

# Publication 947

## Practice Before the IRS and Power of Attorney

Volume 1 of 2



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## Future Developments

For the latest information about developments related to Pub. 947, such as legislation enacted after it was published, go to [IRS.gov/Pub947](https://www.irs.gov/pub947).

## What's New

**Intermediate Service Providers.** A checkbox has been added to line 5a on the Form 2848, Power of Attorney and Declaration of Representative, to allow the taxpayer to authorize the designated representative(s) to access the taxpayer's IRS records via an Intermediate Service Provider. For more information, see *Authority to access electronic IRS records via Intermediate*

*Service Providers* in the Instructions for Form 2848.

**Partnership representatives.** For partnership tax years beginning after December 31, 2017, the Bipartisan Budget Act of 2015 has eliminated the role "Tax Matters Partner" and replaced it with "Partnership Representative." For more information, see *Partnership representative* in the Instructions for Form 2848.

**Representative designations.** The designation of Student Attorney or CPA has been changed to Qualifying Student.

**Authentication alert.** When a representative with a Power of Attorney calls the IRS on your behalf, they must pass authentication procedures prior to the IRS speaking to them about your tax information.

# Reminders

**Practitioner Priority Service® (PPS).** The Practitioner Priority Service® is a nationwide, toll-free hotline that provides professional support to practitioners with account-related questions. The toll-free number for this service is 1-866-860-4259.

**Annual Filing Season Program (AFSP) and Directory of Federal Tax Return Preparers.** The Annual Filing Season Program is a voluntary program that allows limited practice rights for return preparers who are not attorneys, certified public accountants, or enrolled agents. The IRS issues an Annual Filing Season Program Record of Completion to return preparers who obtain a certain number of continuing education hours in preparation for a specific tax year. Annual Filing Season Program participants do not have unlimited practice rights (unless they are also an attorney, certified public accountant, or enrolled agent).



Their rights are limited to representation of clients whose returns they prepared and signed, but only before revenue agents, customer service representatives, and similar IRS employees, including the Taxpayer Advocate Service. They cannot represent clients whose returns they did not prepare and sign, nor can they represent clients before the collection or appeals functions. See [IRS.gov/TaxProfessionals/Annual-Filing-Season-Program](https://www.irs.gov/TaxProfessionals/Annual-Filing-Season-Program) for more information about the AFSP. See [IRS.Treasury.gov/rpo](https://www.irs.treasury.gov/rpo) for an online searchable database of tax return preparers with a PTIN who hold professional credentials recognized by the IRS or who hold an Annual Filing Season Program Record of Completion.

## **Introduction**

This publication discusses who may 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), and enrolled agents may represent taxpayers before the IRS. Enrolled retirement plan agents, and enrolled actuaries may represent with respect to specified Internal Revenue Code sections delineated in Circular 230. Under special and limited circumstances, other individuals, including unenrolled return preparers, family members, employees, and students can represent taxpayers before the IRS. For details regarding taxpayer representation, see *Who Can Practice Before the IRS*, later.

**Definitions.** Many of the terms used in this publication, such as “enrolled agent” and “practitioner” are defined in the *Glossary* towards the end of this publication.

**Comments and suggestions.** We welcome your comments about this publication and your suggestions for future editions.

You can send us comments through [IRS.gov/FormComments](https://www.irs.gov/FormComments).

Or you can write to:

Internal Revenue Service  
Tax Forms and Publications  
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Although we cannot respond individually to each comment received, we do appreciate your feedback and will consider your comments as we revise our tax forms, instructions, and publications.

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***Tax questions.*** If you have a tax question not answered by this publication, check IRS.gov and *How To Get Tax Help* at the end of this publication.

