the form); (2) was eligible to sign the return or claim for refund; (3) has a valid PTIN; and (4) possesses the required Annual Filing Season Program Record of Completion(s). **See Special Rules and Requirements for Unenrolled Return Preparers in the instructions for additional information.**
  - k** Qualifying Student or Law Graduate—receives permission to represent taxpayers before the IRS by virtue of his/her status as a law, business, or accounting student, or law graduate working in a LITC or STCP. See instructions for Part II for additional information and requirements.
  - r** Enrolled Retirement Plan Agent—enrolled as a retirement plan agent under the requirements of Circular 230 (the authority to practice before the Internal Revenue Service is limited by section 10.3(e)).

**► IF THIS DECLARATION OF REPRESENTATIVE IS NOT COMPLETED, SIGNED, AND DATED, THE IRS WILL RETURN THE POWER OF ATTORNEY. REPRESENTATIVES MUST SIGN IN THE ORDER LISTED IN PART I, LINE 2.**

**Note:** For designations d–f, enter your title, position, or relationship to the taxpayer in the "Licensing jurisdiction" column.

| Designation—<br>Insert above<br>letter (a–r). | Licensing jurisdiction<br>(State) or other<br>licensing authority<br>(if applicable) | Bar, license, certification,<br>registration, or enrollment<br>number (if applicable) | Signature | Date |
|-----------------------------------------------|--------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|-----------|------|
|                                               |                                                                                      |                                                                                       |           |      |
|                                               |                                                                                      |                                                                                       |           |      |
|                                               |                                                                                      |                                                                                       |           |      |
|                                               |                                                                                      |                                                                                       |           |      |
|                                               |                                                                                      |                                                                                       |           |      |
|                                               |                                                                                      |                                                                                       |           |      |



# Final Exam

## Practice before the IRS

The following exam is attached only for your convenience. To access the official exam for this self-study course, please log into your account online and take the Final Exam from the course details page. A passing score of 70 percent or better will receive course credit and a Certificate of Completion.

1. Which of the following enjoy unlimited rights with respect to representation of taxpayers before the IRS?
  - A. Enrolled actuaries
  - B. Enrolled agents
  - C. Enrolled retirement plan agents
  - D. Registered tax return preparers
2. Registered tax return preparers who are participants in the Annual Filing Season Program (AFSP) may represent taxpayers with respect to matters before the IRS for all the following EXCEPT
  - A. Civil penalties
  - B. Initial audits
  - C. Customer service matters
  - D. Before the Taxpayer Advocate Service
3. Which of the following is an exception to the requirement for a written declaration by a CPA when engaging in practice before the IRS?
  - A. Sign a waiver of restriction on assessment of a tax deficiency
  - B. Sign a consent to extend the statutory time period for collection of a tax
  - C. Provide written advice to a client relating to a matter before the IRS
  - D. Sign a closing agreement
4. Which of the following would NOT be permitted to engage in practice before the IRS?
  - A. A CPA
  - B. An enrolled actuary
  - C. An attorney
  - D. A corporation
5. Sharon, an enrolled agent, failed to satisfy the requirements of eligibility for renewal and was placed on the inactive roster of enrolled individuals. If she fails to file an application for renewal and satisfy all renewal requirements, for what period of time will she remain on the inactive roster?
  - A. 6 months
  - B. 1 year
  - C. 3 years
  - D. 5 years
6. To avoid IRS rejection of a power of attorney (POA), all of the following must be entered on IRS Form 2848 EXCEPT
  - A. A description of the matter to which the POA applies
  - B. The tax form number to which the POA applies
  - C. A description of general matters to which the POA does NOT apply
  - D. The year(s) or period(s) to which the POA applies



7. Which of the following is required for a taxpayer to revoke an IRS power of attorney?
- A. The taxpayer must obtain a court order to revoke an existing power of attorney
  - B. The taxpayer must personally appear before the IRS office
  - C. The taxpayer must write "REVOKE" across the top of the first page of the Form 2848 with a current signature and date immediately below
  - D. The taxpayer must name a replacement representative
8. Jack and Jill are married taxpayers filing a joint return. Jack has made Bill his agent under an IRS power of attorney to represent him on a matter before the IRS. If Jill also wants to appoint Bill to represent her on the same matter, what must she do?
- A. Petition the court to have her name added to Jack's submitted IRS Form 2848
  - B. Complete and submit a new IRS Form 2848
  - C. Write a letter to the IRS requesting that her name be added to Jack's power of attorney form
  - D. No action is necessary because the IRS assumes spouses filing a joint tax return will be represented by the same agent
9. Partners'RU wants to appoint Harry, an enrolled agent, to represent it on a matter before the IRS. Who must sign the IRS Form 2848?
- A. Only the managing partner must sign
  - B. Any partner may sign
  - C. A notary must sign on behalf of all partners
  - D. All partners must sign
10. In order for an agent to sign a taxpayer's return based on the taxpayer's absence from the United States, the absence must be continuous and for a period of at least \_\_\_\_\_ prior to the date required by law for filing the return.
- A. 30 days
  - B. 60 days
  - C. 90 days
  - D. 180 days