



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

11.3.3

JULY 28, 2023

EFFECTIVE DATE

(07-28-2023)

PURPOSE

- (1) This transmits revised text for IRM 11.3.3, Disclosure of Official Information, Disclosure to Designees and Practitioners.

MATERIAL CHANGES

- (1) IRM 11.3.3.1.4, Program Controls, were added in order to incorporate relevant internal controls. These items identify information about the program and procedures covered within this section.
- (2) Reviewed and updated the IRM where necessary for the following types of editorial changes: legal citations, published forms and documents and web addresses.

EFFECT ON OTHER DOCUMENTS

This material supersedes IRM 11.3.3, Disclosure of Official Information, Disclosure to Designees and Practitioners dated February 9, 2022.

AUDIENCE

All Operating Divisions and Functions.

RELATED RESOURCES

- (1) The *Disclosure and Privacy Knowledge Base*.

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Safeguards

11.3.3

Disclosure to Designees and Practitioners

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11.3.3.1
(09-18-2020)
Program Scope and Objectives

- (1) **Purpose:** This IRM covers disclosures of tax information to authorized designees and practitioners.
- (2) **Audience:** These procedures apply to all IRS employees and contractors.
- (3) **Policy Owner:** The Director of Governmental Liaison, Disclosure and Safeguards (GLDS) is responsible for oversight of Disclosure policy.
- (4) **Program Owner:** The Disclosure office, under GLDS, is responsible for the Disclosure program and guidance. Each IRS organization is responsible for ensuring its employees are aware of and follow Servicewide Disclosure policy.
- (5) **Primary Stakeholders:** All IRS business units and functions, that make disclosures of tax information to authorized designees.

11.3.3.1.1
(09-18-2020)
Background

- (1) The primary law governing the authority for disclosure of federal tax information is 26 USC 6103, commonly referred to as the Internal Revenue Code (IRC) 6103. IRC 6103(a) establishes the confidentiality of returns and return information and prohibits any disclosure not authorized by the Code.
- (2) IRC 6103(c) provides that returns and return information may be disclosed to persons designated by the taxpayer in a request for, or consent to, disclosure. It also provides for disclosures to any person at the taxpayer's request for information, or assistance made by the taxpayer to another person. The Treasury Regulation under IRC 6103(c), 26 CFR 301.6103(c)-1, sets out requirements for such disclosures.

11.3.3.1.2
(09-18-2020)
Authority

- (1) The following items govern the authority pertaining to disclosures to designees and practitioners:
 - 26 USC 6103(c)
 - 26 USC 6103(e)(6)
 - 26 USC 6103(e)(7)
 - 26 CFR 301.6103(c)-1
 - Delegation Order 11-2 (Rev. 4) (found in IRM 1.2.2.12.2 and Exhibit 1.2.2-2 .

11.3.3.1.3
(02-09-2022)
Responsibilities

- (1) This Internal Revenue Manual (IRM) is used by all IRS employees (including agents or contractors) authorized under Delegation Order 11-2 (Rev. 4), (found in IRM 1.2.2.12.2) and IRM Exhibit 1.2.2-2 , who make disclosures of tax information to a designee or practitioner as part of their official duties.
- (2) This IRM may also be used by Federal government agencies executing consents under IRC 6103(c) for a tax administration function (see 26 CFR 301.6103(c)-1(c)).
- (3) The Taxpayer Bill of Rights (TBOR) lists rights that already existed in the tax code, putting them in simple language and grouping them into 10 fundamental rights. Employees are responsible for being familiar with and acting in accord with taxpayer rights. See IRC 7803(a)(3), Execution of Duties in Accord with Taxpayer Rights. For additional information about the TBOR, see *Taxpayer Bill of Rights*

11.3.3.1.4
(07-28-2023)

Program Controls

- (1) Business Units are responsible for establishing and documenting the program controls developed to oversee their program as well as ensuring employee compliance with all applicable elements of this IRM.

11.3.3.1.5
(02-09-2022)

**Terms/Definitions/
Acronyms**

- (1) The following is a list of the terms and acronyms that are used in this IRM section:

Terms and Definitions

Word	Definition
Consent	(verb) An affirmative and voluntary act that communicates an agreement to, approval of, assent for, or permission, authorizing the disclosure of a taxpayer's return or return information, or (noun) – A written document prepared and submitted in accordance with 26 CFR 301.6103(c)-1, agreeing to or authorizing the disclosure of a taxpayer's return or return information. In both forms, the person authorized to consent to the disclosure of the taxpayer's return or return information must be a person with a material interest defined in IRC 6103(e)(1) through (5), 26 CFR 301.6103(c)-1(e)(4), and IRM 11.3.2, Disclosure to Persons with a Material Interest.
Designee	An individual, trust, estate, corporation, partnership, or other third party entity that has the written consent of a taxpayer (as described in IRC section 6103(e)(1) through (5), except section 6103(e)(1)(D)(iii)) to receive specific tax information.
Federal Tax Matter	Matter between the taxpayer or their authorized representative and the Internal Revenue Service relating to the taxpayer's return or to a transaction concerning the application or interpretation of - (1) Any provision of law impacting a person's obligations under the internal revenue laws and regulations, including but not limited to the person's liability to pay tax or obligation to file returns; or (2) Any other law or regulation administered by the Internal Revenue Service
Practitioner	An attorney, certified public accountant, enrolled agent, enrolled actuary or enrolled retirement plan agent.r. See Circular 230 or IRM 1.25.1, Practice Before the Service, for additional information.
Representative	An individual appointed by a taxpayer on Form 2848, Power of Attorney and Declaration of Representative, or equivalent power of attorney, to represent the taxpayer before the IRS in a Federal Tax Matter.

