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Practice Before the IRS and Power of Attorney



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Important Reminders

Form 8821, Tax Information Authorization, can be used only to authorize disclosure of tax information to a third party. See *When a Power of Attorney Is Not Required*, later. To appoint a representative, use Form 2848, *Power of Attorney and Declaration of Representative*.

Non-IRS Powers of Attorney. The rules now provide that a general, a durable, or even a limited power of attorney will be accepted by the Internal Revenue Service (IRS) if it satisfies the same requirements as does Form 2848. If the non-IRS power of attorney does not contain all the required information, the attorney-in-fact appointed by the non-IRS power of attorney may be able to add the missing information by attaching a Form 2848. See *Non-IRS Powers of Attorney*, later.

Facsimile copies. The IRS will accept a copy of a power of attorney that is submitted by facsimile transmission (FAX) if the appropriate IRS office is equipped to receive it.

Introduction

This publication discusses who can represent a taxpayer before the IRS and what forms or documents are used to authorize a person to represent a taxpayer. Usually, attorneys, certified public accountants (CPAs), enrolled agents, and enrolled actuaries can represent taxpayers before the IRS. Under special circumstances, others, including unenrolled return preparers, can represent taxpayers before the IRS. For details regarding taxpayer representation, see *Who Can Practice Before the IRS*, later. The publication also contains a glossary that defines certain professional titles as well as various terms.

Also covered is the use of Form 8821, *Tax Information Authorization*, to authorize an individual to receive and inspect a taxpayer's confidential tax information.

Useful Items

You may want to see:

Publication

- 1 Your Rights as a Taxpayer
- 470 Limited Practice Without Enrollment

Form (and Instructions)

- 2848 Power of Attorney and Declaration of Representative
- 8821 Tax Information Authorization

Ordering publications and forms. To order free publications and forms, call 1-800-TAX-FORM (1-800-829-3676). If you have access to TDD equipment, you can call 1-800-829-4059. See your tax package for the hours of operation. You can also write to the IRS Forms Distribution Center nearest you. Check your income tax package for the address.

If you have access to a personal computer and modem, you can also get many forms and publications electronically. See *How To Order Forms and Publications* in your income tax package for details.

Asking tax questions. You can call the IRS with your tax question Monday through Friday during regular business hours. Check your telephone book or your tax package for the local number or you can call 1-800-829-1040 (1-800-829-4059 for TDD users).

Practice Before the IRS

The office of *Director of Practice, IRS* has oversight responsibility for the regulations in Treasury Department Circular 230 concerning *practice before the IRS*. That

oversight responsibility includes making determinations on applications for enrollment to practice and conducting disciplinary proceedings relating to those allowed to practice.

What Is Practice Before the IRS

A person is practicing before the IRS if he or she:

- Communicates with the IRS for a taxpayer regarding the taxpayer's rights, privileges, or liabilities under laws and regulations administered by the IRS,
- Represents a taxpayer at conferences, hearings, or meetings with the IRS, or
- Prepares and files necessary documents with the IRS for a taxpayer.

Just preparing a tax return, furnishing information at the request of the IRS, or appearing as a witness for the taxpayer is not practice before the IRS. These acts can be performed by anyone.

Who Can Practice Before the IRS

Attorneys. Any attorney who is not currently under suspension or disbarment from practice before the IRS and who is a member in good standing of the bar of the highest court of any state, possession, territory, commonwealth, or of the District of Columbia may practice before the IRS. However, the attorney must file a written declaration with the IRS that he or she is currently qualified as an attorney and is authorized to represent the taxpayer.

Certified Public Accountants (CPAs). Any CPA who is not currently under suspension or disbarment from practice before the IRS and who is duly qualified to practice as a CPA in any state, possession, territory, commonwealth, or in the District of Columbia may practice before the IRS. However, the CPA must file a written declaration with the IRS that he or she is currently qualified as a CPA and is authorized to represent the taxpayer.

Enrolled agents. Any enrolled agent may practice before the IRS.

Enrolled actuaries. Any individual who is enrolled as an actuary by the Joint Board for the Enrollment of Actuaries may practice before the IRS. However, the enrolled actuary must file a written declaration with the IRS that he or she is currently qualified as an enrolled actuary and is authorized to represent the taxpayer. The practice of enrolled actuaries is limited to certain Internal Revenue Code sections that relate to their area of expertise, principally those sections governing employee retirement plans.

Unenrolled return preparers. Any individual other than an attorney, CPA, enrolled agent, or enrolled actuary who prepares a return and signs it as the return preparer is an unenrolled return preparer. Also, any individual who prepares a return and is not required to sign it as the preparer is considered to be an unenrolled preparer.

Limited practice. An unenrolled return preparer may represent the taxpayer only concerning the return that he or she prepared. Also, an unenrolled return preparer is permitted to represent taxpayers only before the Examination Division of the IRS and is **not** permitted to represent anyone before the Appeals, Collection, or any other division of the IRS. For more information on these limitations, get Publication 470, *Limited Practice Without Enrollment*.

Practice denied. The Director, after giving notice and an opportunity for a conference, can deny eligibility for limited practice before the IRS to any unenrolled preparer or other unenrolled individual (discussed next) who has engaged in disreputable conduct. This conduct includes, but is not limited to, the *Disreputable Conduct* list of items under *What Are the Rules of Practice*, later.