## Useful Items

You may want to see:

<b>Publications</b>		
<input type="checkbox"/>	<b>1</b>	Your Rights as a Taxpayer
<input type="checkbox"/>	<b>Circular No. 230</b>	Regulations Governing Practice before the Internal Revenue Service
<b>Forms and Instructions</b>		
<input type="checkbox"/>	<b>2848</b>	Power of Attorney and Declaration of Representative
<input type="checkbox"/>	<b>8821</b>	Tax Information Authorization
<input type="checkbox"/>		

# **Practice Before the IRS**

## **Terms you may need to know (see Glossary):**

Annual Filing Season Program Record of Completion Attorney-in-fact

Centralized Authorization File (CAF) number  
CAF System

Commissioner

Durable power of attorney

Enrolled agent

Federal tax matter

Fiduciary

General power of attorney

Government officer or employee

Limited power of attorney

Office of Professional Responsibility

Practitioner

Recognized representative

Unenrolled return preparer

The Office of Professional Responsibility generally has responsibility for matters related to practitioner conduct, and exclusive responsibility for discipline, including disciplinary proceedings and sanctions. The Return Preparer Office is responsible for matters related to the issuance of PTINs, acting on applications for enrollment and administering competency testing and continuing education for designated groups.

## **What Is Practice Before the IRS?**

Circular 230 covers all matters relating to any of the following.

- Communicating with the IRS on behalf of a taxpayer regarding the taxpayer's rights, privileges, or liabilities under

laws and regulations administered by the IRS.

- - Representing a taxpayer at conferences, hearings, or meetings with the IRS.
- Preparing, filing or submitting documents, or advising on the preparation, filing or submission of documents, including tax returns, with the IRS on behalf of a taxpayer.
- Providing a client with written tax advice on one or more Federal tax matters.

Any individual may for compensation prepare or assist with the preparation of a tax return or claim for refund, appear as a witness for a taxpayer before the IRS, or furnish information at the request of the IRS or any of its officers or employees.

# Who Can Practice Before the IRS?

The following individuals are subject to the Regulations contained in Circular 230.

However, any individual who is authorized generally to practice (a recognized representative) must be designated as the taxpayer's representative and file a written declaration with the IRS stating that he or she is authorized and qualified to represent a particular taxpayer. Form 2848 can be used for this purpose.

**Appraisers.** Any individual who prepares appraisals supporting the valuation of assets in connection with one or more federal tax matters is subject to the regulations contained in Circular 230. Appraisers have no representation rights but may appear as witnesses on behalf of taxpayers.

**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 U.S. state, possession, territory, commonwealth, or the District of Columbia may practice before the IRS.

**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 U.S. state, possession, territory, commonwealth, or the District of Columbia may practice before the IRS.

**Enrolled agents.** Any enrolled agent in active status who is not currently under suspension or disbarment from practice before the IRS may practice before the IRS.

**Enrolled retirement plan agents.** Any enrolled retirement plan agent in active status who is not currently under suspension or disbarment from practice before the IRS may practice before the IRS. The practice of enrolled retirement plan agents is limited to

certain Internal Revenue Code sections that relate to their area of expertise, principally those sections governing employee retirement plans.

**Enrolled actuaries.** Any individual who is enrolled as an actuary by the Joint Board for the Enrollment of Actuaries who is not currently under suspension or disbarment from practice before the IRS may practice before the IRS. 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.

**Low Income Taxpayer Clinic Student Interns.** Under certain circumstances, a student who is supervised by a practitioner at a law school or equivalent program providing tax services for low income taxpayers may request authorization to represent a taxpayer before the IRS. For more information, see *Authorization for Special Appearances*, later.

**Unenrolled return preparers.** An unenrolled return preparer is an individual other than an attorney, CPA, enrolled agent, enrolled retirement plan agent, or enrolled actuary who prepares and signs a taxpayer's return as the paid preparer, or who prepares a return but is not required (by the instructions to the return or regulations) to sign the return.

Unenrolled return preparers may represent taxpayers only before revenue agents, customer service representatives, or similar officers and employees of the Internal Revenue Service (including the Taxpayer Advocate Service) and only during an examination of the tax returns they prepared and signed prior to December 31, 2015.

Unenrolled return preparers may not represent taxpayers before appeals officers, revenue officers, counsel or similar officers or employees of the Internal Revenue Service or the Department of the Treasury. Unenrolled

return preparers may not execute closing agreements, extend the statutory period for tax assessments or collection of tax, execute waivers, or sign any document on behalf of a taxpayer.

If an unenrolled return preparer does not meet the requirements for limited representation, you may authorize the unenrolled return preparer to inspect and/or request your tax information by filing Form 8821. Completing Form 8821 will not authorize the unenrolled return preparer to represent you before the IRS. For more information, see Form 8821 and its separate instructions.