Acronyms

Acronym	Definition
CAF	Centralized Authorization File
CFR	Code of Federal Regulations
CPA	Certified Public Accountant
FOIA	Freedom of Information Act
FTI	Federal Tax Information
GLDS	Governmental Liaison, Disclosure and Safe-guards
IDRS	Integrated Data Retrieval System
IMF	Individual Master File
IRC	Internal Revenue Code
IRM	Internal Revenue Manual
IRMF	Information Returns Master File
IRP	Information Returns Processing
IVES	Income Verification Express Service
OIC	Offer in Compromise
OPR	Office of Professional Responsibility
PGLD	Privacy, Governmental Liaison and Disclosure
TDS	Transcript Delivery System
TBOR	Taxpayer Bill of Rights
TIN	Taxpayer Identification Number
URP	Unenrolled Return Preparer
USC	United States Code

11.3.3.1.6
(09-18-2020)

Related Resources

- (1) The following table lists other sources of guidance on disclosures to designees and practitioners:

Guidance	Title	Guidance
IRM 1.25.1	Practice Before the Service	Provides guidance on the requirements to practice before the IRS.
IRM 11.3.2	Disclosure to Persons with a Material Interest	Information on IRC 6103(e) disclosures to persons with a material interest, including an attorney-in-fact.

Guidance	Title	Guidance
IRM 11.3.4	Congressional Inquiries	Information regarding release of Federal Tax Information (FTI) to a member of Congress under IRC 6103(c)
IRM 11.3.13	Freedom of Information Act (FOIA)	Requests for access to IRS tax records under the FOIA
IRM 11.3.31	Tax Check Reports on Federal Appointees	Information regarding release of FTI under IRC 6103(c) to federal agencies to periodically perform background investigations
<i>Treasury Department Circular No. 230</i>	Regulations Governing Practice before the Internal Revenue Service	Contains rules governing the recognition of Circular 230 practitioners and other persons representing taxpayers before the IRS.

(2) Additional information may also be found at these related resources:

- *IRS Income Verification Express Service (IVES) processing of requests for transcripts*
- *IRS Office of Professional Responsibility*
- *Tax Information Authorization on Disclosure Knowledge Management Portal*

11.3.3.2
(09-18-2020)
Introduction to IRC 6103(c)

(1) IRC 6103(c) provides that, subject to the requirements and conditions set forth by the Secretary in the regulations, returns and return information may be disclosed to persons designated by the taxpayer in a request for or consent to disclosure. It also provides for disclosures to any person at the taxpayer's request to the extent necessary to comply with a request for information or assistance made by the taxpayer to another person. The Treasury Regulation under IRC 6103(c), 26 CFR 301.6103(c)-1, sets out requirements for such disclosures.

Note: Form 8821, Tax Information Authorization, contains all disclosure requirements and can be used to authorize a third party to receive FTI.

Note: Section 2202 of the Taxpayer First Act amended the provisions of IRC 6103(c) by adding the following language to the Code: "Persons designated by the taxpayer under this subsection to receive return information shall not use the information for any purpose other than the express purpose for which consent was granted and shall not disclose return information to any other person without the express permission of, or request by, the taxpayer". This provision also applied civil penalties, as defined in IRC 6103(a)(3), to any authorized third party, who discloses return information to another third party without the consent of the taxpayer, or to any authorized third party who uses the return information for a purpose other than the one intended by the taxpayer.

(2) Under the IRC 6103(c) regulation in combination with IRC 6103(e), Disclosure to Persons Having Material Interest, those persons with a material interest in returns and return information under IRC 6103(e)(1)-(5) (except for 1% shareholders as described in (e)(1)(D)(iii)) may authorize others to obtain information they are entitled to receive.

- (3) Permissible designees under this section include “individuals; trusts; estates; corporations; partnerships; federal, state, local and foreign government agencies, or subunits of such agencies; or the general public”, see 26 CFR 301.6103(c)-1(e)(3). Under 26 CFR 301.6103(c)-1, the public may also be a permissible designee, as when disclosures are to be made in a public forum, such as in a courtroom or congressional hearing. In such instances, the request for or consent to disclosure must describe the circumstances surrounding the public disclosure, (e.g., congressional hearing, judicial proceeding, media), and the date or dates of the disclosure.

Note: An IRC 6103(c) consent cannot be used to authorize that FTI be sent to a taxpayer or his or her designated representative using unsecure electronic transmissions.

- (4) Delegation Order 11-2 (Rev. 4) (found in IRM 1.2.2.12.2) Exhibit 1.2.2-2 identifies IRS employees who may make disclosures under IRC 6103(c) and the extent to which this authority may be re-delegated.
- (5) When a person with a material interest in tax information designates another to receive the information, satisfactory evidence of identity and the material interest, as defined in IRM 11.3.2, Disclosure to Persons with a Material Interest, must be shown in addition to satisfying the requirements of this section.
- (6) The IRS has a number of different programs/applications where disclosure to a third party is predicated on the taxpayer’s consent. Applications include the checkbox on the Form 1040 series along with other Tax Return series and the Transcript Delivery System (TDS). The procedures for the particular program/application must be followed before disclosures may be made to third parties. The IRS has established the IRS Income Verification Express Service (IVES), which allows for expedited processing of certain types of transcripts. See the following link for more information: <https://www.irs.gov/Individuals/Income-Verification-Express-Service>. Taxpayers can also use Form 4506, Request for Copy of Tax Return to authorize a third party to receive a copy of a tax return.