Other unenrolled individuals. Because of their special relationship with a taxpayer, the following unenrolled individuals can represent the specified taxpayers before the IRS, provided they present satisfactory identification and, in most cases, proof of authority to represent.

- 1) **An individual** can represent himself or herself before the IRS.
- 2) **A family member.** An individual family member can represent members of his or her immediate family.
- 3) **An officer.** A bona fide officer of a corporation (including parents, subsidiaries, or affiliated corporations), association, organized group, or, in the course of his or her official duties, an officer of a governmental unit, agency, or authority can represent it before the IRS.
- 4) **A partner.** A partner can represent the partnership before the IRS.
- 5) **A trustee, receiver, guardian, administrator or executor** can represent the trust, receivership, guardianship, or estate.
- 6) **An employee.** A regular full-time employee can represent his or her employer. An employer can be, but is not limited to, an individual, partnership, corporation (including parents, subsidiaries, or affiliated corporations), association, trust, receivership, guardianship, estate, organized group, governmental unit, agency, or authority.

Representation Outside the United States

An unenrolled individual can represent any individual or entity before IRS personnel who are outside the United States.

Commissioner's Special Authorization

Also, the Director of Practice can authorize an individual who is not otherwise eligible to practice before the IRS to represent another for a particular matter. This authorization is known as the "Commissioner's Special Authorization." The prospective representative must request this authorization in writing from the Director of Practice. However, it is granted only when extremely compelling circumstances exist. If granted, the Director of Practice will issue a letter that details the particular tax matter for which the authorization is granted.

The Commissioner's Special Authorization letter should not be confused with a letter from an IRS service center advising an individual that he or she has been assigned a Centralized Authorization File (CAF) number (an identifying number that the IRS assigns representatives). The issuance of a CAF number does not indicate that a person is either recognized or authorized to practice before the IRS. It merely confirms that a centralized file for authorizations has been established for the representative under that number.

Who Cannot Practice

The following individuals are generally ineligible to practice before the IRS:

- 1) Individuals convicted of any criminal offense under the revenue laws of the U.S.,
- 2) Individuals convicted of any offense involving dishonesty or breach of trust,
- 3) Individuals under disbarment or suspension from practicing as attorneys, CPAs, public accountants, or actuaries in any state, possession, territory, commonwealth, or in the District of Columbia, any federal court, or any body or board of any federal agency,
- 4) Individuals who are disbarred or suspended from practice before the IRS,
- 5) Individuals whose applications for enrollment to practice before the IRS have been denied,
- 6) Individuals who refuse or have refused to comply with the regulations governing practice before the IRS,
- 7) Individuals whose conduct or practices are disreputable (see *Disreputable Conduct*, later),
- 8) Officers or employees of the U.S. Government or of the District of Columbia,
- 9) Officers or employees of state governments with authority to act on tax matters, if that employment may disclose facts or information on Federal tax matters, and
- 10) Any member of Congress or Resident Commissioner (elect or serving) in connection with any matter for which he or she directly or indirectly receives, agrees to receive, or seeks any compensation.

Corporations, associations, partnerships, and other persons that are not individuals are also ineligible to practice before the IRS.

How an Individual Becomes Enrolled

The Director of Practice can grant enrollment to practice before the IRS to an applicant who demonstrates special competence in tax matters by passing a written examination administered by the IRS. Enrollment also can be granted to an applicant who qualifies because of past employment with the IRS. An applicant must not have engaged in any conduct that would justify suspension or disbarment by the IRS.

Form 23. Applicants can apply for enrollment by filing Form 23, *Application for Enrollment to Practice Before the Internal Revenue Service*, with the Director of Practice. The application must include a check or money order in the amount of the fee shown on Form 23. You can obtain Form 23 from the Director of Practice, IRS, Washington D.C. 20224.

Period of enrollment. An enrollment card will be issued to each individual whose application is approved. The individual is enrolled until the expiration date shown on the enrollment card. To continue practicing beyond the expiration date, the individual must request renewal of the enrollment. Forms required for renewal can be obtained from the Director of Practice, IRS, Washington, D.C. 20224.

What Are the Rules of Practice

An attorney, CPA, enrolled agent, or enrolled actuary authorized to practice before the IRS (referred to hereafter as a **Practitioner**) has the duty to perform certain acts and is restricted from performing other acts. In addition, a practitioner cannot engage in disreputable conduct (discussed later). Any practitioner who does not comply with the rules of practice or engages in disreputable conduct is subject to disciplinary action. Also, unenrolled preparers must comply with most of these rules of practice and conduct to exercise the privilege of limited practice before the IRS. See Publication 470 for a discussion of the special rules for limited practice by unenrolled preparers.

Duties

Practitioners must promptly submit **records or information** requested by officers or employees of the IRS. When the Director of Practice requests information concerning possible violations of the regulations by other parties, the practitioner must provide it and be prepared to testify in disbarment or suspension proceedings. A practitioner can be excepted from these rules if he or she believes in good faith and on reasonable grounds that the information requested is privileged or that the request is of doubtful legality.

Duty to advise. A practitioner who knows that his or her client has not complied with the revenue laws or has made an error in or omission from any return, document, affidavit, or other required paper has the responsibility to advise the client promptly of the noncompliance, error, or omission.

