

INTERIM IRM PROCEDURAL UPDATE

DATE: 05/18/2012

NUMBER: WI-21-0512-1042

SUBJECT: Several IRM Changes Made to Provide Clarification Regarding Form 2848 and Form 8821 Revisions etc

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

CHANGE(s):

IRM 21.3.7.1.1 (2) Added acts authorized authorities and removed receipt of refund check from last bullet.

2. The CAF contains:
 1. Taxpayer name, Taxpayer Identification Number (TIN), name control and signature date,
 2. Third Party name, address, telephone number, fax number, name control, CAF number and status information,
 3. Type of tax i.e., (MFT)(s) and tax period(s),
 4. Employee Plan number. if applicable,
 5. Source Document Locator Number (SDLN),
 6. Authorization type, i.e., Form 2848, 8821, 706,
 7. Representation designation level(s), i.e., **A** - Attorney, **B** -Certified Public Accountant (CPA), etc.,
 8. Notice Indicator,
 9. Authority granted by taxpayer(s) to the representative(s), i.e., disclosure to third parties, substitute/add representatives, and/or sign return.

IRM 21.3.7.1.3 (5) (a) and (b) Updated Memphis and Ogden campus fax numbers due to Enterprise EFAX implementation.

5. CAF Unit addresses and fax numbers are:
 - a. **Memphis Address:**
Internal Revenue Service
PO Box 268, Stop 8423
Memphis, TN 38101-0268
Fax number 855-214-7519
 - b. **Ogden Address:**
Internal Revenue Service

1973 N Rulon White Blvd. MS 6737
Ogden, UT 84404
Fax number 855-214-7522

- c. **Philadelphia Address:**
Internal Revenue Service
International CAF MS 3-E08.123
2970 Market St.
Philadelphia, PA 19104
Fax number 267-941-1017

IRM 21.3.7.5.1 (4) (a) (1) Removed joint filer signature rules for Forms 2848 and 8821 that no longer apply. Updated that separate authorizations must be executed for each taxpayer to designate a representative/appointee.

4. Essential elements are:
- a. **Essential element 1** The taxpayer's dated signature is required. An electronically signed, printed or stamped signature is **not** acceptable.
 1. For IMF joint accounts, each spouse must execute his or her own power of attorney or tax information authorization on a separate Form 2848 or Form 8821, to designate a representative/appointee.

IRM 21.3.7.5.1 (4) (a) (5) Removed the note and moved to end of (6) see below.

5. When the taxpayer signs and dates the **Form 2848** before the representative, the signature dates of the taxpayer(s) and representative(s) **must be** within 45 days for domestic authorizations and **within 60** days for authorizations of taxpayers/representatives residing abroad. If the taxpayer's dated signature is more current than the representative's signature, the 45 and 60 day rule does not apply. As long as the signature dates meet this requirement, the Form 2848 may be submitted and processed at any time.
6. Form 8821 must be received by the IRS within 120 days of the date it was signed and dated by the taxpayer when the Form 8821 does not address tax matters.

NOTE: The only time a taxpayer signature is not required is when a faxed Form 8821 Oral Tax Information Authorization (OTIA) is received in the CAF function and line 7 is notated that this is an "Oral Tax Information Authorization", "Oral TIA", or "OTIA". For BMF accounts, the name and title must be notated on the OTIA of the individual granting this authority.

IRM 21.3.7.5.1 (4) (a) (6) Clarified the Form 8821 and the 120 day rule and revised note to cover the OTIA signature information.

6. Form 8821 must be received by the IRS within 120 days of the date it was signed and dated by the taxpayer when the Form 8821 does not address tax matters.

NOTE: The only time a taxpayer signature is not required is when a faxed Form 8821 Oral Tax Information Authorization (OTIA) is received in the CAF function and line 7 is notated that this is an "Oral Tax Information Authorization", "Oral TIA", or "OTIA". For BMF accounts, the name and title must be notated on the OTIA of the individual granting this authority.

IRM 21.3.7.5.1 (4) (b) Corrected essential element 2 requirements for Oct. 2011 or later revision of Form 2848.