Note: The authority granted by a 1040 filer using the checkbox option extends as well to any Form 1040-X Amended U.S. Individual Income Tax Return filed for the year in question as long as it is filed within the time period for the consent, which is one year from the required filing date with no extensions.

- (7) An IRC 6103(c) consent does not constitute authority to practice before the Service. See *Treasury Department Circular No. 230*; Publication 947, Practice Before the IRS and Power of Attorney; IRM 1.25, Practice Before the Service; and the *Office of Professional Responsibility web page* for more information.

11.3.3.2.1
(02-09-2022)
**General Requirements
for Disclosure to
Designee of Taxpayer**

- (1) IRC 6103(c) and 26 CFR 301.6103(c)-1 govern disclosure to designees generally.
- (2) An authorization for disclosure of returns and return information to a designee that is not for the purpose of assisting in the resolution of a tax matter must be on a separate written document pertaining solely to the authorized disclosure.

Note: A statement included in a loan application does not meet the requirements of this section because the statement is not a separate written document relating solely to the disclosure of returns and return information.

(3) An authorization for disclosure **must** contain all of the following items:

- a. The taxpayer's identity (name, address, Taxpayer Identification Number (TIN), or any combination thereof), that enables the IRS to clearly identify the taxpayer
- b. The identity of the person or entity to whom disclosure is to be made
- c. The type of return (or the specific portion of the return) or return information (including particular data) to be disclosed (use of Tax Class codes by themselves, taken from Document 6209, ADP and Integrated Data Retrieval System (IDRS) Information, does not satisfy this requirement)

Note: Authorization to inspect or receive specific returns and return information will only permit a designee to inspect or receive the specified return and certain return information of the taxpayer directly related to the specified return. The authorization will not permit the designee to inspect or receive returns of other taxpayer or entities, even though the person executing the authorization may have authority to inspect or receive such returns and return information under IRC 6103(e).

Example: A taxpayer is a partner in a partnership. The taxpayer designates a third party to inspect or receive returns or return information related to his 2015 Form 1040, as well as any information returns related to his 2015 Form 1040. In this example the designee will be able to inspect or receive the taxpayer's 2015 Form 1040, as well as any information returns of the taxpayer directly related to the 2015 Form 1040, including *Form 1099*, *Form W-2* or *Form K-1*. The designee will need a specific designation, however, to view or receive the partnership returns, even though the taxpayer is generally entitled to view or receive these returns under IRC 6103(e)(1)(C). This designation would be accomplished by listing the specific partnership and *Form 1065* on the authorization.

Example: A taxpayer authorized under 6103(e)(1)(D) designates a third party to receive all tax information related to a corporate tax return (e.g. *Form 1120*) for a specific tax year. The designee is authorized to receive corporate returns and/or return information directly related to that year, including information return transcripts. The designee would need a specific designation, however, to view or receive any returns or return information related to the taxpayer's individual income tax.

- d. The taxable period(s) covered by the return or return information. The periods may be separately stated or when a series of inclusive periods are involved, use of the word "through", "thru", or a hyphen may be used (e.g., 2013-2017 would cover 2013, 2014, 2015, 2016 and 2017), and

Note: For returns where the period is not annual, (e.g., quarterly), all periods within the stated range would be included. For example, for a *Form 720*, Quarterly Federal Excise Tax Return, or *Form 941*, Employer's Quarterly Federal Tax Return, identifying the period as "2012-2013" would cover all quarterly periods in the years 2012 and 2013.

- e. The handwritten signature of the taxpayer and the date the authorization was signed

(4) The date an authorization is received should be stamped or otherwise noted on the letter. This is important since 26 CFR 301.6103(c)-1(b) provides that returns and return information cannot be disclosed unless a request is received within 120 days following the date the authorization was signed and dated by

the taxpayer. The 120 day requirement does not apply where taxpayers request information or assistance relating to their tax matters. See 26 CFR 301.6103(c)-1(c).

- (5) The written authorization from the taxpayer, or other person with a material interest, does not have to be any specific form, although Form 8821, Tax Information Authorization, may be used for this purpose. Form 2848, Power of Attorney and Declaration of Representative, may also be used to meet the requirements, but the Form 2848 may only be used if the designee intends to practice before the IRS and is eligible to practice under Circular 230 and the Conference and Practice Requirements (CFR 601.501 – 601.509). See IRM 11.3.3.4, Distinction Between Disclosure to Designees and the Conference and Practice Requirements .

Note: IRC 6304(a)(2), as revised by the Restructuring and Reform Act of 1998, generally prohibits IRS contact with the taxpayer if the IRS knows that the taxpayer is represented by a person duly authorized to practice before the IRS. Of course, this means that a valid Form 2848 or other Power of Attorney is on file and that the designated individual is in fact authorized to practice under the Circular 230 Conference and Practice Requirements. Disclosures to the taxpayer are still authorized under IRC 6103(e). However, contacts in violation of IRC 6304 are subject to civil action under IRC 7433.

Note: For information regarding revocation of Form 2848, Power of Attorney, see IRM 11.3.3.2.7(3), Disclosure Attorney-in-Fact, and Publication 947, Practice Before the IRS and Power of Attorney.