Due diligence. A practitioner must exercise due diligence:

- 1) In preparing or assisting in the preparation of, approving, and filing returns, documents, affidavits, and other papers relating to Internal Revenue Service matters;
- 2) In determining the correctness of oral or written representations made by him or her to the Department of the Treasury; and
- 3) In determining the correctness of oral or written representations made by him or her to clients with reference to any matter administered by the Internal Revenue Service.

Restrictions

Practitioners are restricted from engaging in certain practices. The following paragraphs discuss some of those restricted practices.

Delays. A practitioner must not unreasonably delay the prompt disposition of any matter before the IRS.

Assistance from disbarred or suspended persons and former IRS employees. A practitioner must not knowingly directly or indirectly do the following:

- Employ or accept assistance from any person who is under disbarment or suspension from practice before the IRS,
- Accept employment as associate, correspondent, or subagent from, or share fees with, any such person, or
- Accept assistance from any former government employee where provisions of these regulations or any Federal law would be violated.

Performance as a notary. If the practitioner, who is a notary public, is employed as counsel, attorney, or agent in a matter before the IRS, or has a material interest in the matter, he or she must not engage in any notary activities relative to the matter.

Practice by partners of current and former government employees. A partner of an officer or employee of the executive branch of the U.S. Government, or of an independent agency of the U.S. or of the District of Columbia, cannot represent anyone in a matter before the IRS in which the officer or employee has (or had) a personal or substantial interest as a government employee. Although not discussed here, there are similar and additional restrictions on former government employees.

Negotiations of taxpayer refund checks. Practitioners who are income tax return preparers must not endorse or otherwise negotiate (cash) any refund check issued to the taxpayer.

Disreputable Conduct

Disreputable conduct by a practitioner includes such things as:

- 1) Any criminal offense under the revenue laws, or any offense involving dishonesty or breach of trust,
- 2) Knowingly giving, or participating in the giving of, false or misleading information in connection with federal tax matters,
- 3) Solicitation of employment by prohibited means as discussed in section 10.30 of T.D. Circular 230,
- 4) Willful failure to file a tax return, evading or attempting to evade any federal tax or payment, or participating in such actions,
- 5) Misappropriation of, or failure to properly and promptly remit, funds received from clients for payment of taxes,
- 6) Direct or indirect attempts 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,
- 7) Disbarment or suspension by the District of Columbia or any state, possession, territory, commonwealth, or any federal court, or any body or board of any federal agency,
- 8) Knowingly aiding and abetting another person to practice before the IRS during a period of suspension, disbarment, or ineligibility (maintaining a partnership so that a suspended or disbarred person can continue to practice before the IRS is presumed to be a violation of this provision),
- 9) Contemptuous conduct in connection with practice before the IRS, including the use of abusive language, making false accusations and statements knowing them to be false, or circulating or publishing malicious or libelous matter, and
- 10) 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.

Reprimands, Disbarments, and Suspensions

The Director of Practice may reprimand or institute proceedings to suspend or disbar any attorney, CPA, or enrolled agent who the Director of Practice has reason to believe violated the rules of practice. Except in certain unusual circumstances, the Director will not institute a proceeding for suspension or disbarment against a practitioner until the facts (or conduct) which may warrant

such action have been given in writing to that practitioner. Also, before proceedings are instituted, the Director will generally give the practitioner the opportunity to demonstrate or achieve compliance with the rules.

Authorizing a Representative

If you do not want to represent yourself before the IRS, you may grant a practitioner **power of attorney** (legal authority) to represent you before the IRS.

What Is a Power of Attorney

A power of attorney is your written authorization for an individual to act for you in tax matters. If the authorization is not limited, the individual can generally perform all acts that you can perform. The authority granted to an unenrolled preparer cannot exceed that allowed under the special rules of limited practice described in Publication 470.

For example, any representative, other than an unenrolled preparer, can generally:

- 1) Represent you before any office of the IRS,
- 2) Sign a waiver agreeing to a tax adjustment or an offer of 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,
- 4) Sign a closing agreement under section 7121 of the Internal Revenue Code, and
- 5) Receive, **but not endorse or cash**, a refund check drawn on the U.S. Treasury. (You must specifically initial Form 2848 (see *Form Required*, later) showing the name of the individual designated to receive the refund check.)

Signing your return. The representative named under a power of attorney is **not permitted** to sign your personal income tax return **unless**:

- 1) The signature is permitted under the Internal Revenue Code and the related regulations (see section 1.6012-1(a)(5) of the Income Tax Regulations), and
- 2) You authorize this in your power of attorney.

For example, the regulation permits a representative to sign your return if you are unable to make the return by reason of:

Disease or injury, or

Continuous absence from the United States (including Puerto Rico) for a period of at least 60 days prior to the date required by law for filing the return.

For more information, see the Form 2848 instructions.

Endorsing or cashing your refund check. If you want your representative to receive a refund check on your behalf, you must specifically authorize this in your power of attorney as discussed in item 5 above. However, if your representative is an income tax return preparer, he or she cannot be authorized to endorse or otherwise cash your check related to income taxes. If you want someone else to endorse or cash that check, follow the rules in Treasury Department Circular No. 21.

Limitation on substitution or delegation. The appointed representative can substitute a representative or delegate authority to a new representative **only if** the act is specifically authorized under the power of attorney.

A power of attorney is generally terminated if you become incapacitated or incompetent.

The power of attorney can continue, however, in the case of your incapacity or incompetency if you authorize this on the Form 2848, or if your non-IRS durable power of attorney meets all the requirements for acceptance by the IRS. See *Non-IRS Powers of Attorney*, later.