**Annual Filing Season Program Record of Completion.** Only unenrolled return preparers with a valid PTIN and who hold a record of completion for BOTH the tax return year (2015 or thereafter) under examination and the year the examination is conducted may represent under the following conditions:

Unenrolled return preparers with the necessary record(s) of completion may represent taxpayers only before revenue agents, customer service representatives, or similar officers and employees of the Internal Revenue Service (including the Taxpayer Advocate Service) and only during an examination of the tax year or period covered by the tax returns they prepared and signed. Unenrolled return preparers may not represent taxpayers, regardless of the circumstances requiring representation, before appeals officers, revenue officers, counsel or similar officers or employees of the Internal Revenue Service or the Department of the Treasury. Unenrolled return preparers may not execute closing agreements, extend the statutory period for tax assessments or collection of tax, execute waivers, or sign any document on behalf of a taxpayer.

If an unenrolled return preparer does not meet the requirements for limited

representation, you may authorize the unenrolled return preparer to inspect and/or request your tax information by filing Form 8821. Completing Form 8821 will not authorize the unenrolled return preparer to represent you before any IRS personnel. For more information, see Form 8821 and its separate instructions.

***Practice denied.*** Any individual engaged in limited practice before the IRS who is involved in disreputable conduct is subject to disciplinary action. Disreputable conduct includes, but is not limited to, the list of items under *Incompetence and Disreputable Conduct* shown, later, under *What Are the Rules of Practice*.

**Other individuals who may serve as representatives.** Because of their special relationship with a taxpayer, the following individuals may represent the specified taxpayers before the IRS, provided they present satisfactory identification and, except

in the case of an individual described in (1) below, proof of authority to represent the taxpayer.

1. ***An individual.*** An individual can represent himself or herself before the IRS and does not have to file a written declaration of qualification and authority.
2. ***A family member.*** An individual can represent members of his or her immediate family. Immediate family includes a spouse, child, parent, brother, or sister of the individual.
3. ***An officer.*** A bona fide officer of a corporation (including a parent, subsidiary, or other affiliated corporation), association, or organized group can represent the corporation, association, or organized group. An officer of a governmental unit, agency, or authority, in the course of his or her official duties, can represent the

governmental unit, agency, or authority before the IRS.

4. ***A partner.*** A general partner can represent the partnership before the IRS.
5. ***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 a parent, subsidiary, or other affiliated corporation), association, trust, receivership, guardianship, estate, organized group, governmental unit, agency, or authority.
6. ***A fiduciary.*** A fiduciary (trustee, executor, personal representative, administrator, receiver, or guardian) stands in the position of a taxpayer and acts as the taxpayer, not as a representative. See *Fiduciary* under



*When Is a Power of Attorney Not Required*, later.

## **Representation Outside the United States**

Any individual may represent an individual or entity, who is outside the United States, before personnel of the IRS when such representation also occurs outside the United States. See section 10.7(c)(1)(vii) of Circular 230.

## **Authorization for Special Appearances**

The Commissioner of Internal Revenue, or delegate, can authorize an individual who is not otherwise eligible to practice before the IRS to represent another person for a particular matter. The prospective representative must request this authorization in writing from the Office of

Professional Responsibility. However, it is granted only when extremely compelling circumstances exist. If granted, the Commissioner, or delegate, will issue a letter that details the conditions related to the appearance and the particular tax matter(s) for which the authorization is granted.

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

**Students in LITCs and the STCP.** A student who works in a Low Income Taxpayer Clinic (LITC) or a Student Tax Clinic Program (STCP) must receive permission to represent taxpayers before the IRS by virtue of their

status as a law, business, or accounting student. Authorization requests must be sent to the Taxpayer Advocate Service. If granted, a letter authorizing the student's special appearance and detailing any conditions related to the appearance will be issued. Students receiving an authorization letter generally can represent taxpayers before any IRS function or office subject to any conditions in the authorization letter and must be under the direct supervision of an individual authorized to practice before the IRS. If you intend to have a student represent you, review the authorization letter and ask your student, your student's supervisor, or the Taxpayer Advocate Service if you have questions about the terms of the authorization.

# **Who May Not Practice Before the IRS?**

In general, individuals who are not eligible, or who have lost the privilege as a result of certain actions, may not practice before the IRS. If an individual loses eligibility to practice, the IRS will not recognize a power of attorney that names the individual as a representative.