- (6) The taxpayer may always authorize disclosure of his/her return, but may not compel disclosure of return information. If an official authorized in accordance with Delegation Order 11-2 (Rev. 4) (see IRM 1.2.2.12.2) determines that disclosure of return information will seriously impair federal tax administration, the IRS must withhold disclosure of the return information.
- (7) A designee of the taxpayer may not execute an IRC 6103(c) consent on behalf of the taxpayer unless he/she is given that specific authority on a Power of Attorney (e.g., Form 2848) under IRC 6103(e)(6). On Form 2848, the taxpayers should check the box to “Authorize disclosure to third parties”.
- (8) If there is doubt concerning the authenticity of the signature, refer to your Business Unit for specific policies and guidelines.
- (9) A taxpayer may provide consent on the record when they are a party to an administrative or judicial proceeding (such as an examination, collection or appeals hearing). If the proceeding is in a public venue (such as a court or Congressional hearing), secure a copy of a transcript of such proceeding that recorded the consent. See 26 CFR 301.6103(c)-1(e)(1)(i)(C).

11.3.3.2.2 (08-08-2019) Telephone Contacts

- (1) In telephone contacts, IRS personnel are generally restricted as to the information they may furnish third parties in the absence of authorization from the taxpayer or other person with a material interest.
- (2) Without authorization, only general information such as procedural information or the meaning of a particular bill, notice or letter may be given. The third party should be advised that he/she should obtain an authorization from the taxpayer

in order to receive tax information. Depending on the circumstances, it may be desirable to mail the requested return information to the taxpayer's address of record.

- (3) Once a valid third party authorization is received from the taxpayer, the specific tax matters and tax years provided on the consent can be discussed with the third party. Disclosure and security rules must be followed when dealing with third party designees via telephone. Refer to your Business Unit for specific policies and guidelines on acquiring valid oral or written consent and communicating confidential information.

11.3.3.2.3
(05-20-2005)
**Receipt of Information
From Third Parties**

- (1) Even though a third party does not have written authority to request and receive tax information of the taxpayer, IRS employees may still accept information offered by third parties.

Example: Canceled check information may be accepted to initiate a payment tracer on a bill, but no information relative to the balance due or nature of the assessment may be given to the third party. However, where the third party wants to pay another taxpayer's bill, refer to IRM 11.3.11.10, Disclosure of Amount of Outstanding Lien.

11.3.3.2.4
(09-18-2020)
Disclosure to a Spouse

- (1) If a taxpayer is requesting information from their jointly filed return, IRC 6103(c) does not require consent from the other spouse. This includes any item listed on the jointly filed return.
- (2) Where a joint return has not been filed and a spouse has been claimed as a dependent on a return, that spouse may not be given information without written authorization from the taxpayer.
- (3) IRS employees cannot disclose information relating to the non-requesting spouse that is not attached to the jointly filed return without consent.

Example: Upon receipt of a valid request, a jointly filed tax return may be disclosed with Forms W-2 attached from both spouses. However, Forms W-2 from the Information Returns Processing (IRP) system may not be disclosed without authorization.

- (4) Disclosure under IRC 6103(c) is limited to the tax years identified in the request. A valid consent for disclosure must meet all requirements of 6103(c) and its regulation. The mere fact that a request for return information contains signatures of both spouses is insufficient to disclose one spouse's return information to the other beyond the tax year or years identified in the request. Unless a joint return is involved, employees must obtain an IRC 6103(c) consent prior to discussing or disclosing one spouse's individual return information to the other spouse. This consent can be oral consent as described in IRM 11.3.3.3.2, Requirements for Oral Authorization.

11.3.3.2.5
(09-18-2020)
**Disclosure to Other
Relatives**

- (1) For IRC 6103(c) consent purposes, generally relatives are third parties and the same rules apply to them as to any third party.
- (2) IRC 6103(c) and its regulation do not authorize implied consents. On occasion, taxpayers may bring relatives with them when meeting with the IRS. Their presence does not establish an implied consent by the taxpayer that can be

honored by IRS personnel. Employees should obtain an IRC 6103(c) consent prior to discussing confidential tax matters before these individuals, even when the taxpayer is present. This consent can be an oral consent as described in IRM 11.3.3.3.2, Requirements for Oral Authorization, below.

Note: For information on disclosures to certain family members, as an attorney-in-fact see IRM 11.3.2.4.13(8), Attorney-in-Fact .

11.3.3.2.6
(03-18-2008)
**Responses to
Congressional Inquiries**

- (1) Specific instructions for responding to Congressional inquiries are contained in IRM 11.3.4, Congressional Inquiries.

11.3.3.2.7
(09-18-2020)
**Disclosure to an
Attorney-in-Fact**

- (1) IRC 6103(e)(6) permits any person described in IRC 6103(e)(1) through (5) and (e)(8) and (9) to authorize, in writing, an attorney in fact to request and receive such information on his or her behalf.
- (2) An attorney-in-fact is a private attorney or other individual designated by another person pursuant to a written instrument to act on behalf of that person in the performance of any act or acts described in the written instrument.

Note: Form 2848, Power of Attorney and Declaration of Representative, is often used as the written instrument authorizing a designated individual to act on behalf of another person. However, other written instruments can be used to provide authority to the designated individual. The purpose of Form 2848 is not specifically to act as a consent form, but is used to authorize an individual to represent a taxpayer before the IRS. If the Form 2848 is not correctly completed it can not default to a consent form since it is not a separate written document pertaining solely to the authorized disclosure. See IRM 11.3.3.2.1 for information on the requirements for disclosures to a designee.

