



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

13.1.23

MAY 3, 2024

EFFECTIVE DATE

(05-03-2024)

PURPOSE

- (1) This transmits revised IRM 13.1.23, Taxpayer Advocate Case Procedures, Taxpayer Representation.

MATERIAL CHANGES

- (1) IRM 13.1.23.3 added a paragraph including guidance on disclosure in MFT 31 cases.
- (2) IRM 13.1.23.3 added a paragraph with guidance on third-party authentication based on published guidance in IRM 21.1.3.3, Third-Party (POA/TIA/F706) Authentication.
- (3) IRM 13.1.23.3.1.1 added a paragraph about the specific information that must be included in Forms 2848.
- (4) IRM 13.1.23.3.1.5 was added with guidance on third party preparers (including CPEOs and PEOs).
- (5) IRM 13.1.23.5 was modified to include a reference to IRM 13.1.24.6.4.5 for guidance on potential schemes involving representatives and incorporated IRM Procedural Update (IPU) 23U1065.
- (6) IRM 13.1.23.7 was added with guidance on TAS concerns about unauthorized representatives and incorporated guidance from *Guidance When Working a Case That May Involve an Unauthorized Representative*, Interim Guidance Memo (IGM) TAS-13-0823-0004, published August 18, 2023.
- (7) Exhibit 13.1.23-1 added information about the Form 706 and CPEOs and PEOs.
- (8) IRM 13.1.23 includes editorial and grammatical changes throughout this IRM.

EFFECT ON OTHER DOCUMENTS

This IRM supersedes IRM 13.1.23, Taxpayer Advocate Case Procedures, Taxpayer Representation, dated June 8, 2022. This IRM clarifies procedures when dealing with a taxpayer's representative or other authorized third party and supplements guidelines found in IRM 13.1.1.6.4.1, Disclosure and IRM 13.1.18.3.1, Disclosure Issues and Taxpayer Authentication. IRM Procedural Update (IPU) 23U1065 issued November 2, 2023, has been incorporated into this IRM.

AUDIENCE

Primarily Taxpayer Advocate Service employees.

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13.1.23

Taxpayer Representation

Table of Contents

13.1.23.1 Program Scope and Objectives

13.1.23.1.1 Background

13.1.23.1.2 Authority

13.1.23.1.3 Responsibilities

13.1.23.1.4 Programs Objectives and Review

13.1.23.1.5 Terms

13.1.23.1.5.1 Acronyms

13.1.23.1.6 Related Resources

13.1.23.2 Taxpayer's Right to Retain Representation

13.1.23.2.1 Practitioner Duties to Clients

13.1.23.2.2 Practitioner Duties to IRS/TAS

13.1.23.3 General Disclosure Rules

13.1.23.3.1 Third Party Authorizations

13.1.23.3.1.1 Authority Granted by Power of Attorney (Form 2848 and Other Comparable Documents)

13.1.23.3.1.2 Authority Granted by Tax Information Authorization (Form 8821)

13.1.23.3.1.3 Authority Granted by Oral Disclosure Consent

13.1.23.3.1.4 Third Party Designee

13.1.23.3.1.5 Other Authorizations (Including those of CPEOs and PEOs)

13.1.23.4 Practice Before the IRS/TAS

13.1.23.4.1 Attorneys and Certified Public Accountants (CPAs)

13.1.23.4.2 Enrolled Agents

13.1.23.4.3 Enrolled Actuaries

13.1.23.4.4 Enrolled Retirement Plan Agents (ERPAs)

13.1.23.4.5 Unenrolled Return Preparers and Annual Filing Season Program Participants

13.1.23.4.6 Student and Qualified Law Graduate Representation

13.1.23.4.7 Other Individuals Eligible for Limited Practice

13.1.23.4.8 Taxpayer's Fiduciary and Practice Before the IRS

13.1.23.4.9 Individuals Granted Special Appearance by Office of Professional Responsibility (OPR)

13.1.23.5 Taxpayer Complaints About Representatives

13.1.23.6 TAS Concerns About Representatives

13.1.23.7 TAS Concerns About Unauthorized Representatives

13.1.23.8 Power of Attorney Bypass

13.1.23.9 Direct Taxpayer Contact When Valid POA on File

13.1.23.10 Multiple Representatives

13.1.23.11 Terminating Third Party Authorizations

Exhibits

13.1.23-1 Types of Third Party Authorizations

13.1.23-2 Terms

13.1.23-3 Acronyms

13.1.23.1
(06-06-2019)
Program Scope and Objectives

- (1) **Purpose:** This section provides instructions and procedural guidance to Taxpayer Advocate Service (TAS) employees who are working TAS cases, as they work with taxpayer's representatives. It is also designed to encourage TAS employees to consider the issues from the taxpayer's perspective and act with empathy as they work to resolve the taxpayer's case.
- (2) **Audience:** These procedures apply to TAS employees dealing with taxpayers' representatives.
- (3) **Policy Owner:** The Executive Director Case Advocacy, Intake and Technical Support (EDCA-ITS), who reports to the Deputy National Taxpayer Advocate (DNTA).
- (4) **Program Owner:** The Director, Technical Analysis and Guidance (TAG), who reports to the EDCA-ITS.

13.1.23.1.1
(05-03-2024)
Background

- (1) Per Internal Revenue Code (IRC) 7803(a)(3), Internal Revenue Service (IRS) employees must be familiar with and act in accord with the Taxpayer Bill of Rights (TBOR), which includes the taxpayer's *Right to Retain Representation*.
- (2) Taxpayers have the right to retain an authorized representative of their choice to represent them before the IRS, in dealings with the IRS. A properly completed Form 2848, Power of Attorney and Declaration of Representative, is typically used by taxpayers to reflect their choice of authorized representative. Taxpayers have the right to seek assistance from a Low Income Taxpayer Clinic (LITC) if they cannot afford representation.
- (3) Taxpayers also have the right to execute other valid and commonly used forms of third-party authorizations by signing the required document or providing an oral statement. The taxpayer can grant specific authorities to a third party by using the required forms.

13.1.23.1.2
(05-03-2024)
Authority

- (1) Pursuant to IRC 7803(c), the Office of the Taxpayer Advocate (known as the Taxpayer Advocate Service (TAS)) assists taxpayers to resolve problems with the IRS.
- (2) 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*.
- (3) *31 USC 330*, Practice before the Department, provides the statutory basis for the regulation of representatives who practice before the Department of the Treasury which includes the IRS, which is an agency within the Department of the Treasury.
- (4) *Circular 230*, Regulations Governing Practice before the Internal Revenue Service, provides the overall authority for a tax professional's duties and obligations while representing taxpayers or otherwise practicing before the IRS. The Circular 230 regulations authorize specific sanctions for violations of any of the Circular's requirements and restrictions. It describes the procedures that apply to administrative disciplinary proceedings.

- (5) Rev. Proc. 2014-42 prescribes the standards of conduct, the scope of authority, and the conditions under which an individual preparer of tax returns may exercise, without enrollment, the privilege of limited practice as a taxpayer's representative before the IRS.
- (6) IRC 7521(b)(2) provides that if the taxpayer clearly states to an IRS employee, at any time during an interview, that the taxpayer wishes to consult with a person who is permitted to represent the person before the IRS, such employee shall suspend the interview. Such person includes an attorney, certified public accountant (CPA), enrolled agent, enrolled actuary, or any other person permitted to represent the taxpayer before the IRS.
- (7) IRC 7521(c) provides that anyone permitted to represent a taxpayer before the IRS who has a written Power of Attorney (POA) may be authorized to represent the taxpayer in the interview described in IRC 7521(a) and that the IRS employee may not require the taxpayer to accompany the representative to such interview in the absence of an administrative summons issued to the taxpayer. This section also discusses that the IRS employee, with the consent of their immediate supervisor, may alert the taxpayer to a representative's unreasonable delay or hindrance of an IRS examination or investigation.
- (8) IRC 6304(a)(2) provides that the Secretary may not communicate with any taxpayer in the matter of the collection of any unpaid tax if there is knowledge that the person has representation, unless the representative fails to respond within a reasonable amount of time or unless the representative agrees with such direct communication with the taxpayer.

13.1.23.1.3
(06-08-2022)
Responsibilities

- (1) TAS employees must respect, support, and vigorously protect taxpayers' fundamental *Right to Retain Representation*.
- (2) TAS managers are responsible for ensuring TAS employees within their purview are following the procedures contained in this IRM.
- (3) TAS managers are responsible for reporting any potential violations of the *Right to Retain Representation* to their immediate supervisor.

13.1.23.1.4
(06-06-2019)
Programs Objectives and Review

- (1) Reports to monitor the quality of TAS cases including the proper treatment of taxpayer representatives are derived from TAMIS and the TAS Case Quality Review System (CQRS).
 - The CQRS generates monthly, quarterly, and fiscal year cumulative reports as well as specific queries for data analysis.
 - TAS managers follow program review guidelines set forth in IRM 1.4.13.9, Managerial Reviews.

13.1.23.1.5
(06-06-2019)
Terms

- (1) Exhibit 13.1.23-2 contains a list of terms used throughout this IRM.

13.1.23.1.5.1
(06-06-2019)
Acronyms

- (1) Exhibit 13.1.23-3 contains a list of acronyms and their definitions used throughout this IRM.

13.1.23.1.6
(05-03-2024)

Related Resources

- (1) This is a list of relevant IRMs that TAS case advocacy employees will use in conjunction with this IRM:
- IRM 1.2.2.15.18, Delegation Order 25 -18 (Rev. 5)
 - IRM 1.25.1.2, Practice before the IRS Overview
 - IRM 4.11.55.2.2, Rules of Practice
 - IRM 10.5.4, Privacy and Information Protection, Incident Management Program
 - IRM 11.3.38.5.1, Reporting Non-willful Inadvertent Disclosures of Sensitive Information
 - IRM 13.1.2.5, Third Party Contacts
 - IRM 13.1.5.8.1, Standard Disclosure
 - IRM 13.1.5.8.3, Nonstandard Disclosure
 - IRM 13.1.8.4.2.2, Congressional Letter Writing
 - IRM 13.1.16.4.1, Disclosure
 - IRM 13.1.18.3.1, Disclosure Issues and Taxpayer Authentication
 - IRM 13.1.18.5 (7), Initial Actions
 - IRM 13.1.18.8.1, Reviewing and Requesting Information from Taxpayer
 - IRM 21.1.3.2, General Disclosure Guidelines
 - IRM 21.1.3.3, Third-Party (POA/TIA/F706) Authentication
 - IRM 21.1.3.3.1, Third-Party Designee Authentication
 - IRM 21.1.3.3.2, Oral Disclosure Consent/Oral TIA (Paperless F8821)
 - IRM 21.1.3.4, Other Third-Party Inquiries
 - IRM 21.3.7.10.2, Processing a Revocation/Withdrawal
 - IRM 25.24.1, Return Preparer Misconduct, Victim Assistance -General Overview

13.1.23.2
(05-03-2024)

Taxpayer's Right to Retain Representation

- (1) The Internal Revenue Code (IRC) provides taxpayers specific rights. The Taxpayer Bill of Rights (TBOR) groups these rights into ten fundamental rights. See IRC 7803(a)(3). One of those ten rights is the ***Right to Retain Representation***, which articulates the taxpayers's right to retain an authorized representative of their choice to represent them in their dealings with the IRS. In addition, taxpayers have the right to seek assistance from a Low Income Taxpayer Clinic (LITC) if they cannot afford representation and meet the eligibility requirements.
- (2) Congress has reinforced a taxpayer's *Right to Retain Representation* in several IRC provisions, including:
- IRC 6304(a)(2) (Providing that the Secretary may not communicate with any taxpayer in the matter of the collection of any unpaid tax if there is knowledge that the taxpayer has representation, or can readily ascertain such person's name and address, unless the representative fails to respond within a reasonable amount of time or unless the representative agrees with such direct communication with the taxpayer);
 - IRC 7430 (Allowing taxpayers to recover certain reasonable administrative and litigation costs, including fees for attorneys' services);
 - IRC 7521(b)(2) (Providing that if the taxpayer clearly states to an IRS employee, during the course of an interview, that they want to consult with an attorney, CPA, enrolled agent, enrolled actuary, or any other person permitted to represent the taxpayer before the IRS, the IRS employee must suspend the interview);
 - IRC 7526 (Authorizing grants for LITCs that represent low income taxpayers in controversies with the IRS); and

13.1 Taxpayer Advocate Case Procedures

- IRC 7811 (Defining “significant hardship” to include the significant costs associated with the fees for professional representation).

