

IRM PROCEDURAL UPDATE

DATE: 03/15/2016

NUMBER: WI-21-0316-0524

SUBJECT: Level "H"

AFFECTED IRM(s)/SUBSECTION(s): 21.3.7

CHANGE(s):

IRM 21.3.7.5.3(11) (a) Removed CAF employees who do not have access to call a taxpayer or third party.

11. **Line 7, Form 2848 and Form 8821**, verify the Taxpayer's signature, signature date and title information. Enter the taxpayer's signature date of the authorization to CAF.
 - a. For business accounts, a signature, date and title is required. The title shall be the acceptable title per business entity type.
[REDACTED]
 - b. For minor children signature requirements, see IRM 11.3.2.4.10, *Minors*.

IRM 21.3.7.5.6 Revised procedures for level "h", Unenrolled Return Preparer, to verify PTIN using CC RPVUE and added Annual Filing Season Program certification effective 01/01/2016.

1. The Unenrolled Return Preparer (designation Level **H**) can only file a Form 2848 if the representative prepared and signed the tax return for the year(s) or periods(s) submitted and the return is under examination with the IRS.
2. The October 2011 revision of the Form 2848 added the Level I designation for Registered Tax Return Preparer. On Feb. 11, 2014, the U.S. Court of Appeals for the District of Columbia Circuit upheld the decision of the lower court in the case of Loving vs. IRS, finding insufficient statutory support for the IRS's regulation of federal tax return preparers. This court decision removes the Level I, Registered Tax Return Preparer designation. If the CAF function receives a Level I designation for processing, it shall be treated as a Level H, Unenrolled Return Preparer.
3. Beginning in January 2016, Unenrolled Return Preparers, Level **H**, must participate in the Annual Filing Season Program (AFSP). For returns prepared after December 31, 2015, the only Unenrolled Return Preparers who may represent taxpayers are those who participate in the IRS AFSP.
 - a. The Annual Filing Season Program is a voluntary program that allows limited practice rights for return preparers.

- b. 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.
 - c. Annual filing season program participants do not have unlimited practice rights. 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.
 - d. The AFSP record of completion is not required to be attached to the Form 2848 submission for processing to the CAF database.
4. The Form 2848 requests the representative to provide a valid PTIN. The inclusion of this information on the Form 2848 is an aid to agency personnel verifying certification status and is a required element for processing to CAF. The CAF employee will enter the PTIN onto the CAF database. The PTIN is a required field when input is in conjunction with a Level **H** designation authority.
5. All Level **H** authorizations must be researched to ensure eligibility. Take the following steps to ensure that the Level **H** representative can be added to the CAF database:
- a. Verify the taxpayer/business name on the Form 2848 matches with information found using CC **INOLE**.

- If the information matches on CC **INOLE**, proceed to the next step.
- If the information does not match on CC **INOLE**, return the Form 2848 to the taxpayer using the CAF **IAT tool**, Correspondence Letter 4527C, stating we can not verify the taxpayer's entity information. In addition, input a narrative on AMS documenting the rejection.

- b. Verify the tax year(s) or period(s) are under examination, i.e., **FRZ -L** or **TC 922**, is present on the tax module using CC **TXMOD**. Use CC **IMFOL** or CC **BMFOL**, with definer **I** or **T**, if CC **TXMOD** is not available.
 - c. Verify that a PTIN exists on the module indicating a paid preparer using CC **RTVUE**, CC **BRTVU** or CC **TRDBV**.
 - d. Verify the PTIN found during research in paragraph (c) above with the PTIN provided on the Form 2848 . Ensure the PTIN number belongs to the PTIN holder using CC **RPVUE** located in paragraph (c) above. .
6. After research is complete, follow below to determine if the Form 2848 should/should not be processed to the CAF database.

- If the examination indicator and the return preparer PTIN information is valid, process the Form 2848 to the CAF database.

- If the examination indicator is not found and/or the paid preparer's PTIN information is not valid, return the Form 2848 to the taxpayer using the CAF **IAT tool**, Correspondex Letter 4527C. Input a history item on AMS documenting the rejection.

7. Level **H** representation **cannot** be granted the following authority:
- a. The power to sign tax returns or extensions of period of limitations.
 - b. The authority for future periods.
 - c. The authority to delegate or substitute.
8. Accept a note/letter or verbal information from the taxpayer saying that the representative prepared the original return. We can also accept a photocopy of the original return indicating that the representative prepared the original return. In addition, CAF can accept documentation that proves a return is under examination either by note/letter stating the taxpayer requested an examination reconsideration or a copy of a proposed letter of examination from the IRS.

NOTE: In situations where the Form 2848 is being rejected for the above reasons and a Form 8821 is already on file, return the Form 2848 to the taxpayer using the CAF **IAT tool** Letter 4527C. State in the open paragraph, **Your representative does not qualify for Level H representation. A Form 8821 is not required since you have previously submitted the form and it is already recorded. Input a history item to AMS.**