When a Power of Attorney Is Required

Submit a power of attorney when you want to authorize an individual to represent you before the IRS, whether or not the representative performs any of the other acts cited above under *What is a Power of Attorney*.

A power of attorney is most often required when you want to authorize another individual to perform at least one of the following acts on your behalf:

- 1) Represent you at a conference with the IRS.
- 2) File a written response to the IRS.
- 3) Sign a consent or extension.

Form Required

Use Form 2848, *Power of Attorney and Declaration of Representative*, to appoint a representative to act on your behalf before the IRS. You can file this form **only if** you want to name a person(s) to represent you and that person is a person recognized to practice before the IRS. Persons recognized to practice before the IRS are listed under Part II, Declaration of Representative, of Form 2848. Your representative must complete that part of the form.

Unenrolled return preparers. Use Form 2848 to appoint an unenrolled return preparer as your representative.

The authority of the preparer is limited as described in Revenue Procedure 81-38 (Publication 470). The preparer can represent you only before revenue agents and examining officers of the examination division of the IRS. Also, the preparer can represent you concerning

your tax liability only for the period covered by a return prepared by the preparer.

Non-IRS powers of attorney. If you want to use a power of attorney document other than Form 2848, it must contain the following information:

- Your name and mailing address,
- Your social security number and/or employer identification number,
- Your employee plan number, if applicable,
- The name and mailing address of your 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 your intention concerning the scope of authority granted to your representative, and
- Your signature and date.

You also must attach to the non-IRS power of attorney a signed and dated statement made by your representative. This statement, which is referred to as the "Declaration of Representative," is contained in Part II of Form 2848. 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 aware of the regulations contained in Treasury Department Circular No. 230 (31 C.F.R., Part 10) concerning the practice of attorneys, certified public accountants, enrolled agents, enrolled actuaries, and others;
- 3) I am authorized to represent the taxpayer(s) identified in the power of attorney; and
- 4) I am authorized to practice before the Internal Revenue Service as an individual described in 26 CFR 601.502(a) in my capacity as _____ (attorney, certified public accountant, enrolled agent, etc.).

If your non-IRS power of attorney does not contain all the required information discussed above, you may want to sign and submit a Form 2848 or a new non-IRS power of attorney that contains the necessary information. Or, if you cannot sign an acceptable replacement document, your attorney-in-fact may be able to perfect (make acceptable to the IRS) your non-IRS power of attorney by using the following procedure.

Procedure for perfecting a non-IRS power of attorney. Under this procedure, the attorney-in-fact named in your non-IRS power of attorney can sign a Form 2848 on your behalf under the following conditions:

- 1) The original non-IRS power of attorney grants authority to the attorney-in-fact to handle federal tax

matters (general authority to perform any acts, for example), and

- 2) The attorney-in-fact attaches 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.

The Form 2848 prepared by your attorney-in-fact should be signed in the following manner: "Jane Taxpayer (your name), by John Attorney (your attorney-in-fact's name) under authority of the attached power of attorney."

The individual named as representative in the Form 2848 can be the attorney-in-fact named in the original power of attorney or any other individual recognized to practice before the IRS.

Example. John Elm, a taxpayer, signs a durable power of attorney that names his neighbor, Ed Larch, as his attorney-in-fact. The power of attorney grants Ed the authority to perform any and all acts on John's behalf. However, it does not list specific tax-related information such as types of tax or tax form numbers.

Shortly after John signs the power of attorney, he is declared incompetent. Later, a federal tax matter arises concerning a prior year return filed by John. Ed attempts to represent John before the IRS, but is rejected because the durable power of attorney does not contain required information.

If Ed attaches a statement (signed under the penalty of perjury) that the durable power of attorney is valid under the laws of the governing jurisdiction, he can sign a completed Form 2848 and submit it on John's behalf. If Ed can practice before the IRS (see *Who Can Practice Before the IRS*, earlier), he can name himself as representative on Form 2848; otherwise, he must name another individual who can practice before the IRS.

Processing a non-IRS power of attorney. The IRS has a centralized computer database called the Centralized Authorization File (CAF) that contains information on the authority of taxpayer representatives. Generally, when you submit a power of attorney document to the IRS, it is processed for inclusion in the CAF. Entry of your power of attorney into the CAF enables IRS personnel, who do not have a copy of your power of attorney, to verify the authority of your representative by accessing the central computer file. It also enables the IRS to automatically send copies of notices and other IRS communications to your representative.

You can have your non-IRS power of attorney entered into the CAF by attaching it to a completed "transmittal" Form 2848 and submitting it to the IRS. You do not have to sign the transmittal Form 2848, but, in the space provided for your signature, you should enter the words "For Transmittal Purposes Only." Also, your attorney-in-fact must sign the Declaration of Representative (see Part II of Form 2848).

Preparation of Form - Helpful Hints

The preparation of Form 2848 is illustrated by an example, later, under *How To Fill Out Form 2848*. However, the following will also assist you in preparing the form.

Line-by-line hints. The following hints are summaries of some of the line-by-line instructions for Form 2848.

Line 1—Taxpayer Information. If a joint return is involved and you and your spouse have different addresses, you must enter each address. If you and your spouse choose different representatives, each of you must file a Form 2848.