(3) TAS employees must respect, support, and vigorously protect this fundamental taxpayer right. Representation helps both taxpayers and the IRS resolve disputes. In addition, taxpayers’ representatives play an important role in obtaining fair and equal treatment of taxpayers and protecting their rights.

Note: If a manager believes that there has been a violation of the taxpayer’s *Right to Retain Representation*, such violation must be reported to their immediate supervisor.

(4) The following list includes various ways in which TAS employees can protect the *Right to Retain Representation*:

- Educate taxpayers about their right to retain representation;
- Recognize and distinguish among the various types of valid third party authorizations, including Form 2848, Power of Attorney and Declaration of Representative, Form 8821, Tax Information Authorization, oral disclosure consent, and third party designee. In addition, TAS employees must understand the scope of authority that the taxpayer authorizes. These third party authorizations are detailed in IRM 13.1.23.3, as well as IRM 11.3.3-1, Quick Guide to the Powers of Attorney and Tax Information Authorizations.
- Provide information to taxpayers about accessing LITCs, as detailed in IRS Publication 4134, Low Income Taxpayer Clinic List; and
- Only in rare circumstances, intervene in the taxpayer / representative relationship, as discussed in IRM 13.1.23.8, Power of Attorney Bypass.

13.1.23.2.1
(05-03-2024)

Practitioner Duties to Clients

(1) When interacting with representatives, TAS employees must be mindful that representatives have responsibilities to their clients. The IRS has established numerous duties for practitioners. Duties to clients are found in Subparts B and C of *Circular 230*, Regulations Governing Practice before the Internal Revenue Service and in IRM 4.11.55.2.2, Rules of Practice. See IRM 1.25.1-1, How to Make a Referral to the Office of Professional Responsibility, for the procedure to be used to make a referral as well as the standards to which practitioners are held.

(2) Duties of a practitioner include, but are not limited to:

- A practitioner who knows their 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 promptly advise the client of the noncompliance, error or omission, and the consequences of that noncompliance, error or omission. *Circular 230*, section 10.21.
- A practitioner must exercise due diligence in determining the correctness of oral or written representations made by the practitioner to clients with reference to any matter administered by the Department of the Treasury. *Circular 230*, section 10.22 (a)(3).
- A practitioner may not unreasonably delay the prompt disposition of any matter before the IRS. *Circular 230*, section 10.23.
- A practitioner must not charge unconscionable fees (*i.e.*, fees that are not reasonable in relation to the time and effort needed to perform the act). *Circular 230*, section 10.27.

- e. A practitioner must not engage in false advertising or use client funds in an improper manner or for an improper reason. *Circular 230*, sections 10.30 and 10.51(a)(8).
 - f. A practitioner, or any firm or other entity with whom the practitioner is associated, may not endorse or negotiate a taxpayer's refund check or receive a taxpayer's refund via direct deposit into an account owned or controlled by the practitioner or a firm or other entity associated with the practitioner. *Circular 230*, section 10.31.
 - g. A tax advisor should provide clients with the highest quality representation concerning federal tax issues by adhering to best practices in providing advice and in preparing or assisting in the preparation of a submission to the IRS. *Circular 230*, section 10.33.
 - h. A practitioner must possess the necessary competence to engage in practice before the IRS. Competent practice requires the appropriate level of knowledge, skill, thoroughness, and preparation necessary for the matter for which the practitioner is engaged. A practitioner may become competent for the matter for which the practitioner has been engaged through various methods, such as consulting with experts in the relevant area or studying the relevant law. *Circular 230*, section 10.35.
- (3) Depending on the type of practitioner, they may also be governed by other rules of professional conduct. For example, attorneys are bound by state bar professional rules of conduct and CPAs are bound by state licensing agency ethical rules.
 - (4) The Office of Professional Responsibility (OPR) administers and enforces the regulations governing practice before the IRS.
 - (5) OPR's responsibilities include making determinations on applications for special appearance authorizations, as detailed in IRM 13.1.23.4.9 (except for special appearance authorizations for students and qualified law graduates at LITCs and Student Tax Clinic Programs (STCPs) as detailed in IRM 13.1.23.4.6) and administering rules governing practitioner conduct and discipline.
 - (6) If a TAS employee has concerns about a representative's conduct, see IRM 13.1.23.6, TAS Concerns about Representatives. Further, a TAS employee can research the representative with the Office of Employee Protection (OEP) website to learn if the representative has been designated as a potentially dangerous taxpayer (PDT) or caution upon contact (CAU) taxpayer. The TAS employee must enter the representative's Centralized Authorization File (CAF) number into the CAF Number search field. If they've been designated as a PDT or CAU, their information will appear along with the criteria met and the reasons why they meet that criteria. If they haven't been designated, no results will appear. If the TAS employee is not authorized to use IDRS or unable to access the OEP site, the employee must send the representative's name, address, and CAF number to *PGLD OEP. An OEP specialist will complete the research to determine if there is a designation.
- (1) All individuals authorized to practice before the IRS must adhere to a professional code of conduct. See *Circular 230*, 31 C.F.R. Part 10; Publication 947, Practice Before the IRS and Power of Attorney, for a discussion of the rules governing practice by an authorized individual.

13.1.23.2.2
(05-03-2024)
**Practitioner Duties to
IRS/TAS**

- (2) A practitioner's duties to the IRS are found in Subparts B and C of *Circular 230, 31 C.F.R. Part 10*, Regulations Governing Practice before the Internal Revenue Service, section 10.51(a)(6). These duties include, but are not limited to:
- Providing information on request, *Circular 230*, section 10.20;
 - Exercising due diligence as to the accuracy of information provided, *Circular 230*, section 10.22;
 - Providing prompt disposition of pending matters, *Circular 230*, section 10.23;
 - Timely filing and paying taxes, *Circular 230*, section 10.51; and
 - Refraining from engaging in disreputable conduct, *Circular 230*, section 10.51.
- (3) A practitioner who does not comply with the rules of practice or engages in disreputable conduct is subject to disciplinary action. *Circular 230, 31 C.F.R. Part 10, Subpart C*.
- (4) If a TAS employee has concerns about a representative's conduct, see IRM 13.1.23.6, TAS Concerns about Representatives.

13.1.23.3
(05-03-2024)
**General Disclosure
Rules**

- (1) Taxpayers have the right to request assistance from a third party when dealing with tax matters and the IRS. The general rule of disclosure is that returns and return information cannot be disclosed by IRS employees except as authorized by IRC 6103 or by another provision of law. Also see IRM 21.1.3.2, General Disclosure Guidelines for additional information. Taxpayers may, however, authorize the IRS to disclose their returns and return information to a designated person or entity.
- (2) TAS employees should have a firm understanding of the rules and regulations governing representation before the IRS. TAS employees should ensure taxpayers know there is a difference between what constitutes practice before the IRS, as authorized by the Form 2848, and the exchange of information as permitted by Form 8821. *Circular 230*, contains the rules governing practice before the IRS. Similarly, taxpayers should be advised of the limits of oral disclosure consent.
- (3) IRC 6103(e)(8) provides for disclosures of return information for individuals who have filed jointly, regardless of whether they are no longer married or no longer reside in the same household. If a representative is not authorized for both spouses, extreme caution must be exercised when disclosing information. Information that shall be disclosed upon receipt of a proper request from a spouse who has been assessed the joint tax may include:
- whether the IRS has attempted to collect the deficiency from the other spouse;
 - the amount collected, if any, and the current collection status (**e.g.**, notice, Tax Delinquent Account (TDA), installment agreement, suspended); and
 - if suspended, the reason for suspension (**e.g.**, unable to locate, hardship).

Information which shall not be disclosed includes:

- The other spouse's location or telephone number; and/or

- The income level at which a currently not collectible account will be re-activated

Note: The request must be made in writing.

- (4) TAS employees must take all necessary safeguards to confirm that any person with whom they are dealing is properly authorized to receive the protected federal tax information. A TAS employee who makes a willful unauthorized disclosure may be subject to criminal penalties under IRC 7213 and IRC 7213A and may also be discharged from employment.
- (5) TAS employees who make an inadvertent disclosure of federal tax information to an unauthorized third party must notify their manager of the incident. See IRM 11.3.38.5.1, Reporting Non-willful Inadvertent Disclosures of Sensitive Information, for more information. In addition to the reporting requirement to the employee's manager, inadvertent unauthorized disclosures of sensitive but unclassified (SBU) data, including personally identifiable information (PII) and federal tax information (FTI), are reported to Privacy, Government Liaison and Disclosure/Incident Management (PGLD/IM) via the PII Breach Reporting Form. See IRM 10.5.4, Incident Management Program and the Data Protection page in the Disclosure and Privacy Knowledge Base Site at *Privacy, Governmental Liaison and Disclosure (PGLD) Incident Management Office (IM) Data Breach Process* for additional information and reporting procedures.
- (6) TAS follows the authentication rules established by the IRS in IRM 21.1.3.3, Third-Party (POA/TIA/F706) Authentication. The process involves asking the third party for personal information while on the phone. The following are some situations that may arise when asking for third-party authentication:
 - TAS is on the phone with the third party who cannot provide authentication. In this situation, TAS must not provide any information about the case to the third party and should instead contact the taxpayer (either via phone or letter) explaining that the third party could not provide sufficient information and thus TAS will work with the taxpayer until such information is provided. TAS should explain that the reason for the authentication is to prevent fraud. This contact with the taxpayer should be considered the initial contact as well. TAMIS must be documented with the fact that the third party could not authenticate.
 - TAS cannot reach the third party on the phone. In this situation, TAS should contact the third party with an initial contact letter. IRM 21.1.3.3 concerns telephone contacts with third parties and is guidance to ensure that the person on the phone is the third party authorized to receive taxpayer information. If TAS is not on the phone with the third party but is sending correspondence, TAS will use the address provided in the POA screen and verified through IRS research.

13.1.23.3.1
(05-03-2024)
**Third Party
Authorizations**

- (1) Taxpayers have the right to give the IRS authorization to discuss their tax matters with a third party. These authorizations may be in the form of a document signed by the taxpayer or through an oral statement designating the third party to exchange, receive, and inspect the taxpayer's returns and return information. The taxpayer may also grant third party individuals who are eligible to practice before the IRS the authority to perform, on behalf of the taxpayer, specified acts relating to specific tax matters for specified periods.

13.1 Taxpayer Advocate Case Procedures

Note: Third party authorizations differ from third party contacts under IRC 7602(c). See IRM 13.1.2.5.2, TAS Third Party Contact Notification.