- (3) The written authorization from the person having a material interest under IRC 6103(e)(1) through (5), (8) or (9) should comply with the requirements for disclosure to attorney-in-fact designees. See IRM 11.3.2.4.13, Attorney-in Fact, for additional information.
- (4) Officials authorized in accordance with Delegation Order 11-2 (Rev.4) (see IRM 1.2.2.12.2 and Exhibit 1.2.2-2) must withhold return information requested by an attorney in fact to the extent disclosure would seriously impair federal tax administration.

11.3.3.2.8
(09-18-2020)
Return Preparers

- (1) Generally, return preparers are not entitled to receive returns or return information without written authorization from the taxpayer conforming to the requirements of IRC 6103(c) and 26 CFR 301.6103(c)-1, or pursuant to a power of attorney in conformance with Conference and Practice Requirements.
- (2) The fact that a taxpayer has employed a tax return preparer, who is aware of the information provided on the face of the prepared return, is not evidence of the taxpayer's intent that the preparer later have access to the return. In some instances, the return submitted to the IRS may vary from the one approved by the taxpayer.

- (3) When a taxpayer is under examination or investigation and a preparer has not signed the Paid Preparer line, the IRS can permit the alleged preparer of the return to inspect the document to verify a taxpayer's statement that another person completed his/her return as filed.
- (4) By selecting the checkbox on any Individual Master File (IMF) paper or e-filed Form 1040, or any Business Master File return, a taxpayer can designate a return preparer (or other third party) to obtain or discuss certain account-related information for that tax year. This Third Party Designee (Checkbox) Authorization allows discussion of any federal tax issue arising from the processing of the tax return within the life of the authorization and for disclosure of oral and written return information upon request.

11.3.3.3
(09-18-2020)
**Disclosure to Third
Parties Based Upon
Taxpayer Request for
Assistance**

- (1) IRC 6103(c) and 26 CFR 301.6103(c)-1 govern disclosure to designees based upon a request for information or assistance by a taxpayer when his/her tax matters are involved.
- (2) Taxpayers sometimes write to a member of Congress or other person, such as a friend or relative, with a tax question or problem they are having with the IRS. The member of Congress or other person generally forwards such letters to the IRS and requests that the IRS response be made directly to him/her. See IRM 11.3.4, Congressional Inquiries, for additional information on disclosures to Congress.
- (3) In this context, the taxpayer's letter is a tax information authorization provided it contains the following:
 - The taxpayer's identity: (name, address, TIN, or any combination thereof), that enables the IRS to clearly identify the taxpayer
 - The identity of the person to whom disclosure is to be made (any information that enables the IRS to clearly identify to whom disclosure is to be made will suffice)
 - Sufficient facts about the request for information or assistance to enable the IRS to determine the nature and extent of the information or assistance requested and the tax information to be disclosed and
 - The signature of the taxpayer and the date of the letter
- (4) In determining the authorized scope of the consent, use of such terms as "all years" or "all returns" or equivalent phrases will be acceptable in describing the returns involved. However, sufficient facts must be presented in the request so the IRS can comply with a specific request for information or assistance in a tax matter. By authorizing disclosure of "all years" or "all returns," the taxpayer has specified that all information is available to the designee. Coupled with the designee's explanation which supplies specificity as to the matter involved, authorization can be considered valid.
- (5) A third party inquiry which attaches a courtesy copy of a letter from a taxpayer to another will not be honored as a valid waiver of the taxpayer's confidentiality. An exception to this rule will be made when the taxpayer includes a signed addendum requesting the third party's assistance in the matter, and the letter otherwise meets the above requirements for a valid disclosure authorization under 26 CFR 301.6103(c)-1.

- (6) IRS currently uses embedded consents designed to resolve federal tax issues. Examples of forms where the consents are a part of the form itself include the checkbox on certain tax returns and Form 8655, Reporting Agent Authorization, for reporting agents.
- (7) Officials authorized in accordance with Delegation Order 11-2 (Rev. 4) (see IRM 1.2.2.12.2) must withhold requested return information to the extent disclosure would seriously impair federal tax administration.

11.3.3.3.1
(02-09-2022)
**Use of Interpreters in
Tax Administration**

- (1) Communication to resolve a federal tax matter with a taxpayer who is hearing impaired, deaf, hard of hearing or does not speak English may involve the use of an interpreter. IRS employees should accept a taxpayer's verbal consent to disclose tax information to an interpreter for help in resolving the federal tax matter. (see IRM 11.3.3.3.2, Requirements for Oral Authorization below and 26 CFR 301.6103(c)-1(c)(2) – Oral Consent regulations)
- (2) The taxpayer can verbally approve IRS disclosures to someone accompanying the taxpayer at in-person meetings with the IRS, or participating in a telephone conversation between the taxpayer and the IRS. The verbal consent must meet the requirements of 26 CFR 301.6103(c)-1(c)(2). The taxpayer's verbal consent must be documented. That documentation must include:
 - The fact consent was received (date, location, circumstances)
 - The scope of the consent (type of tax or tax matter, tax periods)
- (3) Interpreters in non-tax matters, including access to tax information for a non-tax purpose, such as needing a transcript to qualify for loans or other financial matters requires a written consent. Taxpayers can use Form 8821, (or an equivalent), to designate the interpreter as a person who can access confidential tax information for a non-tax purpose.