Line 2—Representative. Only individuals can represent you. If your representative has not been assigned a CAF number, enter "None" on that line and the IRS will issue one to him or her. If the representative's address or phone number has changed since the CAF number was issued, you should check the appropriate box.

If you want to name more than three representatives, you must attach a list of the additional representatives to the form. Normally, the IRS will send notices and other written communications to you and a copy to the first representative listed. However, you can choose other options (see line 7 of Form 2848).

Line 3—Tax Matters. You can list any tax years or periods that ended before the date the form is signed. You also may list future periods that end no later than 3 years from that date. However, avoid general references such as "all years" or "all periods."

If the "type of tax," "form number," or "years" column does not apply to your particular tax matter, you should enter "not applicable" in that column and, instead, describe the matter.

Line 4—Specific Uses Not Recorded on Centralized Authorization File (CAF). Certain matters cannot be recorded onto the CAF system. Examples of such matters include:

- 1) Civil penalty issues,
- 2) 100% penalties,
- 3) Request for a private letter ruling,
- 4) Application for an employer identification number,
- 5) Claims filed on Form 843, *Claim for Refund and Request for Abatement*,
- 6) Corporate dissolutions,
- 7) Request for change of accounting method, and
- 8) Request for change of accounting period.

If the tax matter described on Line 3 concerns one of these matters, check the box on this line. If this line is checked, your representative, to be recognized, should bring a copy of the power of attorney to each IRS office where the matter will be discussed.

Where To File a Power of Attorney

File the power of attorney with each IRS office with which you deal. If the power of attorney is filed for a matter currently pending before an office of the IRS, such as an examination, file the power of attorney with that office. Otherwise, file it with the service center where the related return was, or will be, filed. Refer to the instructions for the related tax return for the service center addresses.

Facsimile copies. The IRS will accept a copy of a power of attorney that is submitted by facsimile transmission (FAX). If you choose to file a power of attorney by FAX, be sure the appropriate IRS office is equipped to accept this type of transmission.

Powers of attorney may be filed directly with the CAF units at the service center where you filed, or will file your tax return(s) shown on the power of attorney form. The FAX telephone numbers of the CAF units are as follows:

SERVICE CENTER	VOICE	FAX
Austin	512-460-2321	512-460-2236
Andover	508-474-9838	508-474-5303
Brookhaven	516-654-6857	516-654-6583
Atlanta	404-455-2850	404-454-1738
Cincinnati	606-292-5768	606-292-5185
Fresno	209-443-7868	209-443-7870
Odgen	801-620-7088	801-620-6671
Memphis	901-365-5488	901-365-5011
Philadelphia	215-516-4779	215-516-5994
Kansas City*	816-926-5451	816-926-5665

* This CAF unit is available weekdays after 4:00 p.m. central standard time.

Updating power of attorney. To update Form 2848, tell the Service when any information on the form changes. Do this by writing a letter to the IRS office(s) where you filed the power of attorney, or file a new power of attorney.

Revoking a power of attorney. You can revoke a power of attorney by filing a revocation statement. You can do this by sending a **revocation copy** of Form 2848 to each office of the IRS where you originally filed the form. You should also send a copy to the service center where you filed the return for the matter covered by the power of attorney.

Revocation copy. A revocation copy is a copy of the original Form 2848 that you revise as follows:

- 1) Write the word "REVOKE" at the top center of page 1; and
- 2) Sign and date it at the bottom of page 2 following the *Declaration of Representative* section.

Revoking a non-IRS power of attorney. If you want to revoke a power of attorney for which a Form 2848 was not filed, write a letter requesting the revocation and attach a copy of the power of attorney that you want to be

revoked. Sign and date the letter, and send it to each office of the IRS where you originally filed the non-IRS power of attorney.

Automatic revocation of power of attorney (or tax information authorization). Unless you specify otherwise on the form (line 8, Part I), a newly filed power of attorney will revoke a previously filed power of attorney, but not a previously filed tax information authorization.

Similarly, a newly filed tax information authorization will revoke a previously filed tax information authorization concerning the same tax matter, but will not revoke a power of attorney concerning that matter.

When a Power of Attorney Is Not Required

The following situations do not require a power of attorney.

Providing information to the IRS. A power of attorney is not required when a person is merely furnishing information at the request of the IRS.

Disclosure of tax return information. You are not required to file a power of attorney to authorize the IRS to disclose information concerning your tax account(s) to an individual (whether or not the individual is authorized to practice before the IRS) or other party (such as a corporation, a partnership, or an association). For this purpose, you can use Form 8821, *Tax Information Authorization*. **Form 8821 is strictly a disclosure authorization form and cannot be used to name an individual to represent you** before the IRS. If you want to name a representative, you should use Form 2848.

The following example illustrates Form 8821. The filled-in form follows the example.

Example. John Oak wants his associate, Jane Birch, to be informed about his personal tax accounts. To have this information disclosed to Jane, John fills out Form 8821. Since this is only a disclosure form, it will not give Jane any power to represent John before the IRS.

When you file a Form 8821 with the IRS, it also is processed for entry into the Centralized Authorization File (CAF). Entry into the file enables the IRS to automatically send copies of notices and other IRS communications to the person (individual or other entity) designated on the form.

A Tax Matters Partner or Person (TMP) is authorized by law (see sections 6231(a)(7) and 6244 of the Internal Revenue Code) to perform various acts on behalf of a partnership or Subchapter S Corporation. This may include the power to delegate authority to represent the TMP, and to sign documents in that capacity. But certain acts performed by the TMP cannot be delegated. Sections 6221 through 6245 and the related Regulations discuss "partnership level" and "corporate level" tax proceedings and the responsibilities of the TMP.