(2) Types of third party disclosure authorizations are:

- a. Form 2848, Power of Attorney and Declaration of Representative: The taxpayer can appoint an individual authorized to practice before the IRS to represent them on any IRS-related matter by submitting a signed Form 2848. The appointment of a representative on a Form 2848 includes the taxpayer's authorization for the representative to receive and inspect the taxpayer's returns and return information for the matters specified on the form. See IRM 13.1.23.3.1.1.
- b. Form 8821, Tax Information Authorization: A taxpayer can authorize the IRS to disclose confidential tax information to a person or entity by submitting a signed Form 8821. See IRM 13.1.23.3.1.2.

Note: In 2021, as part of the implementation of the Taxpayer First Act, the IRS launched (via the Tax Pro Account portal), a tool that permits representatives to submit an online Power of Attorney or online Tax Information Authorization.

- c. Oral Disclosure Consent: A taxpayer may also authorize oral disclosure to a designated person by means of an "oral disclosure consent." A designated person may include an interpreter when language barriers exist for the purpose of facilitating the oral disclosure between the IRS and the taxpayer. See IRM 13.1.23.3.1.3.
- d. Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return.
- e. Third Party Designee: The taxpayer may designate a "third party designee" on the tax return by checking the box on the face of the Form 1040 and providing the name, phone number, and personal identification number (PIN) for a third party whom the IRS may contact to answer any questions that may arise during the processing of the taxpayer's return. This authority is described in detail in the Form 1040 Instructions. IRM 13.1.23.3.1.4.
- f. In congressional cases, a taxpayer's letter to a Member of Congress will authorize disclosure to the extent that it meets the criteria detailed in IRM 13.1.8.4.2.1, Disclosure Issues.

Note: All information concerning congressional cases and communicating with congressional offices can be found in IRM 13.1.8, Congressional Affairs Program.

Note: Documentation other than Form 2848 or Form 8821 may be accepted as long as it has the same information contained in those forms.

(3) All third party authorizations allow the third party to discuss the taxpayer's tax matters to some extent with TAS employees. Third party authorizations can be similar or different in these ways:

- a. The type of authority granted to the third party;
- b. Who can exercise the authority;
- c. How the authority is granted; and
- d. How the authority is terminated.

To help differentiate among the types of third party authorizations, see Exhibit 13.1.23-1, Types of Third Party Authorizations and IRM 11.3.3-1, Quick Guide to the Powers of Attorney and Tax Information Authorizations.

13.1.23.3.1.1

(05-03-2024)

**Authority Granted by
Power of Attorney (Form
2848 and Other
Comparable Documents)**

- (1) Form 2848, Power of Attorney and Declaration of Representative, allows the taxpayer to appoint an individual to act on the taxpayer's behalf. It also specifies that those acts will be binding on the taxpayer. The individual so authorized must be eligible to practice before the IRS with respect to the tax matter at issue. The appointed representative and the Form 2848 are both often referred to as a POA.
- (2) The IRS will accept a power of attorney other than Form 2848, such as a durable Power of Attorney, provided the document satisfies the requirements for a Power of Attorney pursuant to 26 C.F.R. 601.503(a). See Publication 216, Conference and Practice Requirements. The IRS will only record the named individual on the Centralized Authorization File (CAF) if a Form 2848 is attached. The taxpayer does not need to sign the attached Form 2848 if the taxpayer signed the document, but the representative must sign the Declaration of Representative on the attached Form 2848. See 26 CFR 601.503(b)(2). If a taxpayer and spouse (or former spouse) are submitting powers of attorney with respect to a joint tax return, they each must submit separate Forms 2848 even if they are authorizing the same representative to represent them in their dealings with TAS.
- (3) A valid Form 2848, as detailed in Publication 947, Practice Before the IRS and Power of Attorney, includes specificity regarding the tax periods involved, the type of tax and the federal tax form number. If the POA form is lacking complete information, TAS should reach out to the taxpayer about the deficiency and tell the taxpayer to contact the representative about correcting the form.
- (4) Types of Authorized Representatives: In order to be listed as a representative on a Form 2848, Power of Attorney and Declaration of Representative, an individual must be one of the below listed designations:
 - a. Attorney in good standing of the bar of the highest court of the jurisdiction listed.
 - b. CPA licensed to practice and active in the jurisdiction listed.
 - c. Enrolled Agent (EA): enrolled by the IRS per the requirements of *Circular 230*.
 - d. Officer of the taxpayer corporation or general partner of the partnership.
 - e. Full-time employee of the taxpayer.
 - f. Family member of the taxpayer: a member of the taxpayer's immediate family, including spouse, parent, child, grandparent, grandchild, stepparent, stepchild, brother, or sister.
 - g. Enrolled Actuary, enrolled by the Joint Board for the Enrollment of Actuaries (Limited practice before the IRS, as detailed by Circular 230, section 10.3(d)).
 - h. Unenrolled return preparer with an Annual Filing Season Program (AFSP) Record of Completion who prepared and signed the return or claim for refund and has a valid Preparer Tax Identification Number (PTIN) (Limited practice before the IRS). For returns prepared after December 31, 2015, only AFSP Record of Completion holders are permitted to engage in limited practice by representing the taxpayer before revenue agents, customer service representatives, and similar IRS employees, including

TAS, relating to an examination of a return of the taxpayer that the AFSP Record of Completion holder prepared. All other unenrolled return preparers are not authorized to practice before the IRS on matters related to returns prepared after December 31, 2015. See Rev. Proc. 2014-42. For returns prepared before 2016, unenrolled return preparers may engage in limited practice before the IRS if the preparer prepared and signed the tax return under examination and is not otherwise ineligible under Rev. Proc. 81-38 to practice before the IRS.

Note: An unenrolled return preparer can provide information to TAS on the taxpayer's behalf and can accompany the taxpayer to a meeting with TAS, but the unenrolled return preparer is not viewed as the taxpayer's representative except if the preparer meets the requirements for limited practice described above.

- i. Student or qualified law graduate who receives permission to represent taxpayers before the IRS by virtue of working in an LITC or STCP.
- j. Enrolled Retirement Plan Agent (ERPA) enrolled under the requirements of *Circular 230* (Limited practice before the IRS, as detailed in Circular 230, 10.3(e)).

Note: Individuals under suspension or disbarment from practice before the IRS, pursuant to *Circular 230*, 10.50, cannot be designated as a taxpayer's power of attorney.

- (5) The POA is authorized to perform the following specified acts with respect to tax matters described on Form 2848 (or a substitution of Form 2848) unless the act is practice before the IRS and such practice is limited pursuant to *Circular 230*, section 10.3, Rev. Proc. 81-38, or Rev. Proc. 2014-42, as applicable.
 - a. Represent the taxpayer at conferences, hearings or meetings with **all** IRS functions (including TAS);
 - b. Zealously advocate the taxpayer's position with regard to federal tax laws;
 - c. Debate facts and dispute the manner in which the IRS applies the law;
 - d. Sign IRS agreements, waivers, consents, or other documents (*e.g.*, agreements or waivers to an examination report, statute extension forms, etc.) on the taxpayer's behalf;
 - e. Prepare and file documents with the IRS on the taxpayer's behalf;
 - f. Receive documents from the IRS;
 - g. Correspond and communicate with the IRS regarding the taxpayer's rights, privileges, or liabilities; and
 - h. Inspect and receive confidential tax information for specified tax matters and tax periods.

Note: Special rules apply regarding the acts an unenrolled return preparer can perform on behalf of the taxpayer. See Publication 947 for details.

- (6) A POA may also be authorized to do the following, but only if these actions are specifically delegated to the POA on Form 2848, line 5a:
 - a. Substitute another representative or add additional representatives;
 - b. Sign returns under limited circumstances as specified in Treas. Reg. 1.6012-1(a)(5); and

- c. Execute a request to allow disclosure of return or return information to another third party.

Note: The taxpayer can also specify any other acts the POA may perform on their behalf with respect to tax matters listed on the Form 2848 (or a substitution of Form 2848) by adding the specific acts on line 5a of the form.

Note: While the taxpayer may specify other acts the POA may perform, the taxpayer may also specify acts that the taxpayer does not allow the representative to perform by describing such restrictions on line 5b of Form 2848. Review the Form 2848 carefully for any limitations, especially on the types of documents the representative can sign.

- (7) A POA is never allowed to endorse or negotiate a taxpayer's refund check or receive a taxpayer's refund via direct deposit into an account owned or controlled by the representative or a firm or entity associated with the representative. *Circular 230*, section 10.31.
- (8) A POA is not allowed to sign Form 907, Agreement to Extend the Time to Bring Suit, unless language is added to Form 2848 that would encompass such authorization. Rev. Rul. 76-60, 1876-1, C.B. 387.
- (9) The taxpayer has the *Right to Be Informed*. In general, TAS employees shall communicate, both orally and in writing, with the authorized representative when a Form 2848 is on file. All original correspondence must be sent to the authorized representative. In addition, a copy of the correspondence must be sent to the taxpayer, unless the taxpayer has clearly and explicitly directed TAS to only send correspondence to the representative. TAS will always communicate with both the taxpayer and the designated POA(s) with whom they are working as a courtesy to improve customer satisfaction. But see IRM 13.1.23.8, Power of Attorney Bypass, for the *extremely rare* circumstances where TAS employees can bypass representatives. See also IRM 13.1.23.9, Direct Taxpayer Contact When Valid POA on File, for situations when you may communicate with the taxpayer with the representative's permission.
- (10) If a taxpayer and spouse (or former spouse) are submitting powers of attorney with respect to a joint tax return, they must each submit a separate Form 2848 even if they are authorizing the same representative to represent them in their dealings with TAS.
- (11) There may be times when TAS employees will interact with a representative without needing a Form 2848. For example, suppose a representative contacts TAS on behalf of the taxpayer and wants TAS to open a case for the taxpayer. The representative faxes in documents to TAS but no case is open yet. A TAS employee can listen to what the representative has to say as part of the information gathering process to determine whether it is appropriate to open a case without needing a Form 2848. But the minute the representative tries to advocate on behalf of the taxpayer to convince TAS to take any action on the taxpayer's account, a Form 2848 is needed. Or to the extent a TAS employee would need to disclose the taxpayer's return information to the representative, a Form 2848 is needed.

13.1.23.3.1.2
(05-03-2024)

**Authority Granted by
Tax Information
Authorization (Form
8821)**

- (1) It is important to understand the difference between when a taxpayer designates a third party to request and receive returns and return information, and when a taxpayer designates a third party to act as the taxpayer's representative. Form 8821, Tax Information Authorization, allows the taxpayer to authorize any individual, corporation, firm, organization, or partnership designated by the taxpayer to inspect or receive confidential tax information from any IRS office (including TAS) for the type of tax, tax form(s), and tax periods listed on the Form 8821. The authorized individual or entity is referred to as the designee or appointee. The individual authorized to inspect and receive tax information is **not** designated to act as the taxpayer's representative.
- (2) The designee or appointee may:
 - a. Inspect and receive confidential tax information for specified tax matters and tax periods;
 - b. Receive copies of returns and notices and other communications from the IRS;
 - c. Receive verbal or written account information (*e.g.*, account transcripts) from IRS employees; and
 - d. Provide information to IRS employees.
- (3) The designee or appointee is not allowed to:
 - a. Represent the taxpayer at conferences, hearings or meetings with all IRS functions (including TAS);
 - b. Advocate the taxpayer's position with regard to federal tax laws;
 - c. Debate facts and dispute the manner in which the IRS applies the law;
 - d. Sign IRS agreements, waivers, consents, or other documents (*e.g.*, agreements or waivers to an examination report, statute extension forms, etc.) on the taxpayer's behalf;
 - e. Prepare and file documents with the IRS on the taxpayer's behalf;
 - f. Correspond and communicate with the IRS regarding the taxpayer's rights, privileges, or liabilities; or
 - g. Endorse or negotiate a taxpayer's refund check or receive a taxpayer's refund via direct deposit into an account owned or controlled by the designee or appointee.
- (4) In general, TAS employees shall communicate, both orally and in writing, with the taxpayer when a Form 8821 is on file. The designee under a Form 8821 is not a representative for purposes of dealing with TAS to resolve tax issues. The designee is entitled to receive a copy of the correspondence if the correspondence issued is covered by the Form 8821.
- (5) Because the designee covered by Form 8821 is not considered a representative, bypass procedures are not applicable.