11.3.3.3.2
(02-09-2022)
**Requirements for Oral
Authorization**

- (1) Treasury Regulation 26 CFR 301.6103(c)-1, authorizes IRS employees to accept a taxpayer's verbal consent to disclose return information to parties assisting the taxpayer in resolving a federal tax matter as long as the IRS employee:
 - Obtained from the taxpayer sufficient information to determine the nature and extent of the assistance and the return or return information to be disclosed in order to comply with the taxpayer's request for assistance.
 - Confirmed the identity of both the taxpayer and the designee; and
 - Confirmed the date, nature and extent of the information or assistance requested.
- (2) The regulation also clarifies that the taxpayer can verbally approve disclosures of return information to a friend, relative, someone accompanying the taxpayer at in-person meetings with the IRS, or someone participating in a telephone conversation between the taxpayer and IRS. It is not necessary for the taxpayer to stay in the room or on the telephone after giving a verbal authorization to disclose his/her return information, nor does the designee have to be present or on the telephone when the taxpayer gives consent.

Note: A request for a copy of a tax return must be made in writing. An oral authorization can not be used to disclose a copy of a tax return.

- (3) Details of the oral consent should be recorded on a history sheet or history screen whenever possible. Remember that the IRS must take reasonable steps to confirm the identity of the taxpayer and the designee before disclosing any return information to the third party. The disclosure of return information must be limited to the information covered in the verbal consent and disclosure can only be made to third parties helping taxpayers resolve a federal tax matter. A written consent that meets all requirements of the regulation is still required when the issue is not tax related. Each operating and functional division is responsible for determining how it incorporates the verbal authorization regulation into its procedures. Verbal requests or consents for disclosure do not take the place of a Power of Attorney authorizing the third party to represent the taxpayer before the IRS. A proper Power of Attorney must be secured. Practice before the IRS is still governed by the regulations at 26 CFR 601.501 through 26 CFR 601.509 and *Treasury Department Circular No. 230*, Regulations Governing Practice before the Internal Revenue Service.

Example: For example, a taxpayer could call a Revenue Officer and request that the Revenue Officer call the taxpayer's Certified Public Accountant (CPA) to resolve a tax matter. In this case, the Revenue Officer should verify the taxpayer's identity and clarify exactly what would be discussed with the CPA (type of tax, tax year(s), etc.). The Revenue Officer may then call the CPA and discuss the tax matter after confirming the identity of the designee.

- (4) IRC 6103(c) and its regulation do not authorize or recognize implied consents. See IRM 11.3.3.2.5, Disclosure to Other Relatives for additional information on implied consents.

11.3.3.4 (09-18-2020)

Distinction Between Disclosure to Designees and the Conference and Practice Requirements

- (1) A taxpayer's designation of a third party (such as an accountant who is not acting as a taxpayer's representative) to request and receive returns and return information is sometimes confused with the Conference and Practice Requirements (26 CFR 601.501, et. seq.). *Treasury Department Circular No. 230*, and all Conference and Practice requirements are overseen by IRS's Office of Professional Responsibility (OPR).
- (2) Form 8821, Tax Information Authorization, permits a designated third party to receive returns and return information. It does not permit the third party to represent the taxpayer before the IRS. The third party cannot engage in activities specified in 26 CFR 601.501(b)(10) and (13).
- (3) Form 2848, Power of Attorney and Declaration of Representative, serves two functions. First, it authorizes a recognized representative to engage in activities as specified in 26 CFR 601.501(b)(10) and (13), meaning, practice before the IRS. Second, it permits the holder of the power or authorization to receive returns and return information.

Note: The purpose of Form 2848 is not specifically to act as a consent form, but is used to authorize an individual to represent a taxpayer before the IRS. If the Form 2848 is not correctly completed it can not default to a consent form since it is not a separate written document pertaining solely to the authorized disclosure. See IRM 11.3.3.2.1 for information on the requirements for disclosures to a designee.

Note: See Exhibit 11.3.3-1, Quick Guide to the Powers of Attorney and Tax Information Authorizations.

- (4) The 120 day requirement discussed above - see IRM 11.3.3.2.1(4) - does not apply with respect to disclosures to taxpayer's representatives if a valid power of attorney or tax information authorization is on file for a tax matter.
- (5) Non-IRS powers of attorney, such as general, limited, and durable powers of attorney are acceptable if the non-IRS power of attorney satisfies the requirements of 26 CFR 601.503(a) and the non-IRS power of attorney is accompanied by a Declaration of Representative that satisfies the requirements of CFR 601.502(b) and (c). In some instances, defects in a non-IRS power of attorney may be cured by a Form 2848 executed by the authorized party and submitted to the IRS with a copy of the non-IRS Power of Attorney.
- (6) A Power of Attorney or tax information authorization code on IDRS is not sufficient to disclose tax information to a third party requester. The Centralized Authorization File (CAF) system on IDRS should be reviewed to determine the extent of the authority of the third party requester to receive information.
- (7) The only requirement for execution of a Power of Attorney authorization for a corporation is that it must be executed by an officer of the corporation who has authority to bind the corporation and who certifies that he or she has such authority. (See IRM 11.3.2.4.3, Corporations) Thus, where any corporate officer signs a power of attorney in accordance with these requirements, the IRS may rely upon the corporate officer's certification that he/she has the authority to bind the corporation.

Example: A corporate officer authorized to legally bind the corporation includes, but is not limited to, the president or other chief executive officer of the corporation. The corporate officer can authenticate his or her standing with a written statement on corporate letterhead stationery, that he or she has authority to legally bind the corporation.