Fiduciary. A fiduciary (trustee, executor, administrator, or receiver) stands in the position of the taxpayer and, in effect, is recognized as the taxpayer. He or she is not considered a representative of the taxpayer. Therefore, a power of attorney is not required. However, a fiduciary should file Form 56, *Notice Concerning Fiduciary Relationship*, to notify the IRS of the fiduciary relationship.

How To Fill Out Form 2848

The following example illustrates how to complete Form 2848. **The filled-in form follows the example.**

Example. Stan and Mary Doe have been notified that their joint tax return (Form 1040) for 1995 is being examined. They have decided to appoint Jim Smith, an enrolled agent, to represent them in this matter and any future matters concerning the return. Jim, who has prepared returns at the same location for years, already has a Centralized Authorization File (CAF) number assigned to him. Stan and Mary do not want Jim to sign any agreements to pay additional taxes or to receive any refund checks. They want all notices and written communications to be sent to Jim. This is the first time Stan and Mary have given power of attorney to anyone. They should complete one Form 2848 as follows:

Line 1—Taxpayer Information. They enter their names, street address, and social security numbers in the spaces provided.

Line 2—Representatives. They enter the name and current address of their chosen representative, Jim Smith. They also enter Mr. Smith's CAF number, his telephone number, and his FAX number. Since Mr. Smith's address and telephone number have not changed since the IRS issued his CAF number, Stan and Mary do not check either box in the second column.

Line 3—Tax Matters. They enter "income" for the type of tax, "1040" for the form number, and "1995" for the tax year.

Line 4—Specific Uses Not Recorded on CAF. Stan and Mary make no entry on this line because the use for their power of attorney is recorded on CAF. See *Preparation of Form—Helpful Hints*, earlier.

Line 5—Acts Authorized. Because Stan and Mary want to sign any agreement form that reflects changes to their 1995 income tax liability, they restrict the acts Mr. Smith is authorized to perform by writing "taxpayers must sign any agreement form" on Line 5. If they had chosen, they could have listed other restrictions here.

Line 6—Receipt of Refund Checks. They make no entry on Line 6 because they want any refund checks sent directly to them.

Line 7—Notices and Communications. Stan and Mary make no entry on Line 7 because they want the original

notices and communications sent to them, and the copies sent to Mr. Smith.

Line 8—Retention/Revocation of Prior Powers of Attorney. Since Stan and Mary are filing their first power of attorney, they make no entry on this line. However, if they had filed prior powers of attorney, the filing of this current power would automatically revoke any earlier ones for the same tax matter(s). Therefore, to retain an earlier power of attorney, they would need to check the box on line 8 and attach a copy of the prior power of attorney that they want to maintain.

If Stan and Mary decide after, say, 2 months that they can handle the examination on their own, they can revoke the power of attorney. (See *Revoking a power of attorney*, earlier for the special rules.)

Line 9—Signature of Taxpayer(s). Both Stan and Mary must sign and date the form. If they do not, the IRS cannot accept it.

Part II—Declaration of Representative. Jim Smith must complete this part of Form 2848. If he does not sign this part, IRS cannot accept the form.

What Happens to the Power of Attorney When Filed

A power of attorney will be recognized after it is received, reviewed, and determined by the IRS to contain the required information. However, until a power of attorney is entered into the Centralized Authorization File (CAF) system, IRS personnel other than the individual to whom the form is submitted may be unaware of the authority of the person you have named to represent you. Therefore, during this interim, other IRS personnel who do not have access to a copy of your power of attorney may request that you or your representative submit an additional copy.

Processing and Handling

Incomplete documents. If the power of attorney document is incomplete, the IRS will attempt to secure the missing information either by writing or telephoning you or your representative. For example, if your signature or signature date is missing, the IRS will contact you. Also, if information concerning your representative is missing and information sufficient to make a contact (such as an address and/or a telephone number) is on the document, the IRS will attempt to contact your representative.

In either case, the power of attorney is not considered valid until all required information is entered on the document. The individual(s) named as representative(s) will not be recognized to practice before the IRS until the document is complete and accepted by the IRS.

Tax Information Authorization

1 Taxpayer information (Taxpayer(s) must sign and date this form on line 7.)

Taxpayer name(s) and address (Please type or print.) John Oak 8821 Dogwood Lane Anyplace, North Carolina	Social security number(s) 000-00-0003	Employer identification number
	Daytime telephone number (910) 555-4321	Plan number (if applicable)

2 Appointee

Name and address (Please type or print.) Jane Birch 12 PEARTREE LANE Anyplace, North Carolina	CAF No. _____ Telephone No. (910) 555-3210 Fax No. _____ Check if new: Address <input type="checkbox"/> Telephone No. <input type="checkbox"/>
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The appointee is authorized to inspect and/or receive confidential tax information in any office of the IRS for the tax matters listed on line 3.

3 Tax Matters

Type of Tax (Income, Employment, Excise, etc.)	Tax Form Number (1040, 941, 720, etc.)	Year(s) or Period(s)
Income	1040	1993, 1994, 1995

4 Specific Use Not Recorded on Centralized Authorization File (CAF).—If the tax information authorization is for a specific use not recorded on CAF, check this box. (See Line 4—Specific use not recorded on CAF on page 2.)
 Do not use lines 5 and 6 if the line 4 box is checked.