13.1.23.3.1.3
(05-03-2024)

**Authority Granted by
Oral Disclosure Consent**

- (1) Treas. Reg. 301.6103(c)-1 authorizes IRS employees to accept a taxpayer's oral consent to disclose return information to parties assisting the taxpayer in resolving a federal tax matter. The regulation also clarifies that the taxpayer can orally 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. It is not necessary for the taxpayer to stay in the room or on the telephone after giving oral authorization to disclose

return information, nor does the designee have to be present or on the telephone when the taxpayer gives consent. An oral disclosure consent may arise when:

- A third party accompanies the taxpayer to a TAS meeting;
 - A conference call is held between the taxpayer, third party, and TAS employee; or
 - A taxpayer wants a third party to interpret, translate, or facilitate communication between TAS and the taxpayer.
- (2) An oral disclosure consent does not authorize a third party to represent the taxpayer before the IRS. If a taxpayer wants to appoint an individual to advocate on their behalf, the individual must be qualified to practice before the IRS and Form 2848, Power of Attorney and Declaration of Representative must be used to make the appointment.
- (3) If a taxpayer provides a TAS employee with an oral disclosure consent, confirm whether the taxpayer wants TAS to continue to communicate with the designated third party until the tax matter is resolved. Inform the taxpayer that all relevant tax return information may be disclosed to the authorized third party in order to resolve the tax issue.

Note: Even if the taxpayer indicates that they want TAS to continue to communicate with the designated third party, remember that the third party is not considered an authorized representative; accordingly, all written correspondence must be sent to the taxpayer, with a copy to the designated third party.

- (4) Bypass procedures are not applicable in designated third party situations.
- (5) Document the oral disclosure consent in TAMIS with the following information:
- The date of the oral disclosure consent;
 - The scope of the disclosure (*i.e.*, the specific tax issues);
 - Whether the taxpayer indicated that TAS should continue to communicate with the designated third party until the tax matter is resolved, as detailed above;
 - The first and last name of the designated third party;
 - The designated third party phone number; and
 - The master file tax (MFT) and tax period(s) authorized to disclose to the third party.

Note: Add a history item on IDRS as indicated in IRM 21.1.3.3.2(5), Oral Disclosure Consent/Oral TIA (Paperless F8821).

- (6) On occasion, taxpayers may bring other individuals with them when meeting with TAS. Their presence does not establish implied consent by the taxpayer that can be honored by TAS. TAS employees must obtain a written or oral consent prior to discussing confidential tax matters before these individuals, even when the taxpayer is present. TAS employees must document TAMIS with details regarding the written or oral consent.

13.1.23.3.1.4
(06-08-2022)

Third Party Designee

- (1) A taxpayer may authorize the IRS to discuss a particular return with a designated individual if the "Yes" box in the third party designee area of the tax return is checked and the required information is provided. Individual and business taxpayers can designate a third party designee. The purpose of the Third Party Designee Authorization is to make it easier for taxpayers to resolve tax return processing problems by giving the IRS permission to discuss return preparation, refund and payment issues with a paid preparer or other Third Party Designee.
- (2) As provided in the instructions to the returns in the Form 1040 series, this authorization allows the designee to:
 - a. Give the IRS information missing from that particular tax return;
 - b. Call the IRS for information about the processing of that particular taxpayer's return, including the status of a refund or payment;
 - c. Receive copies of notices or transcripts related to that particular tax return, upon request; or
 - d. Respond to IRS notices the taxpayer has shared with the designee relating to math errors, offsets, and return preparation of that particular tax return.
- (3) The authorization allows the IRS to call the designee to answer any questions that arise during the processing of that particular tax return; it does not give the designee the right to obtain information from the IRS in the context of an audit, collection or other compliance activity.
- (4) In general, TAS employees shall communicate, both orally and in writing, with the taxpayer in situations where there is a designee. The designee is not a representative for purposes of dealing with TAS to resolve tax issues. As stated above in (c), the designee is limited to receiving copies of notices or transcripts related to the particular tax return in issue. Bypass procedures are not relevant to designees.

Example: Taxpayer files the 2019 tax return timely and the IRS Affordable Care Act (ACA) Verification System (AVS) indicates that the taxpayer received Advance Premium Tax Credit (APTC) during 2019 but did not file Form 8962, Premium Tax Credit (PTC). The IRS issues Letter 12C, Individual Return Incomplete for Processing: Forms 1040, 1040A & 1040EZ, and holds the return in an Error Resolution/Rejected Returns unit pending a response. The third party designee named on the 2019 tax return can discuss the issues raised in the Letter 12C and provide any information necessary to resolve the matter. However, the designee does not have the authority to discuss the matter once the return is referred to Exam.

- (5) The designee cannot receive a taxpayer's refund check or have it direct deposited into their account, bind the taxpayer to an agreement, or represent the taxpayer before the IRS.
- (6) The authorization of a designee automatically expires one year after the due date (without regard to extensions) of the return in question.

Example: An individual checks the box to appoint a third party designee on the 2018 Form 1040 filed with an extension to October 15, 2019. The designation will expire on April 15, 2020, because the return was due on April 15, 2019, without regard to the extension.

13.1.23.3.1.5
(05-03-2024)

**Other Authorizations
(Including those of
CPEOs and PEOs)**

- (1) Many employers rely on the use of third-party preparers (TPPs) to assist them in their employment tax reporting and payment obligations. Some of these TPPs are payroll service providers, reporting agents, section 3504 agents, Certified Professional Employer Organizations (CPEOs), and Professional Employer Organizations (PEOs).
- (2) When an employer uses a PEO/CPEO to pay its employment taxes and satisfy its employment tax return filing obligations, the CPEO/PEO is the taxpayer before the IRS. The CPEO/PEO reports the wages, employment taxes, and credits on behalf of all its employer customers under its own employer identification number (EIN). Customers of the PEO/CPEO may have a tax liability or be owed a refund, but the CPEO/PEO will pay a liability or receive a refund based on the total aggregate tax liability reported for all of its customers.
- (3) A CPEO is required to attach a Schedule R, Allocation Schedule for Aggregate Form 941 Filers, to its return. The Schedule R allocates the aggregate wages reported and credits claimed, including COVID-19 credits, to each of its customers. In general, there is no requirement for a PEO to attach Schedule R (Form 941) to its aggregate Form 941. However, a PEO claiming the COVID-19 employment tax credits must attach Schedule R to its Form 941.
- (4) A CPEO uses Form 8973, Certified Professional Employer Organization/ Customer Reporting Agreement, to notify the IRS that a service contract between a CPEO and a particular customer has started or ended. The last page of Form 8973 is the CPEO Consent to Disclosure of Tax Information, which authorizes TAS to disclose the CPEO's return and return information to an employer who has used the CPEO; Case Advocates should review the form to ensure it includes the information of the customer TAS is working with, the correct tax year and type of tax. The disclosure may not include the status of the CPEO (for example, whether the CPEO is under audit). If properly covered by the disclosure, TAS can provide the CPEO's information concerning the status of the reporting and payment of the employment taxes on behalf of the customer. BMFOLE on the EIN of the taxpayer/customer will have a TC 971 AC 732 with MISC: XXXXXXXXXX where XXXXXXXXXX is the TIN of the CPEO and will indicate the taxpayer is a customer of the CPEO.
- (5) A PEO does not use Form 8973. If TAS is dealing with a customer of a non-certified PEO, TAS must ensure the PEO has authorized the IRS to disclose their return information to their customers. There will be no indication on the taxpayer's account that they are customer of a PEO. The typical authorization will be a Form 2848, Power of Attorney and Declaration of Representative.

Note: TAS may receive a case where the customer is working with a Congressional office. A CPEO/PEO's authorization to disclose their information to a customer does not cover the congressional office. So, TAS can only disclose the CPEO/PEO's information to the customer. For the congressional office to receive this information, they would have to get the CPEO/PEO to complete a separate authorization allowing them access to the tax records.

Caution: TAS must not open a TAS case or access IDRS based on the TIN or EIN of a CPEO/PEO unless the contact is from a duly authorized officer/ representative of the CPEO/PEO.

- (6) CPEO/PEO customers (and Congressional offices) may come to TAS for assistance with expediting a refund. They may be confused and frustrated when

they learn that TAS cannot directly assist them with the refund, because the refund was claimed on the aggregate return filed by the CPEO/PEO. TAS needs to fully explain the situation and be empathetic to the concerns and confusion expressed by the taxpayer.

Note: Be mindful of the disclosure limitations discussed above and remember to disclose only the information allowed to the taxpayer. For example, if research shows that the CPEO/PEO's refund has been processed, it might be tempting to disclose this to the taxpayer; however, only if there is authority to discuss the CPEO/PEO's return information with the taxpayer can the information be disclosed. If the taxpayer does not have the authority to receive the CPEO/PEO's return information, TAS may disclose nothing about the CPEO/PEO's return, including the status of the refund.

Example: A taxpayer comes to TAS for assistance in expediting their Employee Retention Credit (ERC) claim because they desperately need the funds. Research indicates that the taxpayer is a customer of a CPEO and that the CPEO's Form 941-X has not been processed by the IRS. The Case Advocate should explain to the taxpayer that the CPEO files an aggregate return under the CPEO's EIN for all of its customers and that the CPEO's return has a schedule that lists all of their customers, but each customer's return is not processed separately. If some are owed a refund and some owe taxes, the CPEO needs to settle up with each customer separately. In this case, the CPEO has authorized the taxpayer to receive their return information, but even with this authorization, because it is the CPEO's return that is not yet processed, the CPEO would need to set up a case with TAS in order to advocate to expedite the processing of the CPEO's return. Further, in many cases, the CPEO's return can be very complex and all the various return items from all its customers must be resolved before the aggregate refund can be issued to the CPEO. Finally, neither the IRS nor TAS was involved in the original contract between the CPEO and the taxpayer and how the CPEO distributes the refund to the taxpayer is between the CPEO and the taxpayer.