- b. **Essential element 2** - Only applies to Form 2848. The representative's designation, (for example, items a-r below) under which he or she is authorized to practice before the IRS must be present. In addition, the representative must list the Licensing jurisdiction (state) or other licensing authority and Bar, license, certification, registration, or enrollment number, if applicable. The representative's signature and date are also required. For multiple representatives listed on the same form, only one signature date is required; however, all representatives must sign the Form 2848.
- **A** - Attorney - enter two-letter state abbreviation, i.e., "NY" for New York, for which they are admitted to practice and associated bar or license number, if any.
 - **B** - Certified Public Accountant (CPA or LPA) - enter two-letter state abbreviation, i.e., "NY" for New York, in which they are licensed to practice and associated certification or license number, if any.
 - **C** - Enrolled Agent - enter enrollment card number issued by Office of Professional Responsibility (OPR).
 - **D** - Officer - enter title of the officer, i.e., President, Vice-President, Secretary, Treasurer, etc.
 - **E** - Full-time Employee - enter title or position, i.e., Comptroller, Accountant, Bookkeeper, etc.
 - **F** - Family member - enter relationship to taxpayer, i.e., spouse (husband or wife), parent (mother or father), child (son or daughter), sibling, (brother or sister).
 - **G** - Enrolled Actuary - enter the enrollment card number issued by the Joint Board for the Enrollment of Actuaries.

- **H** - Unenrolled Return Preparer - Enter your PTIN.
- **I** - Registered Tax Return Preparer - Enter your PTIN
- **K** - Student Attorney or CPA - Enter **LITC** or **STCP** and attach copy of Special Appearance Authorization letter from OPR.
- **R** - Enrolled Retirement Plan Agent - enter the enrollment card number issued by OPR.

NOTE: The Office of Professional Responsibility (OPR) may request designation level changes specific to a recorded authorization. Do not accept any CAF designation changes from any other functional areas, including Return Preparer Coordinator (RPC), Criminal Investigation (CI), and Treasury Inspector General for Tax Administration (TIGTA). Refer the requestor to OPR

IRM 21.3.7.5.1 (4) (c) Removed the civil penalty exception.

- c. **Essential element 3** - Specific tax matter(s), i.e., type of tax or tax form number, is required. Specific (or inclusive) Period(s) is/are required. Refer to IRM 11.3.3.1.1 (3) (d), Disclosure to Designees and Practitioners. All tax periods listed on an authorization are input whether displayed on CC **IMFOL/BMFOL** or not.

NOTE: Use of the four digit year (i.e., 2008) generally is acceptable for both calendar year and fiscal year taxpayers. If the authorization does not provide a calendar year or fiscal year ending month use the fiscal year month as established for the entity.

IRM 21.3.7.5.2 (12) Update the name of column for entering enrollment number per Oct, 2011 or later revision of Form 2848.

- 12. If you receive a Form 2848 for Form 1040 with Designation Level G (the Enrolled Actuary), the enrollment card number must be entered in the Bar, license, certification, registration, or enrollment number column, Part II Declaration of Representative.

IRM 21.3.7.5.2 (17) (b) Note Added individual taxpayer to Pursuant to Treasury Regulation 1.6012-1(a)(5).

- b. If Form 2848, Line 5, grants authority to sign tax returns, code with an "S" in the left margin beside the representative(s) name(s).

NOTE: Pursuant to Treasury Regulation Section 1.6012-1(a)(5), an individual taxpayer required to file an income tax return other than a Form 1040NR, must indicate on Form 2848, Line 5, that the representative(s) is authorized to sign the return and must give the specific reason for the agent's signature.

See IRM 21.3.7.5.3 for the acceptable reasons.

NOTE: Do not code an "S" for a third party who is an Unenrolled Return Preparer (Level H), Registered Tax Return Preparer (Level I), Student attorney or Student CPA (Level K).

IRM 21.3.7.5.3 (2) Deleted October 2011 revision information and added note to aid in researching a sole proprietor EIN associated with an SSN.

2. **Line 1**, Verify and enter taxpayer or business entity information. When the name on the request does not match the name shown on **CC INOLES**, and proper research determines the TIN is the correct taxpayer, use the name as shown on **CC INOLES** upon processing. Refer to IRM 21.3.7.5.2.

REMINDER:

- a. Joint filers must now complete and submit a separate Form 2848 to the CAF for each spouse designating a representative.
- b. The only time it would be acceptable to list more than one TIN in this field is when a taxpayer files a tax return that includes a sole proprietorship business (Schedule C) and the matters that they are authorizing the listed representative the authority to represent them for includes both their individual and business tax matters. For this circumstance, both an SSN (or ITIN) and business EIN would be present on the authorization.

NOTE: When researching a business EIN of a sole proprietor, there would never be an income tax liability tax return requirement associated with the EIN, ie. Form(s) 990, 1065, 1120. You may however see filing requirements for Form(s) 720, 941, 943, 945 or 2290 associated with a sole proprietor EIN. CC INOLE research of the SSN should cross reference to the EIN. Corporations and/or Partnerships must file a separate Form 2848.