- (8) The declaration on Form 706, U.S. Estate Tax Return, when executed by an attorney, accountant or enrolled agent representing a person described in IRC 6103(e)(1)(E)(i), meets the "duly authorized in writing" requirement of IRC 6103(e)(6). A separately executed Form 2848 is not required in order to make disclosures to the attorney, accountant or enrolled agent representing the executor or administrator of the estate when the attorney, accountant or enrolled agent has executed the declaration on Form 706. The Form 706 designation does not give the person named the power to authorize disclosures to other third parties. It also only applies to the Form 706. It does not authorize the disclosure of the decedent's income tax returns. However, depending on the context of an inquiry, other IRC sections for disclosure may apply.
- (9) While the Conference and Practice Requirements, 26 CFR 601.501 - 601.509, do not address whether the IRS may recognize a Form 2848 executed by a minor, state law should be consulted to see whether a minor is capable of entering into an agency relationship. If so, then the IRS should recognize a power of attorney signed by a minor.

- (10) Additional information concerning powers of attorney and tax information authorizations can be found in IRM 21.3.7, Processing Third-Party Authorizations onto the Centralized Authorization File (CAF), and Publication 947, Practice Before the IRS and Power of Attorney.

Note: See IRM 11.3.3.2.1(5), regarding taxpayer contacts where the taxpayer has a duly authorized representative.

Note: See Exhibit 11.3.3-1, Quick Guide to the Powers of Attorney and Tax Information Authorizations, for examples of specific tasks authorized.

11.3.3.5
(09-18-2020)

**Nature of Tax
Information Disclosed
Under A Tax Information
Authorization**

- (1) IRS employees should review tax information authorizations very carefully to ensure that only information authorized to be disclosed is disclosed.
- (2) Sometimes it is difficult to determine what information may be released. For example, consider the situation in which a taxpayer provides a tax information authorization to his accountant with respect to one specific tax year. If a net operating loss form filed for that year results in refunds being issued for other years, information concerning these refunds may be disclosed to the holder of the tax information authorization. Even though the refund information is for other years, since the refunds are issued because of the net operating loss, the refund information is also tax information for the year of the tax information authorization.
- (3) The Specific Tax Matter item found in Column d of line 3 on the Form 8821, Tax Information Authorization, permits the taxpayer to limit disclosure to the matter specified on the Form. If there is nothing entered, then by construction the Form 8821 allows the disclosure of all (to the extent requested by the designee) confidential tax information for the tax/form/year(s) entered on line 3.
- (4) Under IRC 6103(c), if the designee has authorization to receive all tax information for a particular year, then non-filing information for the year in question is covered and income documents for that year (including an Information Returns Master File (IRMF) transcript) may be disclosed regardless of whether or not a return was filed.

Exhibit 11.3.3-1 (09-18-2020)

Quick Guide to the Powers of Attorney and Tax Information Authorizations

Task	Checkbox Designee –This permission can coexist with power of attorney and tax information authorization	Tax Information Authorization Designee –Form 8821 (or equivalent) or oral consent tax information authorization	Power of Attorney who is Non-Credentialed (Unenrolled) Tax Return Preparer –Form 2848 (or equivalent) <i>Note:</i> See Rev. Proc. 2014-42 and IRM 13.1.23.4.5, Unenrolled Return Preparers and Annual Filing Season Program Participants	Power of Attorney who is Attorney, CPA, Enrolled Agent, Enrolled Actuary, Enrolled Retirement Plan Agent, Full-Time Employee, Officer, Student Attorney/ Accountant, etc. - Form 2848 (or equivalent)
Be consulted in connection with the processing of tax returns and tax forms	Yes, but only in connection with the tax return or tax form on which the individual was designated and only during the time that the designation is effective (e.g., for Form 1040 series returns, 1 year from the date the tax return was due)	Yes	No, unless the unenrolled return preparer has a tax information authorization or checkbox designation in connection with the return or form that is being processed (see columns 1 and 2), or the processing issue arises during an examination of the tax period covered by the return prepared and signed by the unenrolled return preparer	Yes
Be advised of a Balance Due	Yes, but only through a return processing notice or if included in a transcript	Yes	Yes, but only in connection with the examination of a tax return prepared and signed by the unenrolled return preparer	Yes

Exhibit 11.3.3-1 (Cont. 1) (09-18-2020)

Quick Guide to the Powers of Attorney and Tax Information Authorizations

Task	Checkbox Designee –This permission can coexist with power of attorney and tax information authorization	Tax Information Authorization Designee –Form 8821 (or equivalent) or oral consent tax information authorization	Power of Attorney who is Non-Credentialed (Unenrolled) Tax Return Preparer –Form 2848 (or equivalent) <i>Note:</i> See Rev. Proc. 2014-42 and IRM 13.1.23.4.5, Unenrolled Return Preparers and Annual Filing Season Program Participants	Power of Attorney who is Attorney, CPA, Enrolled Agent, Enrolled Actuary, Enrolled Retirement Plan Agent, Full-Time Employee, Officer, Student Attorney/ Accountant, etc. - Form 2848 (or equivalent)
Represent the taxpayer before revenue agents, customer service representatives or similar officers and employees of the IRS during an examination of the taxpayer's liability for tax	No	No	<p>For non-AFSP unenrolled preparer: "No, except for a return prepared and signed by the unenrolled preparer that is under examination AND the return was filed before 12/31/2015.</p> <p>For AFSP: Yes, but only if the unenrolled preparer possesses a current AFSP record of completion for the calendar year in which the tax return was prepared and signed and a separate valid record of completion for the year or years in which the representation occurs</p>	Yes