Example: A taxpayer comes to TAS for assistance in expediting their ERC claim because they desperately need the funds and has provided valid authorization. The taxpayer indicates that they are a customer of a PEO. If the customer is the one who advises they use a PEO, they can be given general information about discussing/working with the PEO directly or securing an authorization to allow discussion of authorized items. This should be done before accessing and providing any information from the PEO's account. No research should be done into the return filed by the PEO. Even fact-of-filing and starting to access the PEO's account to research the "941-X's" is considered return information and could lead to potential unauthorized disclosures if the authorization is not received first. The Case Advocate must explain to the taxpayer that the PEO files an aggregate return under the PEO's EIN for all of its customers and that the PEO's return has a schedule that lists all of their customers, but each customer's return is not processed separately. If some are owed a refund and some owe taxes, the PEO needs to settle up with each customer separately. In this case, before TAS can discuss any information about the PEO's return, the taxpayer needs to get a consent for disclosure of tax information from the PEO. Without such authorization,

TAS cannot share any of the PEO's return information with the taxpayer, including whether the return has been processed. Even if this authorization is obtained, the PEO would need to set up a case with TAS in order to advocate to expedite the processing of the PEO's return. Further, in many cases, the PEO's return can be very complex and all the various return items from all its customers must be resolved before the aggregate refund can be issued to the PEO. Finally, neither the IRS nor TAS was involved in the original contract between the PEO and the taxpayer and how the PEO distributes the refund to the taxpayer is between the PEO and the taxpayer.

13.1.23.4
(05-03-2024)
**Practice Before the
IRS/TAS**

- (1) Practice before the IRS encompasses all matters connected with presentation to the IRS or any of its personnel relating to a taxpayer's rights, privileges, or tax liabilities, including:
 - Corresponding and communicating with the IRS;
 - Representing the taxpayer at conferences, hearings, and meetings. 26 C.F.R. 601.501(b)(10);
 - Advocating for the taxpayer and disputing proposed adjustments;
 - Preparing and filing documents with the IRS on the behalf of the taxpayer; and
 - Rendering written advice with respect to any entity, transaction, plan or arrangement.
- (2) Circular 230, 31 C.F.R. Part 10 governs the rules on practicing before the IRS. See also Publication 947, Practice Before the IRS and Power of Attorney; Rev. Proc. 81-38 (Applicable to tax returns prepared on or before December 31, 2015); Rev. Proc. 2014-42; IRM 1.25.1.2, Practice before the IRS Overview.
- (3) Practice before the IRS (including TAS) does not include receiving information pursuant to a Form 8821 or providing information to the IRS to assist in processing the return as a Third Party Designee.
- (4) A completed Form 2848, Power of Attorney and Declaration of Representative, is typically required before the individual can practice before the IRS. See IRM 13.1.23.3.1.1 for more information about the authority granted by Form 2848.
- (5) A taxpayer can also grant authority for an individual to act on their behalf without Form 2848 by fulfilling the requirements set forth in 26 C.F.R. 601.503(a), as detailed in IRS Publication 216, Conference and Practice Requirements. However, for purposes of processing such documents onto the Centralized Authorization File (CAF), a completed Form 2848 must be attached. 26 C.F.R. 601.503(b).
- (6) An individual must be authorized to practice before the IRS. *Circular 230* provides the types of authorized representatives who can practice before the IRS. Note that some types of designations (such as unenrolled return preparers) have limitations on such practice. See IRM 13.1.23.3.1.

Note: For information on what to do if the authorization is submitted by a suspended, disbarred or ineligible third party, see IRM 21.3.7.9.2, Authorizations Submitted by Suspended, Disbarred or Ineligible Third Parties.

- (7) If a taxpayer has a Form 2848 on file and has checked the appropriate box requesting the representative receive copies of all notices and communica-

tions, the IRS must send a duplicate of all correspondence to such representative. TAS, however, will send the representative the original correspondence and send a copy to the taxpayer. If multiple listed representatives have checked boxes, the IRS will send duplicate notices to the first two recognized representatives listed with checked boxes, but TAS will send the original correspondence to the representative with whom the TAS employee has been working and will send a copy to the second recognized representative as well as the taxpayer. IRS Publication 216, Conference and Practice Requirements, 26 C.F.R. 601.506.

13.1.23.4.1
(05-03-2024)
**Attorneys and Certified
Public Accountants
(CPAs)**

- (1) An attorney is an individual who is a member in good standing of the bar of the highest court of any state, possession, or territory of the United States, including a Commonwealth, or the District of Columbia.
- (2) A CPA is an individual who is duly qualified to practice as a CPA in any state, possession, territory, commonwealth, or in the District of Columbia.
- (3) An attorney or CPA who is not currently under suspension or disbarment from practice before the IRS or their state licensing authority (or authorities), and who is appointed by the taxpayer, may represent the taxpayer before the IRS.
- (4) A taxpayer appoints an attorney or CPA to be a representative by using Form 2848, Power of Attorney and Declaration of Representative, or other valid Power of Attorney, indicating the type of tax, tax form(s), and relevant tax periods for which representation is authorized.

13.1.23.4.2
(05-03-2024)
Enrolled Agents

- (1) An enrolled agent is an individual allowed to practice before the IRS because they:
 - a. passed a requisite examination administered by the IRS to demonstrate competence in tax matters, or
 - b. are a former IRS employee with past service who meets the requirements defined in *Circular 230*, section 10.4(d).
- (2) An enrolled agent who is not currently under suspension or disbarment from practice before the IRS, has complied with the requirements for eligibility for renewal of enrollment (such as continuing professional education), and who is appointed by the taxpayer, may represent the taxpayer before the IRS.
- (3) To ensure that the enrolled agent may represent the taxpayer before the IRS, it is prudent to verify the agent's credentials on the IRS-maintained source for enrolled agents at *Active Enrolled Agents Listing*.. Document TAMIS history with the verification.
- (4) A taxpayer appoints an enrolled agent to be a representative by using Form 2848, Power of Attorney and Declaration of Representative, or other valid Power of Attorney, indicating the type of tax, tax form(s), and relevant tax periods for which representation is authorized.

13.1.23.4.3
(06-08-2022)
Enrolled Actuaries

- (1) An enrolled actuary is an individual who is enrolled as an actuary by the Joint Board for the Enrollment of Actuaries pursuant to 29 U.S.C. 1242.

- (2) An enrolled actuary who is not currently under suspension or disbarment from practice before the IRS and who is appointed by the taxpayer may represent the taxpayer before the IRS with regard to the employee compensation and benefits issues as listed in *Circular 230*, section 10.3(d)(2).
- (3) To ensure that the enrolled actuary may represent the taxpayer before the IRS, it is prudent to verify the actuary's credentials on the IRS-maintained source for enrolled actuaries at *Joint Board Roster*. Document TAMIS with verification of the credentials.
- (4) A taxpayer appoints an enrolled actuary to be a representative by using Form 2848, Power of Attorney and Declaration of Representative, or other valid Power of Attorney, indicating the type of tax, tax form(s), and relevant tax periods for which representation is authorized.

13.1.23.4.4
(05-03-2024)
Enrolled Retirement Plan Agents (ERPAs)

- (1) An ERPA is an individual allowed to practice before the IRS because they have passed a requisite examination administered by the IRS to demonstrate competence in qualified retirement plan matters.
- (2) An ERPA who is not currently under suspension or disbarment from practice before the IRS and who is appointed by the taxpayer, may represent the taxpayer before the IRS with regard to the qualified retirement plan matters as listed in *Circular 230*, section 10.3(e)(2).
- (3) To ensure that the enrolled retirement plan agent may represent the taxpayer before the IRS, it is prudent to verify the agent's credentials on the IRS-maintained source for enrolled agents at *Active ERPA Listing*. Document TAMIS history with the verification.
- (4) A taxpayer appoints an ERPA to be a representative by using Form 2848, Power of Attorney and Declaration of Representative, or other valid Power of Attorney, indicating the type of tax, tax form(s), and relevant tax periods for which representation is authorized.

Note: The IRS stopped offering the Enrolled Retirement Plan Agent Special Enrollment Examination (ERPA-SEE) on February 12, 2016.

13.1.23.4.5
(06-06-2019)
Unenrolled Return Preparers and Annual Filing Season Program Participants

- (1) An unenrolled return preparer is an individual other than an attorney, CPA, enrolled agent, enrolled actuary, or enrolled retirement plan agent, who prepares a taxpayer's tax return for compensation.
- (2) For returns prepared on or before December 31, 2015: unenrolled return preparers may engage in limited practice before the IRS, as detailed above. See Rev. Proc. 2014-42.
- (3) For returns prepared after December 31, 2015:
 - a. Only Annual Filing Season Program (AFSP) Record of Completion holders are permitted to engage in limited practice by representing the taxpayer before revenue agents, customer service representatives, and similar IRS employees, including the TAS. AFSP Record of Completion holder's practice before the IRS requires that the holder (i) have had a Record of Completion for the year in which the tax return was prepared and signed by the preparer and (ii) has a Record of Completion for each year in which the holder represents the taxpayer as to that return.

However, an unenrolled return preparer with a valid AFSP record of completion cannot represent taxpayers before appeals officers, settlement officers, revenue officers, counsel, or similar officers or employees of the IRS.

- b. All other unenrolled return preparers are not authorized to practice before the IRS on matters related to returns prepared, including seeking TAS assistance. See Rev. Proc. 2014-42.
- (4) To ensure that the unenrolled return preparer has a valid AFSP record of completion, it is prudent to verify the preparer's credentials on the IRS-maintained "Directory of Federal Tax Return Preparers with Credentials and Select Qualifications," available at <https://irs.treasury.gov/rpo/rpo.jsf>. Document TAMIS history with the verification.
- (5) Effective for tax returns prepared after December 31, 2010, all preparers, including unenrolled return preparers, must obtain a PTIN by applying through the IRS Tax Professional PTIN System. The preparer must renew the PTIN annually. Treas. Reg. 1.6109-2.
- (6) A taxpayer appoints an unenrolled return preparer to provide limited representation by using Form 2848, Power of Attorney and Declaration of Representative, or other valid Power of Attorney, indicating the type of tax, tax form(s), and relevant tax periods for which representation is authorized.

13.1.23.4.6
(05-03-2024)
**Student and Qualified
Law Graduate
Representation**

- (1) Accredited law, business and accounting schools may receive a grant from the IRS when they operate a clinic in which students represent low-income taxpayers in controversies with the IRS. See IRC 7526(b)(2)(A). Thus, it is important for TAS employees to understand the valuable role that students play in representing taxpayers and afford students the same respect and courteous service that TAS employees give to other representatives.
- (2) *Circular 230* section 10.7(d) permits the Commissioner, or their delegate, to authorize individuals otherwise ineligible to practice represent another person in a particular matter. Pursuant to Delegation Order 25 -18 (Rev. 5) and IRM 1.2.2.15.18, a taxpayer may authorize a student or qualified law graduate who works in a LITC or STCP to represent the taxpayer under a special appearance authorization issued by the Director of the LITC Program Office. The student or qualified law graduate must work under the direct supervision of an individual authorized to practice before the IRS.
- (3) The instructions to Form 2848, Power of Attorney and Declaration of Representative, require that such students and qualified law graduates attach a copy of the special appearance authorization letter when submitting a Form 2848.
- (4) Students and qualified law graduates who have been authorized to practice may, subject to any limitations set forth in the letter from the Director of the LITC Program Office, represent taxpayers before any IRS office and are eligible to perform any and all acts listed on a properly executed Form 2848.
- (5) The supervising or lead practitioner must be listed first as a representative on line 2, and the name of the student or qualified law graduate listed underneath on line 2.
- (6) The lead practitioner who is listed as a representative on line 2 may replace the student or qualified law graduate listed on the next line by submitting such

change in writing. A new Form 2848 must be submitted to reflect the name of the new student or qualified law graduate representative on line 2 following the lead practitioner.

- (7) A Form 2848 for a student or qualified law graduate is only valid for 130 days after the taxpayer signs it. When interacting with a student or qualified law graduate, TAS employees need to be sure the Form 2848 is still valid.