5 Disclosure of Tax Information (you must check one of the following unless box 4 is checked):

a If you want copies of tax information, notices, and other written communications sent to the appointee on an ongoing basis, check this box. This will cause copies of all computer-generated notices to be sent to the appointee

b If you do not want any copies of notices or communications sent to your appointee, check this box

6 Retention/Revocation of Tax Information Authorization.—This tax information authorization automatically revokes all earlier tax information authorizations on file with the Internal Revenue Service for the same tax matters and years or periods covered by this document. If you do not want to revoke a prior tax information authorization, check this box
 You MUST attach a copy of any tax information authorization you want to remain in effect.

7 Signature of Taxpayer(s).—If a tax matter concerns a joint return, either husband or wife must sign. If signed by a corporate officer, partner, guardian, executor, receiver, administrator, trustee, or party other than the taxpayer, I certify that I have the authority to execute this form with respect to the tax matters/periods covered.

▶ IF THIS TAX INFORMATION AUTHORIZATION IS NOT SIGNED AND DATED, IT WILL BE RETURNED.

<u>John Oak</u>	<u>6/30/96</u>	
Signature	Date	Title (if applicable)
<u>John Oak</u>		
Print Name		
Signature	Date	Title (if applicable)
Print Name		

Privacy Act and Paperwork Reduction Act Notice.—We ask for the information on this form to carry out the Internal Revenue laws of the United States. Form 8821 is provided by the IRS for your convenience and its use is voluntary. If you choose to designate an appointee to inspect and/or receive confidential information, under section 6109 you must disclose your social security number (SSN) or your employer identification number (EIN). The principal purpose of this disclosure is to secure proper identification of the taxpayer. We also need this information

to gain access to your tax information in our files and properly respond to your request. If you do not disclose this information, the IRS may suspend processing the tax information authorization and may not be able to fill your request until you provide the number.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is: Recordkeeping, 7 min.; Learning about the law or the form, 11 min.; Preparing the

form, 22 min.; Copying, assembling, and sending the form to the IRS, 20 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Tax Forms Committee, Western Area Distribution Center, Rancho Cordova, CA 95743-0001. DO NOT send Form 8821 to this address. Instead, see Filing the tax information authorization on page 2.

**Power of Attorney
 and Declaration of Representative**

► For Paperwork Reduction and Privacy Act Notice, see the instructions.

OMB No. 1545-0150

For IRS Use Only

Received by:

Name _____

Telephone () _____

Function _____

Date / / _____

Part I Power of Attorney (Please type or print.)

1 Taxpayer Information (Taxpayer(s) must sign and date this form on page 2, line 9.)

Taxpayer name(s) and address Stan and Mary Doe 1040 Any Street Anytown, Virginia 22000	Social security number(s) 000 00 0001	Employer identification number
	000 00 0002	
	Daytime telephone number ()	Plan number (if applicable)

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

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

Name and address Jim Smith 1065 Any Street Anytown, Virginia 22000	CAF No. 6800-06530R Telephone No. (703) 555-4321 Fax No. (703) 555-5422 Check if new: Address <input type="checkbox"/> Telephone No. <input type="checkbox"/>
Name and address	CAF No. _____ Telephone No. () _____ Fax No. () _____ Check if new: Address <input type="checkbox"/> Telephone No. <input type="checkbox"/>
Name and address	CAF No. _____ Telephone No. () _____ Fax No. () _____ Check if new: Address <input type="checkbox"/> Telephone No. <input type="checkbox"/>

to represent the taxpayer(s) before the Internal Revenue Service for the following tax matters:

3 Tax Matters

Type of Tax (Income, Employment, Excise, etc.)	Tax Form Number (1040, 941, 720, etc.)	Year(s) or Period(s)
Income	1040	1995

4 Specific Use Not Recorded on 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 uses not recorded on CAF on page 3.)

5 Acts Authorized.—The representatives are authorized to receive and inspect confidential tax information and to perform any and all acts that I (we) can perform with respect to the tax matters described on line 3, for example, the authority to sign any agreements, consents, or other documents. The authority does not include the power to receive refund checks (see line 6 below), the power to substitute another representative unless specifically added below, or the power to sign certain returns (see Line 5—Acts authorized on page 4).

List any specific additions or deletions to the acts otherwise authorized in this power of attorney: _____
Taxpayers must sign any agreement form.

Note: In general, an unenrolled preparer of tax returns cannot sign any document for a taxpayer. See Revenue Procedure 81-38, printed as Pub. 470, for more information.

Note: The tax matters partner/person of a partnership or S corporation is not permitted to authorize representatives to perform certain acts. See the instructions for more information.

6 Receipt of Refund Checks.—If you want to authorize a representative named on line 2 to receive, **BUT NOT TO ENDORSE OR CASH**, refund checks, initial here _____ and list the name of that representative below.