IRM 21.3.7.5.3 (7) Revised the Pursuant to Treasury Regulation 1.6012-1(a)(5) to include an individual taxpayer, added **Note:** to clarify language entered on Line 5 by the taxpayer and revised Form 8821 Line 5 information.

7. **Line 5, Form 2848**, verify Acts Authorized information which allows the taxpayer to grant additional authority or limit authority to the representative(s). Refer to IRM 21.3.7.5.4. **Pursuant to Treasury Regulation Section 1.6012 - 1(a)(5)**, an individual taxpayer required to file an income tax return other than a Form 1040NR **must** indicate on Form 2848, **Line 5**, that the representative(s) is authorized to sign the return and must give the specific reason for the agent's signature. The acceptable reasons that should be placed on Line 5, Acts Authorized, of Form 2848 are:
- Disease or injury,
 - Continuous absence from the U.S. (including Puerto Rico) for a period of at least 60 days prior to the date required by law for filing the return, or
 - Specific permission is requested of and granted by the IRS for other good causes.

NOTE: While the instructions to the form provides specific language that could be used to properly grant the authority of the third party to sign the return, the language in the instructions is not the exclusive language to be entered on the form, as long as the taxpayer expresses the intent to have the third party to sign on their behalf for a valid reason under the regulation permitting them to grant that authority. Thus, any text provided by the taxpayer that includes intent is acceptable.

Line 5, Form 8821, Disclosure of Tax Information. If no boxes are checked on Line 5, then no notices will be generated. If the box is checked to receive notices then enter the appropriate "N "code to allow the appointee to receive notices on behalf of the taxpayer.

IRM 21.3.7.5.3 (8) Revised Line 6 to include Retention/revocation information and added Note stating receipt of refund is no longer a valid authority.

8. **Line 6, Form 2848**, Retention/revocation of prior power(s) of attorney and **Form 8821**, Retention/revocation of tax information authorization.
- a. If **Line 6, Form 2848** or **Form 8821** is not checked, input action code **R** in the **TYP ACT** field to revoke all previous existing authorizations.
 - b. If **Line 6, Form 2848** or **Form 8821** is checked, a copy of the existing authorization or correspondence from the taxpayer stating they want to retain an authorization must be attached. Input action code **"A"** to add the authorization, do not use action code **"R"** to revoke or replace.
 - c. If **Line 6, Form 2848** or **Form 8821** is checked, and a copy of the existing authorization or correspondence from the taxpayer is not attached, reject the authorization. Research the CAF prior to rejection to verify an authorization is recorded that may need to be retained. If there are no authorizations recorded on CAF then process the authorization without regard to the box being checked.

NOTE: Receipt of refund check is no longer a valid authority and IRS does not allow the taxpayer to grant a recognized representative the authority to receive refund checks on their behalf.

IRM 21.3.7.5.3 (9) Revised Line 7 to current information and on Form 8821 removed either husband or wife must sign if it applies to a joint return.

9. **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, the signature and title of the owner/officer is required on Form 2848.
 - b. For minor children signature requirements, see IRM 11.3.2.4.10, *Minors*.

IRM 21.3.7.5.3 (10) Consolidated this section with (9) above removing prior revision information and this renumbered sections 11-15 which is now 10-14.

10. Part II of Form 2848 provides representative information. Verify the representative(s) enters his/her designation, licensing jurisdiction (state), Bar, license, certification, registration, or enrollment number (if applicable), signature and date. See IRM 21.3.7.5.1, Essential Elements of Form 2848 for designation listing. If this information is missing, follow IRM 21.3.7.13 for rejection procedures.

IRM 21.3.7.5.3 (13) formerly (14) Removed the words regardless of the revision date and changed wording about CAF not accepting POA's made on earlier revisions after March 1, 2012.

13. If all essential elements are present, process Form 2848 and Form 8821. The three CAF processing sites will not accept powers of attorney made on revisions prior to October, 2011 of the Form 2848 after March 1, 2012.

IRM 21.3.7.5.3.1 Removed the (1) and replaced with a new (1) and (2) outlining a separate Form 2848 and/or Form 8821 is needed for a joint filer wanting to designate a representative/appointee.

1. Effective for Form 2848 revision date of October 2011 or later, joint filers must complete and submit a separate Form 2848 to have the power of attorney recorded

on the Centralized Authorization File (CAF). The form allows for one signature only.