**Corporations, associations, partnerships, and other persons that are not individuals.** These organizations (or persons) are not eligible to practice before the IRS.

## **Loss of Eligibility**

Generally, individuals lose their eligibility to practice before the IRS in the following ways.

- Not meeting the requirements for renewal of enrollment (such as continuing professional education).
- Requesting as an enrolled agent to be placed in inactive retirement status.
- Being suspended or disbarred, or determined ineligible for practice, by the Office of Professional Responsibility for violating the regulations contained in Circular 230 or the standards in Revenue Procedure 81-38.
- Losing their state license to practice as an attorney or a certified public accountant, irrespective of the basis for the license revocation.

**Failure to meet requirements.** Enrolled individuals and AFSP Record of Completion holders who fail to comply with the requirements for eligibility for renewal will be notified by the IRS. The notice will explain the reason for ineligibility and provide the

individual with a time-sensitive opportunity to furnish information for reconsideration.

***Inactive roster.*** An enrolled individual will be placed on the roster of inactive enrolled individuals for a period of three years, if he or she:

- Fails to respond timely to the notice of noncompliance with the renewal requirements,
- Fails to file timely the application for renewal, or
- Does not satisfy the requirements for renewal.

The enrolled individual must file an application for renewal within 3 years ***and*** satisfy all requirements for renewal after being placed in inactive status. Otherwise, at the conclusion of the next renewal cycle, he or she will be removed from the roster and the enrollment status will be terminated.

**Inactive retirement status.** Enrolled individuals who request to be placed in an inactive retirement status will be ineligible to practice before the IRS. They must continue to adhere to all renewal requirements. They can be reinstated to active enrollment status by filing an application for renewal **and** providing evidence that they have completed the required continuing professional education hours for the enrollment cycle.

**Suspension and disbarment.** All individuals practicing before the IRS are subject to disciplinary proceedings and may be censured, suspended, disbarred or monetarily penalized for violating any regulation in Circular 230. This includes engaging in acts demonstrating incompetence or disreputable conduct. For more information, see *Incompetence and Disreputable Conduct* under *What Are the Rules of Practice*, later.

Practitioners who are suspended or disbarred in a disciplinary proceeding are not allowed to

represent taxpayers before the IRS during the period of suspension/disbarment. A practitioner can seek reinstatement from the Office of Professional Responsibility at the earlier of a specified period of suspension or after five years of disbarment. See *What Is Practice Before the IRS*, earlier.

If the practitioner seeks reinstatement, he or she may not practice before the IRS until the Office of Professional Responsibility grants reinstatement. The Office of Professional Responsibility may reinstate the practitioner:

- 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.
- Subject to other conditions for a reasonable period.



# How Does an Individual Become Enrolled?

The IRS website [IRS.gov/Tax-Professionals/EnrolledAgents/Become-an-Enrolled-Agent](https://www.irs.gov/Tax-Professionals/EnrolledAgents/Become-an-Enrolled-Agent) provides complete information on the steps to be taken to become an enrolled agent.

For complete rules on earning an Annual Filing Season

Program Record of Completion, see [IRS.gov/TaxProfessionals/General-Requirements-for-the-AnnualFiling-Season-Program-Record-of-Completion](https://www.irs.gov/TaxProfessionals/General-Requirements-for-the-AnnualFiling-Season-Program-Record-of-Completion).

## What Are the Rules of Practice?

The rules governing practice before the IRS are published in the Code of Federal Regulations at 31 C.F.R. Subtitle A, Part 10 and released digitally as Treasury Department

Circular No. 230 (Circular 230). The regulations can be accessed at [IRS.gov/Tax-Professionals/Circular-230-TaxProfessionals](https://www.irs.gov/Tax-Professionals/Circular-230-TaxProfessionals).