Name of representative to receive refund check(s) ► _____

- 7 Notices and Communications.**—Original notices and other written communications will be sent to you and a copy to the first representative listed on line 2 unless you check one or more of the boxes below.
- a If you want the first representative listed on line 2 to receive the original, and yourself a copy, of such notices or communications, check this box
 - b If you also want the second representative listed to receive a copy of such notices and communications, check this box
 - c If you do not want any notices or communications sent to your representative, check this box
- 8 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 tax matters and years or periods covered by this document. 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.
- 9 Signature of Taxpayer(s).**—If a tax matter concerns a joint return, both husband and wife must sign if joint representation is requested, otherwise, see the instructions. If signed by a corporate officer, partner, guardian, tax matters partner/person, executor, receiver, administrator, or trustee on behalf of the taxpayer, I certify that I have the authority to execute this form on behalf of the taxpayer.
- ▶ **IF NOT SIGNED AND DATED, THIS POWER OF ATTORNEY WILL BE RETURNED.**

<i>Stan Doe</i>	6/21/96	
Signature	Date	Title (if applicable)
Stan Doe		
Print Name		
<i>Mary Doe</i>	6/21/96	
Signature	Date	Title (if applicable)
Mary Doe		
Print Name		

Part II Declaration of Representative

Under penalties of perjury, I declare that:

- I am not currently under suspension or disbarment from practice before the Internal Revenue Service;
- I am aware of regulations contained in Treasury Department Circular No. 230 (31 CFR, Part 10), as amended, concerning the practice of attorneys, certified public accountants, enrolled agents, enrolled actuaries, and others;
- I am authorized to represent the taxpayer(s) identified in Part I for the tax 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—duly qualified to practice as a certified public accountant in the jurisdiction shown below.
 - c Enrolled Agent—enrolled as an agent under the requirements of Treasury Department Circular No. 230.
 - d Officer—a bona fide officer of the taxpayer's organization.
 - e Full-Time Employee—a full-time employee of the taxpayer.
 - f Family Member—a member of the taxpayer's immediate family (i.e., spouse, parent, 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 Service is limited by section 10.3(d)(1) of Treasury Department Circular No. 230).
 - h Unenrolled Return Preparer—an unenrolled return preparer under section 10.7(a)(7) of Treasury Department Circular No. 230.

▶ **IF THIS DECLARATION OF REPRESENTATIVE IS NOT SIGNED AND DATED, THE POWER OF ATTORNEY WILL BE RETURNED.**

Designation—Insert above letter (a-h)	Jurisdiction (state) or Enrollment Card No.	Signature	Date
c	90-99999	<i>Jim Smith</i>	6/21/96

Complete documents. When the IRS receives a complete and valid power of attorney, the IRS will then take action to recognize the representative. In most instances, this involves processing the document into the CAF system. Recording the data on the CAF enables the IRS to automatically direct copies of mailings to authorized representatives and to instantly recognize the scope of authority granted.

Documents not processed on CAF. Specific-use powers of attorney, however, are not processed into the CAF (see *Preparation of Form - Helpful Hints*, earlier). For example, a power of attorney that is a one-time or specific-issue grant of authority is not processed on the CAF. These documents remain with the related case files. In this situation, check the box on line 4 of Form 2848. If it is checked, the representative should provide a copy of the power of attorney to the IRS each time he or she represents the taxpayer.

Dealing With the Representative

After a valid power of attorney is filed, the IRS will recognize your representative. However, if it appears the representative is responsible for unreasonably delaying or hindering the prompt disposition of an IRS matter, the IRS can notify you directly. For example, in most instances in which a power of attorney is recognized, the IRS will contact the representative to set up appointments and to provide lists of required items. But, if the representative is unavailable, does not return calls, or does not provide required items (other than items considered “privileged”), the IRS can bypass your representative and contact you directly.

If a representative engages in conduct described above, the matter can be referred to the Director of Practice for consideration of possible disciplinary action.

Correspondence. If you authorize a representative to receive your correspondence (either the original or a copy), the IRS will take steps to honor that request. If the power of attorney is processed on the CAF, the IRS will send your representative(s) a duplicate of all computer-generated correspondence that is sent to you. (This includes notices and letters produced either at our service centers or at the Martinsburg Computing Center.) The IRS employee handling the case is responsible for ensuring that the original and any requested copies of each manually-generated correspondence are sent to you and your representative(s) in accordance with your authorization.

Glossary

Attorney-in-fact means an agent authorized by a person under a power of attorney to perform certain act(s) or kind(s) of acts for that person.

CAF Number is the Computer Authorization File number assigned by IRS to each representative whose power of attorney, and each designee whose tax information authorization, has been recorded onto the CAF.

Centralized Authorization File (CAF) System is a computer file containing information regarding the authority of individuals appointed under powers of attorney or persons designated under the tax information authorization system. This system gives IRS personnel quicker access to authorization information.

Commissioner means the Commissioner of the Internal Revenue Service.

Durable power of attorney means a power of attorney that is not subject to a time limit and that will continue in force after the incapacitation or incompetency of the grantor (the taxpayer).

Enrolled agent means any individual who is enrolled under the provisions of Treasury Department Circular 230 to practice before the IRS.

General power of attorney means a power of attorney that authorizes the attorney-in-fact to perform any and all acts the taxpayer can perform.

Government officer and employee means any officer or employee of a state or the United States in the executive, legislative, or judicial branch of the government, or in any agency of the United States, including the District of Columbia.

Limited power of attorney means a power of attorney that limits the attorney-in-fact to certain specified act(s).

Practitioner generally means only an attorney, CPA, enrolled agent, or enrolled actuary authorized to practice before the IRS. However, as to practice by former government employees, their partners, and their associates, “practitioner” also includes any other person authorized to practice before the IRS.