2. Effective for Form 8821 revision date of October 2011 or later, joint filers must complete his or her own authorization on a separate Form 8821 to designate an appointee.

IRM 21.3.7.7 (2) Revised Pursuant to Treasury Regulation 1.6012-1(a)(5) applies to an individual taxpayer required to file an income tax return other than a Form 1040NR and added **Note:** after the acceptable reasons that are placed on Line 5, Acts Authorized to clarify language entered on Line 5 by the taxpayer is acceptable when it includes the taxpayer's intent.

2. **Pursuant to Treasury Regulation Section 1.6012 - 1(a)(5)** , an individual taxpayer required to file an income tax return other than a Form 1040NR **must** indicate on Form 2848, Line 5, that the representative(s) is authorized to sign the return and must give the specific reason for the agent's signature. The acceptable reasons that should be placed on Line 5, Acts Authorized are:
 - o Disease or injury,
 - o Continuous absence from the U.S. (including Puerto Rico) for a period of at least 60 days prior to the date required by law for filing the return, or
 - o Specific permission is requested of and granted by the IRS for other good causes.

NOTE: While the instructions to the form provides specific language that could be used to properly grant the authority of the third party to sign the return, the language in the instructions is not the exclusive language to be entered on the form, as long as the taxpayer expresses the intent to have the third party to sign on their behalf for a valid reason under the regulation permitting them to grant that authority. Thus any text provided by the taxpayer that includes intent is acceptable.

IRM 21.3.7.7 (3) Added new paragraph to include Pursuant to Treasury Regulation 1.6012-2(g)(3) for Line 5, Acts Authorized for foreign corporations. This renumbered the prior (3) which is now (4).

3. **Pursuant to Treasury Regulation Section 1.6012 - 2(g)(3)**, the authorized agent of a foreign corporation may sign a return of income on behalf of the foreign corporation. Where a power of attorney is required before the agent may sign the return, i.e., Form 1120F, U.S. Income Tax Return of a Foreign Corporation, the taxpayer must indicate on Form 2848, Line 5, that the representative(s) is authorized to sign the return. The taxpayer is not required to provide a specific reason for the agent's signature.

IRM 21.3.7.7.2.1 (1) Removed secondary from 3rd bullet.

1. Some International tax laws prohibit jointly filed taxpayer's from using filing status **FS 2** when submitting an international tax return per Publication 519 *United States Tax Guide for Aliens, (Filing Status)*. The taxpayer(s) are instructed by their representative to use **FS 3** to ensure the necessary guidelines are being met. The authorization associated with this type of filer will have the following characteristics:
 - Primary name only on Line 1.
 - Primary SSN only on Line 1.
 - Primary taxpayer's signature & date.
 - Filing status **FS 3** on **CC IMFOLI** for requested tax years.

NOTE: Normal guidelines would require the International CAF Function to correspond with the secondary taxpayer to obtain the missing name & SSN. However, per Publication 519, *U.S. Tax Guide for Aliens*, the secondary taxpayer will submit their own authorization to be processed to the CAF database and therefore correspondence with the secondary taxpayer is not necessary.

IRM 21.3.7.8.2 (3) Removed (3) since we will load all civil penalties listed in the Matters field of Form 2848.

1. There are two types of Civil Penalties which may be processed to the CAF database:
 - a. MFT 55 applies to civil penalties assessed against individuals (SSNs).
 - b. MFT 13 applies to civil penalties assessed against businesses (EINs).
2. If the following terms are listed on Form 2848 or Form 8821, process as civil penalty.
 - Form 8278
 - Computation and Assessment of Miscellaneous Penalties
 - Form 2749
 - Request for Trust Fund Recovery Penalty (TFRP) Assessment(s) IRC 6672
 - CVLPN
 - Penalty, research for civil penalty

IRM 21.3.7.13 (4) Moved information regarding rejection of Form 2848 when submitted using a revision date prior to October 2011 to IRM 21.3.7.13.1(3) and added a new (4) to include rejections to a taxpayer requires an AMS history.

4. When an authorization is returned to the taxpayer, input an Issue to Accounts Management Services (AMS) on the taxpayer's account. Be sure to include:
 - the representative's name (and CAF number if available)
 - type of form returned
 - tax period(s)
 - brief reason why the form is being returned (rejected)

IRM 21.3.7.13.2 (3) Added taxpayer rejections need an AMS history.

3. When an authorization is returned to either the taxpayer or the representative, input an issue to the taxpayer's account using AMS (Accounts Management Services). Include the representative's name, type of Form returned, tax period and in one sentence, include why the Form is being returned. This includes partial rejections.