13.1.23.4.7
(05-03-2024)
**Other Individuals
Eligible for Limited
Practice**

- (1) Because of their special relationship with a taxpayer, the following individuals can represent the taxpayer before the IRS, provided they present satisfactory identification and proof of their authority to represent the taxpayer:
- a. Family member - immediate family - *e.g.*, spouse, child, parent, sibling;
 - b. Officer - bona fide officer of that corporation, association, governmental unit or organized group;
 - c. Partner – general partner of that partnership; or
 - d. Employee – a regular full-time employee of that business, association, governmental unit, or organized group.
- (2) A taxpayer appoints an individual to provide limited representation by using Form 2848, Power of Attorney and Declaration of Representative, or other valid Power of Attorney, indicating the type of tax, tax form(s), and relevant tax periods for which representation is authorized.

Note: See IRS Publication 947, *Practice Before the IRS and Power of Attorney, Circular 230*, section 10.7(c)(1) and IRS Publication 216 , *Conference and Practice Requirements*.

13.1.23.4.8
(05-03-2024)
**Taxpayer's Fiduciary
and Practice Before the
IRS**

- (1) A fiduciary (for example, a trustee, executor, administrator, receiver, personal representative, or guardian) is considered to be the taxpayer, and not a representative of the taxpayer.
- (2) A fiduciary is any person in a position of confidence acting on behalf of any other person. A fiduciary assumes the powers, rights, duties, and privileges of the person or entity on whose behalf they are acting. Examples of fiduciaries include administrators, conservators, designees, executors, guardians, receivers, trustees of a trust, trustees in bankruptcy, personal representatives, persons in possession of property of a decedent's estate, or debtors-in-possession of assets in any bankruptcy proceeding by order of the court. See *Instructions for Form 56, Notice Concerning Fiduciary Relationship*.
- (3) The fiduciary must submit Form 56, Notice Concerning Fiduciary Relationship, to the IRS. Form 56 is used to notify the IRS of the creation or termination of a fiduciary relationship.

13.1.23.4.9
(05-03-2024)
**Individuals Granted
Special Appearance by
Office of Professional
Responsibility (OPR)**

- (1) The OPR may authorize an individual, who is not otherwise eligible to practice before the IRS (*e.g.*, tribal court advocate), to represent another person for a particular matter. The prospective individual must request this authorization in writing from OPR. If OPR grants special appearance authorization, the individual must submit Form 2848, Power of Attorney and Declaration of Representative.

Note: Students and qualified law graduates at LITCs and STCPs receive their special appearance authorization from the Director of the LTC Program

Office, not OPR. See IRM 13.1.23.4.6, Student and Qualified Law Graduate Representation.

- (2) A taxpayer appoints an individual with a special appearance authorization to be a representative by using Form 2848, Power of Attorney and Declaration of Representative, or other valid Power of Attorney, indicating the type of tax, tax form(s), and relevant tax periods for which representation is authorized. A copy of the special appearance authorization letter must accompany the Form 2848.

13.1.23.5
(05-03-2024)

**Taxpayer Complaints
About Representatives**

- (1) If a taxpayer voices concerns about a representative's misconduct, provide the taxpayer information on how to report the representative. The procedures for filing the complaint differ depending on whether or not the representative's misconduct impacts the tax return or refund.

Conduct impacting the tax return or refund includes:

- Embezzling a refund,
- Altering tax return documents,
- Filing the return without the taxpayer's consent,
- Creating or changing income to generate a larger refund,
- Creating false exemptions, dependents, expenses, deductions, or credits to generate a larger refund, and
- Using an incorrect filing status to generate a larger refund.

Conduct not impacting the taxpayer's return or refund, includes:

- Failing to sign or enter the proper PTIN on the return,
 - Refusing to provide a copy of the return as filed,
 - Failing to timely return client records, and
 - Providing false credentials.
- (2) If the misconduct impacts the tax return or refund, direct the taxpayer to file Form 14157, Return Preparer Complaint and Form 14157-A, Tax Return Preparer Fraud or Misconduct Affidavit.
 - If the taxpayer received a related notice or letter from the IRS, the taxpayer must mail the forms, along with a copy of the notice and any supporting documentation to the address contained on the notice or letter.
 - If the taxpayer did not receive a related notice or letter, the taxpayer must mail the forms along with any supporting documentation to the address where the taxpayer would normally mail Form 1040.
 - (3) If the misconduct does not impact the return or refund, the taxpayer must send Form 14157 with any supporting documentation to the IRS Return Preparer Office (RPO) by fax or mail as directed on the form instructions.
 - (4) If the taxpayer does not want to make a referral but a TAS employee has sufficient information about the representative's violation(s) of Circular 230, a TAS employee must follow the nonstandard disclosure procedures in IRM 13.1.5, Taxpayer Advocate Service (TAS) Confidentiality, to make a referral to the OPR or RPO.

- (5) See IRM 13.1.24.6.4.5, Discuss the Research Results with the Taxpayer, when the TAS case involves a potential scheme. For more information, including indication of professional misconduct, see IRM 1.25.1.4, Referral to the Office of Professional Responsibility and IRM 1.25.1-1, How to Make a Referral to the Office of Professional Responsibility.

13.1.23.6
(05-03-2024)
**TAS Concerns About
Representatives**

- (1) Taxpayers have a right to retain representation. Before a TAS employee takes any action which could compromise the taxpayer's representation, extreme care and caution must be taken to protect this right. TAS employees are required to consider whether the representative's actions are merely aggressive, forceful, or zealous before beginning the process to make a referral or recommending discipline. Remember that annoying behavior by a representative is not grounds to make a referral.
- (2) Circular 230, section 10.53(a) provides that if a TAS employee has reason to believe that a practitioner has violated the rules of practice, the employee must make a written report to the appropriate IRS office (OPR or RPO). How a TAS employee complies with Circular 230, section 10.53(a) will depend upon whether the employee has consent of the taxpayer to make the report. If the taxpayer consents to revealing the representative's actions to OPR/RPO, the TAS employee will make a standard disclosure per IRM 13.1.5.8.1. If, however, the taxpayer does not consent to reporting the representative, the employee should discuss making a referral with their immediate manager and follow the nonstandard disclosure procedures in IRM 13.1.5.8.3.
- (3) To determine if a referral to RPO is appropriate, see IRM 13.1.23.5 above and the instructions to Form 14157, Return Preparer Complaint.
- (4) A referral to OPR should only be considered if the representative is a practitioner governed by the rules of *Circular 230*, Regulations Governing Practice before the Internal Revenue Service, as provided in 31 C.F.R. section 10.3. Furthermore, the suspected misconduct must be a violation of the rules set forth in Subpart B of Circular 230 or a violation of Circular 230, section 10.51.
- Referrals can be made to OPR on Form 8484, Suspected Practitioner Misconduct Report for the Office of Professional Responsibility. See Exhibit in IRM 1.25.1-1, How to Make a Referral to the Office of Professional Responsibility.
 - LITCs are funded in part by Congress and grants are administered by TAS. The LITC Program Office holds the clinics to certain operational standards and is responsible for ensuring those standards are met (see Publication 3319 for information on LITC standards). If a TAS employee believes an attorney, CPA, or EA, or student or qualified law graduate practicing under the supervision of an LITC practitioner has violated any provisions of *Circular 230* in their representation of a taxpayer, that TAS employee must contact their Local Taxpayer Advocate (LTA), who must discuss the alleged misconduct with the representative. If such discussions do not resolve the matter, the LTA must seek approval from the LITC Program Office Director to make a referral.

13.1.23.7
(05-03-2024)

**TAS Concerns About
Unauthorized
Representatives**

- (1) Unfortunately, there are times when TAS employees have doubts about the legitimacy of the Form 2848 authorizing TAS to work with the representative. Each situation will be a bit different, and the tactics may change and evolve over time. Case Advocates must use common sense and good judgment when working these cases. It is important to communicate any changes or patterns observed in these cases with management for a possible referral to Criminal Investigation for further review of any potential scheme. In accordance with IRM 13.1.5.12, Disclosure Regarding Practitioner or Preparer Misconduct, a referral to the OPR or the RPO may be appropriate. Be sure to submit new issues on SAMS.
- (2) TAS employees must take the following steps when working a case where there is a reasonable suspicion of an unauthorized representative with no indicators on the Centralized Authorization File. The steps are designed to prevent unauthorized disclosure of taxpayer information. It is important that TAS employees take these steps ***only when there is a reasonable suspicion of an unauthorized representative***, and not simply when there is a representative who is difficult to contact or has been difficult to work with in the past.
 - a. TAS employees must elevate their concerns to their LTA.
 - b. If the LTA agrees with the employee's concerns, the LTA will elevate the concerns to the Deputy Executive Director Case Advocacy (Deputy).
 - c. If the Deputy agrees with the concerns, the Deputy will grant the employee and LTA approval to deal directly with the taxpayer on the case, not the representative. The discussions and approval must be documented in TAMIS. Deputies needing assistance with making this determination can discuss the issue with the Attorney Advisor Group or with ITAP.
 - d. Once the Deputy has provided approval to communicate directly with the taxpayer, TAS employees must discuss the authorization submitted to TAS with the taxpayer and get confirmation or denial of these suspicions. This discussion must be documented in TAMIS. Do not inform the taxpayer of any plans to involve CI or make a referral to OPR or RPO.

IF	THEN
<p>If the suspicions are confirmed by the taxpayer (<i>e.g.</i>, the taxpayer does not know the alleged representative, or the taxpayer did not sign the Form 2848 or other form of authorization)</p>	<ul style="list-style-type: none"> • Continue advocacy efforts in the case, dealing directly with the taxpayer. <ul style="list-style-type: none"> • If the taxpayer asks about the actions that can be taken against the representative, refocus the conversation by directing the taxpayer to complete the Form 14157, Return Preparer Complaint or Form 14157-A, Tax Return Preparer Fraud or Misconduct Affidavit, if appropriate (discussed below) and tell the taxpayer that the IRS will review the information and take appropriate action. • If the representative contacts TAS, keep the conversation general by telling the representative that the taxpayer has communicated to TAS that they want to work directly with TAS. Do not disclose any further information to the representative. • See IRM 13.1.10.9, Inquiries on Open Cases with Criminal Investigation Involvement, for cases with Criminal Investigation Involvement. • Express empathy for a taxpayer in this situation. • If TAS is assisting a taxpayer determined to be a victim of Return Preparer Misconduct, educate the taxpayer on the proper steps to report the preparer. Taxpayers who were unaware that a credit, deduction, or tax position was claimed on their return submitted by a preparer or whose refund was diverted to an account under a preparer's control without their knowledge should file Form 14157, Return Preparer Complaint or Form 14157-A, Tax Return Preparer Fraud or Misconduct Affidavit, to report the preparer. In addition to filing these forms, the taxpayer will need to file an accurate original return and include the required supporting documentation listed in the instructions for the Form 14157-A. Taking these steps helps prevent the taxpayer's refund from being released to the preparer, since procedures for processing claims determined to meet RPM criteria include instructions to input a TC 971 Action Code 850, preventing the direct deposit of the refund. Refer to IRM 25.24.2.13.1, Preliminary Account Inputs and Reminders. • Follow the procedures outlined in IRM.13.1.23.6, Taxpayer Complaints about Representatives as appropriate. • In the TAMIS History Screen add the literal **YBPAS** which will allow TAS to track those cases where the unauthorized representative was bypassed.