An attorney, CPA, enrolled agent, enrolled retirement plan agent, or enrolled actuary authorized to practice before the IRS (referred to hereafter as a practitioner) and an appraiser 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 who engages in incompetent or disreputable conduct is subject to disciplinary action. Also, unenrolled return preparers must comply with the rules of practice and conduct to exercise the privilege of limited practice before the IRS. There are two specific sets of rules that apply, both are contained in Circular 230:

1. Duties and restrictions relating to practice (Subpart B of Cir. 230), and

2. Conduct considered to exhibit incompetence or disrepute (Subpart C, Section 10.51 of Cir. 230).

## **Duties and Restrictions**

Individuals subject to Circular 230 must promptly submit records or information sought by a proper and lawful request from officers or employees of the IRS, except when the practitioner believes on reasonable grounds and good faith that the information is privileged. Communications with respect to tax advice between a federally authorized tax practitioner (See Internal Revenue Code (IRC) sec. 7525) and a taxpayer generally are confidential to the same extent that communication would be privileged if it were between a taxpayer and an attorney if the advice relates to:

- Noncriminal tax matters before the IRS, or

- Noncriminal tax proceedings brought in federal court by or against the United States.

***Communications regarding corporate tax shelters.*** This protection for tax advice communications does not apply to any written communications between a federally authorized tax practitioner and any person, including a director, shareholder, officer, employee, agent, or representative of a corporation if the communication involves the promotion of the direct or indirect participation of the corporation in any tax shelter.

**Duty to advise.** An individual subject to Circular 230 who knows that his or her client has not complied with the revenue laws or has made an error or omission in any return, document, affidavit, or other required paper, has the responsibility to advise the client promptly of the noncompliance, error, or

omission, and the consequences of the noncompliance, error, or omission.

**General due diligence.** Individuals subject to Circular 230 must exercise due diligence when performing the following duties.

- Preparing or assisting in the preparing, approving, and filing of returns, documents, affidavits, and other papers relating to IRS matters.
- Determining the correctness of oral or written representations made by him or her to the Department of the Treasury.
- Determining the correctness of oral or written representations made by him or her to clients with reference to any matter administered by the IRS.

**Reliance on others.** A presumption that due diligence has been exercised will apply in situations where there has been reliance on the work product of another person if

reasonable care was used in engaging, supervising, training, and evaluating the person, taking proper account of the nature of the relationship between the Circular 230 individual and the person.

**Delays.** Individuals subject to Circular 230 must not unreasonably delay the prompt disposition of any matter before the IRS.

**Assistance from disbarred or suspended persons and former IRS employees.**

Individuals subject to Circular 230 must not knowingly, directly or indirectly, do the following.

- Accept assistance from, or assist, any person who is under disbarment or suspension from practice before the IRS if the assistance relates to matters considered practice before the IRS.
- Accept assistance from any former government employee where

provisions of Circular 230 or any federal law would be violated.

**Performance as a notary.** Individuals subject to Circular 230 may not take acknowledgments, administer oaths, certify papers, or perform any official act as a notary public with respect to any matter administered by the IRS and for which he or she is employed as counsel, attorney, or agent, or in which he or she may be in any way interested.

**Negotiation of taxpayer refund checks.** Individuals subject to Circular 230 may not 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 practitioner or any firm or other entity with whom the practitioner is associated) issued to a client by the government in respect of a Federal tax liability.

# **Incompetence and Disreputable Conduct**

Individuals subject to Circular 230 may be disbarred or suspended from practice before the IRS, or censured, for incompetence or disreputable conduct. A monetary penalty may also be imposed, in addition to any other discipline, on both individuals and their firms. The following list contains examples of conduct that is considered disreputable. Further examples are shown in Circular 230, Sec. 10.51(a).

- Being convicted of any criminal offense under the internal revenue laws or of any offense involving dishonesty or breach of trust.
- Knowingly giving false or misleading information in connection with federal tax matters, or participating in such activity.



- - Soliciting employment by prohibited means as discussed in section 10.30 of Circular 230.
- Willfully 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 U.S. state, possession, territory, commonwealth, or any federal court, or any federal agency, body, or board.

- Knowingly aiding and abetting another person to practice before the IRS during a period of suspension, disbarment, or ineligibility of that other person.
- Using abusive language, making false accusations or 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.
- Giving a false opinion knowingly, recklessly, or through gross incompetence; or engaging in a pattern of providing incompetent opinions on questions arising under the federal tax laws.

# **Censure, Disbarments, and Suspensions**

The Secretary of the Treasury, or delegate, after notice and an opportunity for a proceeding, may censure, suspend, or disbar an individual subject to Circular 230 from practice before the IRS if the individual is shown to be incompetent or disreputable, fails to comply with the regulations in Subpart B; or with intent to defraud, willfully and knowingly misleads or threatens a client or prospective client.