Exhibit 11.3.3-1 (Cont. 2) (09-18-2020)

Quick Guide to the Powers of Attorney and Tax Information Authorizations

Task	Checkbox Designee –This permission can coexist with power of attorney and tax information authorization	Tax Information Authorization Designee –Form 8821 (or equivalent) or oral consent tax information authorization	Power of Attorney who is Non-Credentialed (Unenrolled) Tax Return Preparer –Form 2848 (or equivalent) <i>Note:</i> See Rev. Proc. 2014-42 and IRM 13.1.23.4.5, Unenrolled Return Preparers and Annual Filing Season Program Participants	Power of Attorney who is Attorney, CPA, Enrolled Agent, Enrolled Actuary, Enrolled Retirement Plan Agent, Full-Time Employee, Officer, Student Attorney/ Accountant, etc. - Form 2848 (or equivalent)
Represent the taxpayer before TAS personnel	No	No	For non-AFSP unenrolled preparer: "No, except for a return prepared and signed by the unenrolled preparer that is under examination AND the return was filed before 12/31/2015. For AFSP: Yes, but only if the unenrolled preparer possesses a current AFSP record of completion for the calendar year in which the tax return was prepared and signed and a separate valid record of completion for the year or years in which the representation occurs	Yes
Represent the taxpayer before Collection personnel	No	No	No	Yes

Exhibit 11.3.3-1 (Cont. 3) (09-18-2020)**Quick Guide to the Powers of Attorney and Tax Information Authorizations**

Task	Checkbox Designee –This permission can coexist with power of attorney and tax information authorization	Tax Information Authorization Designee –Form 8821 (or equivalent) or oral consent tax information authorization	Power of Attorney who is Non-Credentialed (Unenrolled) Tax Return Preparer –Form 2848 (or equivalent) <i>Note:</i> See Rev. Proc. 2014-42 and IRM 13.1.23.4.5, Unenrolled Return Preparers and Annual Filing Season Program Participants	Power of Attorney who is Attorney, CPA, Enrolled Agent, Enrolled Actuary, Enrolled Retirement Plan Agent, Full-Time Employee, Officer, Student Attorney/ Accountant, etc. - Form 2848 (or equivalent)
Represent the taxpayer before Appeals, Chief Counsel personnel or similar officers or employees of the IRS	No	No	No	Yes
Negotiate Deadlines	No	No	Yes, but only in connection with the examination of a tax return prepared and signed by the unenrolled return preparer	Yes
Negotiate a delay of action	No	No	Yes, but only in connection with the examination of a tax return prepared and signed by the unenrolled return preparer	Yes
Negotiate a payment	No	No	No	No

Exhibit 11.3.3-1 (Cont. 4) (09-18-2020)

Quick Guide to the Powers of Attorney and Tax Information Authorizations

Task	Checkbox Designee –This permission can coexist with power of attorney and tax information authorization	Tax Information Authorization Designee –Form 8821 (or equivalent) or oral consent tax information authorization	Power of Attorney who is Non-Credentialed (Unenrolled) Tax Return Preparer –Form 2848 (or equivalent) <i>Note:</i> See Rev. Proc. 2014-42 and IRM 13.1.23.4.5, Unenrolled Return Preparers and Annual Filing Season Program Participants	Power of Attorney who is Attorney, CPA, Enrolled Agent, Enrolled Actuary, Enrolled Retirement Plan Agent, Full-Time Employee, Officer, Student Attorney/ Accountant, etc. - Form 2848 (or equivalent)
Be advised of an Offer In Compromise (OIC) acceptance (or rejection)	No	Yes, if the original OIC determination letter has been sent to the taxpayer	No	Yes
Execute an OIC	No	No	No	Yes
Execute a payment agreement	No	No	No	Yes
Execute waivers of restrictions	No	No	No	Yes
Execute a statute extension	No	No	No	Yes
Execute a closing agreement	No	No	No	Yes
Receive or review transcripts	Yes, provided the checkbox authority has not expired	Yes	No, except in the context of an examination in connection with a tax return that the unenrolled return preparer prepared and signed	Yes

Exhibit 11.3.3-1 (Cont. 5) (09-18-2020)**Quick Guide to the Powers of Attorney and Tax Information Authorizations**

Task	Checkbox Designee –This permission can coexist with power of attorney and tax information authorization	Tax Information Authorization Designee –Form 8821 (or equivalent) or oral consent tax information authorization	Power of Attorney who is Non-Credentialed (Unenrolled) Tax Return Preparer –Form 2848 (or equivalent) <i>Note:</i> See Rev. Proc. 2014-42 and IRM 13.1.23.4.5, Unenrolled Return Preparers and Annual Filing Season Program Participants	Power of Attorney who is Attorney, CPA, Enrolled Agent, Enrolled Actuary, Enrolled Retirement Plan Agent, Full-Time Employee, Officer, Student Attorney/ Accountant, etc. - Form 2848 (or equivalent)
Receive information about taxpayer accounts	Yes, provided the checkbox authority has not expired	Yes	No, except in the context of an examination in connection with a tax return that the unenrolled tax return preparer prepared and signed	Yes
Be advised of conditions or status of existing payment agreement	No	Yes	No	Yes