If the suspicions are denied and the taxpayer confirms that the representative was duly authorized to represent them

Document in the TAMIS History Screen that such representative was validated by the taxpayer and add the literal ****NBPAS****. This will allow TAS to track those cases where a questionable representative was validated as authorized by the taxpayer. Begin working directly with the representative, remembering to send a copy of all written communications to the taxpayer pursuant to IRM 13.1.23.3.1.1, Authority Granted by Power of Attorney (Form 2848 and Other Comparable Documents).

- (3) Examples of indicators of potentially unauthorized representatives include (but are not limited to):
- Multiple authorization forms submitted for different taxpayers where the taxpayer's signature(s) are written in a similar style giving the appearance that the taxpayer signatures on the different forms may have been signed by the same individual;
 - The authorization form shows the taxpayer's address is the same as the representative's address;
 - Forms 911 show that the taxpayer's address and/or telephone number is the same as the representative's address and/or telephone number, or have similar information (*e.g.*, twelve hardship situations all stating that the taxpayer is four months behind on rent and is facing eviction);
 - The copy of the return shows the representative signed as the preparer, with the representative's address for the taxpayer; or
 - The representative has had the taxpayer's address updated to reflect the representative's current mailing address.

13.1.23.8
(05-03-2024)
**Power of Attorney
Bypass**

- (1) Taxpayers have a right to retain representation. TAS employees are required to protect this fundamental taxpayer right. Before any TAS employee bypasses a taxpayer's representative (also referred to as power of attorney or POA), careful consideration must be given to whether the representative's behavior rises to the level necessitating a bypass, as detailed below, and is not merely annoying, aggressive, or zealous representation. It is also possible that TAS's actions have caused or contributed to the problem. As detailed below, TAS employees can only bypass a POA after completing the procedures detailed below, which include final approval from the appropriate Deputy.
- (2) IRC 7521(c) allows an IRS employee to contact a represented taxpayer directly (*i.e.*, bypass the power of attorney). *Circular 230*, section 10.23 provides that a practitioner may not unreasonably delay the prompt disposition of any matter before the IRS and section 10.20(a)(1) provides that a practitioner must promptly submit records or information responsive to an IRS employee's request unless the practitioner has a good faith, reasonable belief that the records or information are privileged.
- (3) Where a representative has unreasonably delayed or hindered an examination, collection, or investigation by failing to furnish, after repeated requests, information necessary for TAS to assist the taxpayer, the TAS employee must evaluate whether a POA bypass would be in the best interest of the taxpayer. Due consideration must be given to the harm imposed on the taxpayer as a

result of such delay and whether TAS contributed to such delay. The taxpayer's right to retain representation must be respected if at all possible. Thus, a POA bypass should be rare.

- (4) Managerial approval is crucial in bypass procedures. If a TAS employee suspects an unreasonable delay by a representative, the employee must discuss the possibility of a POA bypass with an immediate supervisor, who must review the issue and attempt to resolve the problem by discussing the problem with the POA. The manager must also determine whether TAS's actions caused or contributed to the delay. Final approval for bypass is required from the appropriate Deputy. Both the actions of the LTA and Deputy must be documented in TAMIS.
- (5) If a TAS employee believes the POA's unreasonable delay or hindrance is causing undue taxpayer burden or harm, bypass procedures should be considered to initiate direct contact with a taxpayer rather than simply closing the case as a "no response" pursuant to IRM 13.1.18.8.1, Reviewing and Requesting Information from Taxpayers.

Example: A taxpayer's POA contacted TAS for assistance in obtaining a Certificate of Discharge for the taxpayer. The taxpayer has a closing date set for June 24, 2021, and normal processing time for a Certificate of Discharge is 45 days. The TAS employee provided the POA with a list of required items needed for the discharge application on May 3, 2021. The POA provided some of the required documents but did not provide a copy of the appraisal or an Application for Certificate of Discharge of Property from Federal Tax Lien. It is now May 24, 2021, and the POA has not responded to repeated calls or the Letter 1671, *Second Request*, sent from the TAS employee requesting the documents necessary to complete the application package. The taxpayer is moving to another state for a new job and cannot postpone the closing. The TAS employee should discuss with the TAS manager whether to consider bypassing the POA. If the manager reviews the matter, makes reasonable attempts to contact the POA with no resolution, and the LTA and Deputy approve the POA bypass, after sufficiently documenting the case file and TAMIS, the TAS employee can contact the taxpayer directly so the taxpayer can provide the necessary documents. If there is further delay or the case is closed as "no response," the taxpayer could be irreparably harmed.

Example: A corporation's POA contacted TAS requesting assistance in obtaining a release of levy against the corporate account. If the levy is not released, payroll checks issued to over 200 employees will not clear the bank. The Revenue Officer handling the case told the TAS employee they would grant an installment agreement and release the levy if the POA would provide a collection information statement to support entering into an installment agreement. The POA has not responded to calls and correspondence sent by the TAS employee requesting this information. The bank will be sending the funds to the IRS in seven days. The TAS employee should discuss with the TAS manager whether to consider bypassing the POA to contact the Corporate Officer directly for the financial information to support an installment agreement. Such bypass will prevent adverse impact to the over 200 employees. However, the TAS employee cannot make direct contact until the LTA and Deputy approve the bypass.

- (6) If the POA delays or refuses to provide the information requested after repeated attempts, document TAMIS with the circumstances regarding the delay, secure the manager's approval and LTA's signature for the Bypass POA Warning Letter. The warning letter advises the POA of their responsibilities under sections 10.20 and 10.23 of *Circular 230*, (31 C.F.R., Subtitle A, Part 10). The warning letter must explain the consequences of continued failure to cooperate. The warning letter must be issued directly to the POA. Although the warning letter does not provide sufficient space for an explanation of why a bypass is necessary and in the best interest of the taxpayer, TAS should attempt to either add to the warning letter or attach an addendum providing a detailed explanation of the basis for the bypass. See TAS website for the Bypass POA Warning Letter.

Caution: The taxpayer must not be sent a copy of the warning letter!

- (7) If the POA continues to delay or refuses to provide the information requested after repeated attempts and the issuance of the Bypass POA Warning Letter, prepare a Bypass POA Letter for the LTA's signature. The decision to bypass resides with the LTA and is approved by the appropriate Deputy. In taking such an action, the following items must be completed:
- Document TAMIS history with the efforts made by the TAS employee to obtain the information and the actions (or lack thereof) of the POA. All appointments and document requests must be confirmed in writing if uncooperative behavior is suspected. All copies of TAS and OD/Function document requests sent to the POA must be in the TAS case file to support the recommendation of a bypass procedure;
 - Request approval from the LTA to bypass the POA; and
 - If the LTA and Deputy approve bypass procedures, prepare the Bypass POA Letter for the LTA's signature. The letter should outline all of the facts and circumstances which constitute the basis for the bypass letter. Send the bypass letter to the POA with a copy to the taxpayer. See TAS website for the *Bypass POA Letter*.

Note: The TAS employee may not circumvent the POA until the LTA approves the bypass by signing and issuing the Bypass POA Letter.

- (8) The bypass procedures permit the TAS employee to contact the taxpayer directly after the Bypass POA letter has been issued. The representative continues to represent the taxpayer and will continue to receive copies of all correspondence.

Example: An enrolled agent (EA) who represents a taxpayer requests TAS assistance in getting an Offer in Compromise (OIC) processed for their client. The EA states the Revenue Officer (RO) insists the taxpayer can pay in full and will not discuss an OIC. The TAS employee requests a Collection Information Statement (CIS) and a copy of the taxpayer's proposed OIC. The EA agent does not submit the financial statement by the agreed date. They do not return multiple phone calls until the TAS employee issues a second request for information, Letter 1671, Taxpayer Advocate Service Second Request for Information. The EA then calls the TAS employee and requests an appointment to discuss the financial statement and OIC. The TAS employee schedules an appointment and advises the EA what they should bring to the meeting. The EA does not show up for the appointment and does not submit the financial

statement. The RO issues a Section 6320 notice Letter 3172, Notice of Federal Tax Lien Filing and Your Rights to a Hearing under IRC 6320. At this point, the TAS employee must not close the TAS case as “no response.” If the taxpayer or EA does not respond to this Section 6320 notice, Collection Due Process (CDP) hearing rights will be lost. This could affect the taxpayer’s business and their ability to provide for their family. The TAS employee should consider bypass procedures and discuss the case with a TAS manager.

13.1.23.9
(05-03-2024)
**Direct Taxpayer Contact
When Valid POA on File**

- (1) In general, TAS employees are required to work with the representative if the taxpayer has a valid Form 2848 on file. Check CAF File Identification Number Query (CFINK) for authorizations.
- (2) Taxpayers with POAs on file may contact TAS and request the TAS employee work with them directly instead of working with the authorized representative.
 - If a TAS employee is on the phone with a taxpayer, the TAS employee is required to advise the taxpayer of the requirement to communicate directly with the authorized representative unless the taxpayer revokes the POA or the representative withdraws.
 - Because the taxpayer has a representative, the TAS employee must refrain from a discussion of the case with the taxpayer. Redirecting the taxpayer to speak to their representative reduces confusion by ensuring that the taxpayer receives updates from one source and protects their right to retain representation.
 - **TAS must notify the POA about the taxpayer-initiated contact unless the taxpayer revokes the POA following the instructions found at *Power of Attorney/Third Party Authorization* toolkit under the **IRM Supplements** tab on SERP.** It is vitally important that the POA knows the taxpayer has spoken to TAS directly. Taxpayers may not understand the law and the consequences of taking certain actions and may react due to fear of enforcement actions.

Note: Under IRC 6103(e)(1)(A)(i), an individual taxpayer can receive account information about their own account even when there is a POA on file.

EXAMPLE 1: A taxpayer calls the case advocate (CA) assigned to their case regarding the return of levy proceeds to discuss what actions TAS is performing on the case. The CA will explain to the taxpayer that TAS is required to communicate directly with the taxpayer’s authorized representative unless the taxpayer revokes the POA. The CA will redirect the taxpayer to speak with their authorized representative and, after the call has concluded, the CA will contact the authorized representative to inform them of the call with the taxpayer.

EXAMPLE 2: A taxpayer calls the CA assigned to their case regarding the return of levy proceeds. The taxpayer asks the CA for their current balance due. The CA can provide the taxpayer with this account information, pursuant to IRC 6103(e)(1)(A)(i). However, if the taxpayer has additional questions about the status of the case with TAS, the CA will explain to the taxpayer to speak with their authorized representative unless the taxpayer revokes the POA. When the call has concluded, the CA would contact the authorized representative to inform them of the call with the taxpayer.

- If the taxpayer has contacted TAS and the TAS employee has not been able to reach the taxpayer by phone to explain TAS's obligation to work with the POA, the TAS employee will send a letter to the taxpayer. The letter must explain the taxpayer's right to restrict the representative's authority so that TAS can work directly with the taxpayer. The letter should encourage the taxpayer to contact the POA. The letter must **not** encourage the taxpayer to revoke the representative's authority or request the representative to withdraw, but the letter can explain the taxpayer's rights regarding representation. The TAS employee must send a copy of the letter to the POA if the box on Line 2 of Form 2848 has been checked, indicating the taxpayer wants copies of correspondence sent to the POA. See the TAS website for the letter, Taxpayer Direct Contact to TAS When POA on File.

Note: If the taxpayer has multiple representatives, see IRM 13.1.23.10, Multiple Representatives. Send the correspondence only to the designated POAs listed on Line 2 of Form 2848 with the box checked indicating the taxpayer wants the POA to receive copies of written communications.

