



OFFICE OF THE TAXPAYER ADVOCATE
WASHINGTON, DC 20224

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MEMORANDUM FOR TAXPAYER ADVOCATE SERVICE EMPLOYEES

FROM: /s/ Kim S. Stewart
Acting Deputy National Taxpayer Advocate

SUBJECT: Guidance When Working a Case That May Involve an Unauthorized Representative

The purpose of this memorandum is to provide guidance for TAS employees when working a case that may involve an unauthorized representative.

Pursuant to [IRM 13.1.23.1.3](#), Responsibilities, TAS employees must “respect, support, and vigorously protect taxpayers’ fundamental right to retain representation.” Typically, taxpayers exercise these rights by executing a Form 2848, Power of Attorney and Declaration of Representative, using their own equivalent form, or by making an oral statement authorizing representation. Vigorously protecting this right includes working with the representative of the taxpayer’s choosing, even if we would choose someone else.

However, in recent months TAS has received large numbers of cases from individuals whose refunds have been stopped by the ## When we talk with these taxpayers, we find many are victims of unscrupulous return preparers who charge large fees to add questionable credits and deductions to inflate the taxpayer’s refund. When we work with the taxpayers to determine their eligibility for what is on their return, we find some are unaware of these items and never received a copy of their return. In some of these cases, TAS also has doubts about the legitimacy of the Form 2848 authorizing TAS to work with the representative.

Each situation will be a little bit different, and the tactics of the unscrupulous preparers will change and evolve over time. We provide some new procedures below but will not be able to cover every possible situation or variation. So, it will be key to use your common sense and good judgment when working these cases. In addition, it is especially important to communicate the changes you are seeing in these cases to your management team for possible referral to Criminal Investigation (CI) for further review of any potential scheme. In accordance with [IRM 13.1.5.12](#), Disclosure Regarding Practitioner or Preparer Misconduct, a referral to the Office of Professional Responsibility (OPR) or the Return Preparer Office (RPO) may be appropriate. Be sure to submit new issues on SAMS.

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The steps are designed to prevent unauthorized disclosure of taxpayer information. It is important that TAS employees take these steps **only when there is a reasonable suspicion of an unauthorized representative**, and not simply when there is a representative who is difficult to contact or has been difficult to work with in the past.

1. TAS employees should elevate their concerns to the Local Taxpayer Advocate (LTA).
2. If the LTA agrees with the employee’s concerns, the LTA will elevate the concerns to their Deputy Executive Director Case Advocacy (Deputy).
3. If the Deputy agrees with the concerns, the Deputy will grant the employee and LTA approval to deal directly with the taxpayer on the case, not the representative. The discussions and approval should be documented in TAMIS. Deputies needing assistance with making this determination can discuss the issue with the Attorney Advisor Group or with ITAP.
4. Once the Deputy has provided approval to communicate directly with the taxpayer, TAS employees should discuss the authorization submitted to TAS with the taxpayer and get confirmation or denial of these suspicions. This discussion must be documented in TAMIS. Do not inform the taxpayer of any plans to involve CI or make a referral to OPR or RPO.

If	Then
<p>If the suspicions are confirmed by the taxpayer (e.g., the taxpayer does not know the alleged representative, or the taxpayer did not sign the Form 2848 or other form of authorization)</p>	<ul style="list-style-type: none"> • Continue advocacy efforts in the case, dealing directly with the taxpayer. <ul style="list-style-type: none"> ○ If the taxpayer asks about the actions that can be taken against the representative, refocus the conversation by directing the taxpayer to complete the Forms 14157, Return Preparer Complaint/Form 14157-A, Tax Return Preparer Fraud or Misconduct Affidavit if appropriate (discussed below) and tell the taxpayer that the IRS will review the information and take appropriate action. ○ If the representative contacts TAS, keep the conversation general by telling the representative that the taxpayer has communicated to TAS that they want to work directly with TAS. Do not disclose any further information to the representative. ○ See IRM 13.1.10.9, Inquiries on Open Cases with Criminal Investigation Involvement, for cases with Criminal Investigation Involvement. • Express empathy for a taxpayer in this situation. • If TAS is assisting a taxpayer determined to be a victim of Return Preparer Misconduct (RPM), educate the taxpayer on the proper steps to report the preparer. Taxpayers who were unaware a credit, deduction, or tax position was claimed on their return submitted by a preparer or whose

If	Then
	<p>refund was diverted to an account under a preparer’s control without their knowledge should file Form 14157, Return Preparer Complaint/Form 14157-A, Tax Return Preparer Fraud or Misconduct Affidavit, to report the preparer. In addition to filing Forms 14157/14157-A, the taxpayer will need to file an accurate original return and include the required supporting documentation listed in the instructions for Form 14157-A. Taking these steps helps prevent the taxpayer’s refund from being released to the preparer, since procedures for processing claims determined to meet RPM criteria include instructions to input a TC 971 Action Code 850, preventing the direct deposit of the refund. Refer to IRM 25.24.2.13.1, Preliminary Account Inputs and Reminders.</p> <ul style="list-style-type: none"> • Follow the procedures outlined in IRM 13.1.23.5, Taxpayer Complaints about Representatives as appropriate. • In the TAMIS History Screen add the literal **YBPAS** which will allow TAS to track those cases where the unauthorized representative was bypassed.
<p>If the suspicions are denied and the taxpayer confirms that the representative was duly authorized to represent them</p>	<p>Document in the TAMIS History Screen that such representative was validated by the taxpayer and add the literal **NBPAS**. This will allow TAS to track those cases where a questionable representative was validated as authorized by the taxpayer. Begin working directly with the representative, remembering to send a copy of all written communications to the taxpayer pursuant to IRM 13.1.23.3.1.1, Authority Granted by Power of Attorney (Form 2848 and Other Comparable Documents).</p>

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Effect on other documents: TAS will incorporate this guidance into the next revision of IRM 13.1.23, Taxpayer Representation.

Contact: If you have any questions, please contact [Michael T. Kenyon](#), Deputy Executive Director, Case Advocacy, Technical Support, 701-237-8299.

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