Censure is a public reprimand. Individuals subject to Circular 230 include any attorney, certified public accountant, enrolled agent, enrolled retirement plan agent, or enrolled actuary engaged in taxpayer representation or advice-giving activity, as well as any Annual Filing Season Program Record of Completion holder who represents taxpayers

and any appraiser engaged in appraising asset values for federal tax purposes.

## **Authorizing a Representative**

You may either represent yourself, or you may authorize an individual to represent you before the IRS. If you chose to have someone represent you, your representative must be a person eligible to do so before the IRS. See *Who Can Practice Before the IRS*, earlier.

## **What Is a Power of Attorney?**

A power of attorney is your written authorization for an individual to receive your confidential tax information from the IRS and to perform certain actions on your behalf. If the authorization is not limited, the individual generally can perform all acts that you can perform, except negotiating or endorsing a check. The authority granted to enrolled retirement plan agents, enrolled actuaries and unenrolled return preparers holding records of completion is limited. For information on the

limits regarding annual filing season program record of completion holders, see Revenue Procedure 2014-42 and [IRS.gov/Tax-Professionals/ Return-Preparer-Office-RPO-At-a-Glance](https://www.irs.gov/Tax-Professionals/Return-Preparer-Office-RPO-At-a-Glance).

**Acts performed.** Attorneys, certified public accountants, and enrolled agents may perform the following acts:

1. Represent you before any office or employee 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.
4. Sign a closing agreement.

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

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

For example, the regulation permits a representative to sign your return if you are unable to sign the return due to:

- Disease or injury.
- 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.

- Other good cause if specific permission is requested of and granted by the IRS.

When a return is signed by a representative, it must be accompanied by a power of attorney (or copy) authorizing the representative to sign the return. For more information, see the Instructions for Form 2848.

**Limitation on substitution or delegation.**

A recognized representative can substitute or delegate authority under the power of attorney to another recognized representative only if the act is specifically authorized by you on the power of attorney.

After a substitution has been made, only the newly recognized representative will be recognized as the taxpayer's representative. If a delegation of power has been made, both the original and the delegated representative will be recognized by the IRS to represent you.

**Disclosure of returns to a third party.**

Your representative cannot execute consents that will allow the IRS to disclose tax return or return information to a third party unless you specifically delegate this authority to your representative on line 5a of Form 2848.

**Incapacity or incompetency.** 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 line 5a “Other acts authorized” of the Form 2848 and 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 Is a Power of Attorney Required?

Submit a power of attorney when you want to authorize an individual to receive your confidential tax information and represent you before the IRS, whether or not the representative performs any of the other acts cited earlier 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 meeting with the IRS.
2. Prepare and file a written response to an IRS inquiry.

# Form Required

Use IRS Form 2848 to appoint a recognized representative to act on your behalf before the IRS. Individuals recognized to represent you before the IRS are listed under *Part II, Declaration of Representative*, of Form 2848. Your representative must complete that part of the form.

**Non-IRS powers of attorney.** The IRS will accept a non-IRS power of attorney, but a completed Form 2848 must be attached in order for the power of attorney to be entered on the Centralized Authorization File (CAF) system. For more information, see *Processing a non-IRS power of attorney*, later.

If you want to use a document other than Form 2848 to authorize the representation, it must contain the following information.

- Your name and mailing address.

- Your social security number (or your individual taxpayer identification number (ITIN)) and/or employer identification number.
- Your employee plan number, if applicable.
- The name and mailing address of your representative(s).
- 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(s).
- 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 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.)

***Required information missing.*** The IRS will not accept your non-IRS power of attorney if it does not contain all the information listed above. You can sign and submit a completed Form 2848 or a new non-IRS power of attorney that contains all the information. 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 procedure described next.

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

1. The original non-IRS power of attorney grants authority to handle federal tax

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

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.

**Example.** John Elm, a taxpayer, signs a non-IRS durable power of attorney that names his neighbor and CPA, 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 system called the CAF system. This system 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 on the CAF system. Entry of your power of attorney on the CAF system enables IRS personnel, who do not have a copy of your power of

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