- (3) It is not acceptable if a representative submits a new first page of Form 2848 and simply attaches a photocopy of page two from the original Form 2848 that has the taxpayer's signature.
- (4) A taxpayer may restrict the representative's authority at any time. The instructions for Lines 5 and 6 of Form 2848 provide procedures for those restrictions. If a Form 2848 has already been filed with the IRS, the taxpayer must file a new Form 2848 listing the restrictions.

There may be situations where it is appropriate to obtain the representative's permission for TAS to communicate directly with the taxpayer about a specific matter. TAS employees can arrange to have the taxpayer and the representative on the phone together and obtain the representative's consent for TAS to contact the taxpayer directly. The details and the scope of the consent must be documented on TAMIS. TAS employees will request the representative confirm the permission in writing, or the TAS employee will follow-up with a letter to the representative summarizing the conversation and agreement. A copy of the letter to the representative must be included in the case file and the TAMIS history must be documented.

- (5) For information regarding Powers of Attorney (including information on re-searching CFINK, explanation of the CFINK codes, how a taxpayer can revoke a power of attorney, etc.), see the *Power of Attorney / Third Party Authorizations toolkit* under the *IRM Supplements tab on SERP*. Refer to Publication 947, Practice Before the IRS and Power of Attorney for additional information.

13.1.23.10
(06-06-2019)
Multiple Representatives

- (1) It is common practice for accounting and law firms to list the primary representative first on a Form 2848. Additional staff members may be listed as backup to the primary representative. In addition, LITCs or STCPs often will list two or more individuals on Form 2848. TAS employees only need to contact one of the listed POAs in order to meet the requirement for contacting the taxpayer's representative.

- (2) If the taxpayer has multiple POAs on file or if a taxpayer's Form 2848 lists multiple representatives, copies of all systemically generated notices are sent to the designated POA(s) listed on Line 2 of Form 2848 with the box checked that indicates the taxpayer wants the POA to receive copies of written communications.
- (3) If TAS is unable to reach the POA who is handling the TAS case by telephone, send correspondence to that POA even if the taxpayer did not mark the checkbox on Line 2 for that POA to receive the systemically generated notices.

Caution: Taxpayers may augment or limit a POA's authority. Check the POA form or the CAF via cc CFINK for any modifications of the authority before communicating and corresponding with the POA.

13.1.23.11
(06-06-2019)

Terminating Third Party Authorizations

- (1) Third party authorizations may be terminated in the following ways, which will depend in part on the type of authorization:
 - a. the taxpayer revokes an existing third party authorization;
 - b. the taxpayer provides a superseding authorization;
 - c. the third party withdraws;
 - d. the third party authorization has expired due to passage of time; or
 - e. the tax matter has been resolved.
- (2) If a taxpayer wishes to revoke an existing authorization, advise the taxpayer to write the word "REVOKE" across the top of the first page of the previously executed authorization (*i.e.*, Form 2848, Power of Attorney and Declaration of Representative and Form 8821, Tax Information Authorization), sign and date below the annotation, and submit it to the TAS employee.
- (3) If a taxpayer previously executed a Form 2848, and now wants to change representatives, advise the taxpayer that the filing of a new Form 2848 will supersede the previously executed Form 2848 for the same matters, unless the taxpayer checks box 6 on Form 2848.

Note: The filing of Form 2848 will not revoke any Form 8821 in effect. Similarly, the filing of Form 8821 will not revoke any Form 2848 in effect.

- (4) The filing of a new Form 8821 will only supersede an existing Form 8821 if it is for the same tax matter and tax period. If a taxpayer wants to retain any previously filed Forms 8821 for the same tax matter and same tax period, the box on line 5 must be checked.
- (5) If a designee (Form 8821) or representative (Form 2848) wishes to withdraw an authorization, advise them to submit a copy of the previously executed authorization and write the word "Withdraw" across the top of the first page of the form, and include below the annotation their signature with the current date.
- (6) If a copy of the authorization that the taxpayer desires to revoke or the form that the designee/representative wishes to withdraw is not available, advise the taxpayer or designee/representative to submit a written statement that contains the following:
 - Clear intent to revoke or withdraw;
 - Current dated signature;
 - Name, address, and taxpayer identification number of the taxpayer;

- Name and address of each designee or representative whose authority is revoked or withdrawn; and
 - Specific tax matters (*i.e.*, type of tax, tax form(s) and period(s)); or state “remove all years/periods” if the taxpayer is completely revoking the authority of the designee or representative.
- (7) If revocation or withdrawal occurs, document TAMIS and update the POA screen to indicate the POA is no longer active. Forward the form or written statement to the CAF unit for processing.

Exhibit 13.1.23-1 (05-03-2024)

Types of Third Party Authorizations

Type of Third Party Authorization	Required IRS Form	Authorized Actions	Unauthorized Actions
Power of Attorney	Form 2848 or other written document, such as a durable power of attorney, satisfying requirements of 26 C.F.R. 601.503(a).	Practice before the IRS as governed by <i>Circular 230</i> , but limited to the type of tax matter and tax years listed on the form.	Certain types of representatives are only allowed to engage in limited practice.
Tax Information Authorization	Form 8821	Inspect or receive confidential information from any IRS office for the type of tax and tax periods listed.	Practice before the IRS.
Oral Disclosure Consent	No form but the taxpayer must provide oral consent. TAS must document such oral consent.	Receive confidential tax information from the IRS.	Practice before the IRS.
Third Party Designee	Box Checked and Information provided on Form 1040 or other tax return.	This authorization is limited to matters related to the processing of the taxpayer's return.	This authorization does not provide authorization to obtain information in the context of an audit, collection, or other compliance activity. Practice before the IRS is also unauthorized.
Fiduciary (trustee, executor, administrator, receiver, guardian, etc.)	Form 56	A fiduciary is considered to be the taxpayer and can take any actions a taxpayer can take.	N/A

Exhibit 13.1.23-1 (Cont. 1) (05-03-2024)**Types of Third Party Authorizations**

Type of Third Party Authorization	Required IRS Form	Authorized Actions	Unauthorized Actions
Executor (including personal representative and administrator) of Decedent's Estate	Form 706	The executor (or personal representative or administrator) is considered to be the representative of the estate and is authorized to take all actions related to the collection of the decedent's assets, payment of the decedent's creditors and distribution of assets to heirs and beneficiaries, including matters relating to estate taxes.	N/A
Certified Professional Employer Organization (CPEO)	Form 8973	CPEO is the taxpayer before the IRS. The CPEO reports the wages, employment taxes, and credits on behalf of all its employer customers under its own employer identification number (EIN). Customers of the CPEO may have a tax liability or be owed a refund, but the CPEO will pay a liability or receive a refund based on the total aggregate tax liability reported for all of its customers. The Form 8973 allows the IRS or TAS to disclose the CPEO's information concerning the status of the reporting and payment of employment taxes on behalf of a customer to that customer, but does not allow the disclosure of the status (for example, whether the CPEO is under audit).	N/A

Exhibit 13.1.23-1 (Cont. 2) (05-03-2024)**Types of Third Party Authorizations**

Type of Third Party Authorization	Required IRS Form	Authorized Actions	Unauthorized Actions
Professional Employer Organization (PEO)	No form is required.	<p>The PEO is the taxpayer before the IRS. The PEO reports the wages, employment taxes, and credits on behalf of all its employer customers under its own employer identification number (EIN). Customers of the PEO may have a tax liability or be owed a refund, but the PEO will pay a liability or receive a refund based on the total aggregate tax liability reported for all of its customers. If TAS is dealing with a customer of a non-certified PEO, TAS must ensure the PEO has authorized the IRS to disclose their return information to their customers. There will be no indication on the taxpayer's account that they are customer of a PEO. The typical authorization will be a Form 2848, Power of Attorney and Declaration of Representative and should only be used for authorized representatives acting on behalf of the PEO to represent them before the IRS in the PEO's tax matters.</p>	N/A

Exhibit 13.1.23-2 (06-06-2019)**Terms**

Terms	Definitions
Form 2848, Power of Attorney and Declaration of Representative, including Disclosure Authorization	A taxpayer appoints an individual authorized to practice before the IRS to represent them, and receive the taxpayer's confidential tax information, on any IRS-related matter by submitting a signed Form 2848.
Form 8821, Tax Information Authorization, Disclosure Authorization	A taxpayer authorizes the IRS to disclose confidential information to a person or entity by submitting a signed Form 8821.
Office of Professional Responsibility (OPR)	OPR administers and enforces the regulations governing practice before the IRS.
Oral Disclosure Consent	A taxpayer authorizes oral disclosure to a designated person by means of "an oral disclosure consent." A designated person may include an interpreter when language barriers exist for the purpose of facilitating the oral disclosure between the IRS and the taxpayer.
<i>Right to Retain Representation</i>	Taxpayers have the right to retain an authorized representative of their choice to represent them in their dealings with the IRS. Taxpayers have the right to be told that if they cannot afford to hire a representative, they may be eligible for assistance from a Low-Income Taxpayer Clinic.
Third Party Designee	A taxpayer designates a "third party designee" on the tax return by checking the box on the face of the Form 1040 or other tax return and providing the name, phone number, and personal identification number (PIN) for a third party whom the IRS may contact to answer any questions that may arise during the processing of the taxpayer's return.

Exhibit 13.1.23-3 (06-08-2022)**Acronyms**

Acronyms	Definitions
ACA	Affordable Care Act
AFSP	Annual Filing Season Program
APTC	Advance Premium Tax Credit
CAF	Centralized Authorization File
CDP	Collection Due Process
CAU	Caution Upon Contact
CFINK	CAF File Identification Number Query
CIS	Collection Information Statement
CPEO	Certified Professional Employer Organization
CPA	Certified Public Accountant
CQRS	Case Quality Review System
Deputy	Deputy Executive Director Case Advocacy
DNTA	Deputy National Taxpayer Advocate
EA	Enrolled Agent
EDCA	Executive Director Case Advocacy
EDCA-ITS	Executive Director Case Advocacy, Intake and Technical Support
EIN	Employer Identification Number
ERC	Employer Retention Credit
ERPA	Enrolled Retirement Plan Agent
IDRS	Integrated Data Retrieval System
IRC	Internal Revenue Code
IRM	Internal Revenue Manual
IRS	Internal Revenue Service
LITC	Low Income Taxpayer Clinic
LTA	Local Taxpayer Advocate
MFT	Master File Tax
OEP	Office of Employee Protection
OIC	Offer in Compromise
OPR	Office of Professional Responsibility

Exhibit 13.1.23-3 (Cont. 1) (06-08-2022)**Acronyms**

Acronyms	Definitions
PDT	Potentially Dangerous Taxpayer
PEO	Professional Employer Organization
PGLD	Privacy, Governmental Liaison and Disclosure
PGLD/IM	Privacy, Government Liaison and Disclosure/ Incident Management
PII	Personally Identifiable Information
POA	Power of Attorney
PTC	Premium Tax Credit
PTIN	Preparer Tax Identification Number
RPO	Return Preparer Office
Rev. Proc.	Revenue Procedure
Rev. Rul.	Revenue Ruling
SBU	Sensitive but unclassified
SERP	Service-wide Electronic Research Program
STCP	Student Tax Clinic Program
TAG	Technical Analysis and Guidance
TAMIS	Taxpayer Advocate Management Information System
TAS	Taxpayer Advocate Service
TBOR	Taxpayer Bill of Rights
TIA	Tax Information Authorization
TIN	Taxpayer Identification Number
TPP	Third Party Preparer
Treas. Reg.	Treasury Regulation
U.S.	United States
USC	United States Code