

O. OFFICE OF DIRECTOR OF PRACTICE

1. Basic Responsibility of Director of Practice

This topic was authorized by Leslie S. Shapiro, Director of Practice, Internal Revenue Service. The views expressed are those of the author and not necessarily reflect the views of the Department of Treasury.

The basic responsibility of the Director of Practice is the administration and enforcement of the regulations governing practice before the Internal Revenue Service. This responsibility emanates from legislation enacted in the year 1884, sec. 3 of the Act of July 7, 1884, 23 Stat. 258. Recodification of the legislation is found at 31 U.S.C. 330 and provides:

- "(a) Subject to section 500 of title 5, the Secretary of the Treasury may --
- (1) regulate the practice of representatives of persons before the Department of the Treasury; and
 - (2) before admitting a representative to practice, require that the representative demonstrate--
 - (A) good character;
 - (B) good reputation;
 - (C) necessary qualifications to enable the representative to provide to persons valuable service; and
 - (D) competence to advise and assist persons in presenting their cases.
- (b) After notice and opportunity for a proceeding, the Secretary may suspend or disbar from practice before the Department a representative who--
- (1) is incompetent;
 - (2) is disreputable;
 - (3) violates regulations prescribed under this section; or
 - (4) with intent to defraud, willfully and knowingly misleads or threatens the person being represented or a prospective person to be represented."

For a number of years, regulations implementing the statute addressed practice before the entire Treasury Department. As our Federal tax laws became more complex and sophisticated, the efforts of the Department were concentrated on practice before the Internal Revenue Service. Consequently, the regulations

promulgated under 31 U.S.C. 330 were modified over the years to address tax practice. Those regulations are found at 31 C.F.R. Part 10 and have been reprinted as Treasury Department Circular No. 230.

2. Practice Before the Internal Revenue Service

Practice before the Internal Revenue Service is defined as that comprehending all matters connected with a presentation to the Internal Revenue Service or any of its officers or employees relating to a client's rights, privileges, or liabilities under laws or regulations administered by the Internal Revenue Service. Presentations include the preparation and filing of necessary documents, correspondence with and communications to the Internal Revenue Service, and the representation of clients at conferences, hearings, and meetings. See 31 C.F.R. 10.2(a). Representation should not be confused with either appearing before the Internal Revenue Service as a witness for a taxpayer or furnishing information at the request of the Internal Revenue Service or any of its officers or employees. These acts are not considered practice before the Internal Revenue Service (See 31 C.F.R. 10.7(c) and may be performed by anyone who is able to assist the Internal Revenue Service to promptly handle the examination of a tax return.

3. Eligibility to Practice Before the Internal Revenue Service

Eligibility to practice before the Internal Revenue Service is limited to the following:

- A. **Attorneys:** Any person who is a member in good standing of the bar of the highest court of any state, possession, territory, Commonwealth, or the District of Columbia. See 31 C.F.R. 10.2(c) and 10.3(b).
- B. **Certified Public Accountants:** Any person who is duly qualified to practice as a certified public accountant in any State, possession, territory, Commonwealth, or the District of Columbia. See 31 C.F.R. 10.2(c) and 10.3(b).
- C. **Enrolled Agents:** Any person who is enrolled by the Treasury Department to Practice before the Internal Revenue Service. See 31 C.F.R. 10.3(c).
- D. **Enrolled Actuaries:** Any individual who is enrolled as an actuary pursuant to 29 U.S.C. 1242 (practice limited to identified provisions of the Internal Revenue Code). See 31 C.F.R. 10.3(d).
- E. **Other:**

1. Any individual who has been granted temporary recognition to practice by the Director of Practice pending a determination as to whether enrollment to practice should be granted. 31 C.F.R. 10.5(c).
2. An individual may represent:
 - a. another individual who is his regular full-time employer;
 - b. a partnership of which he is a member or a regular full-time employee; or
 - c. a member of his immediate family without compensation. 31 C.F.R. 10.7(a)(1).
3. Corporations (including parents, subsidiaries or affiliated corporations), may be represented by their bona fide officers or regular full-time employees. 31 C.F.R. 10.7(a)(2).
4. Trusts, receiverships, guardianships, or estates may be represented by their trustees, receivers, guardians, administrators or executors or their regular full-time employees. 31 C.F.R. 10.7(a)(3).
5. Any governmental unit, agency, or authority may be represented by an officer or regular employee in the course of his official duties. 31 C.F.R. 10.7(a)(4).
6. An unenrolled preparer of a return (who signed the return as preparer and who is not under disbarment or suspension from practice before the Internal Revenue Service or other practice of his profession by any other authority) may appear without enrollment as the taxpayer's representative before revenue agents and examining officers of the Examination Division in the offices of District Directors with respect to the tax liability of the taxpayer for the taxable year or period covered by that return. 31 C.F.R. 10.7(a)(7).

7. Any person specially authorized by the Director of Practice to represent another without enrollment for the purpose of a particular matter. 31 C.F.R. 10.7(b).

4. Entry of Appearance

The entry of a representative's appearance before the Internal Revenue Service is evidenced by a declaration filed by the practitioner and a power of attorney running to him or her. (See section 9.)

- A. A power of attorney and declaration are filed at the time an appearance is entered and "ride" with the file. In addition, the power of attorney is entered into the Centralized Authorization File at the appropriate Service Center of the Internal Revenue Service.
- B. The declaration is mandated by the Agency Practice Act, with respect to attorneys certified public accountants. It is a signed statement that the practitioner is qualified (as an attorney or certified public accountant) and is authorized to represent the particular party on whose behalf he or she acts. The requirement for a declaration has been extended to enrolled agents and enrolled actuaries as well.
- C. The power of attorney is required under the Commissioner's Conference and Practice Requirements, 26 C.F.R. Part 601, Subpart E.
- D. The power of attorney is signed by the taxpayer and authorizes the practitioner to act in behalf of the taxpayer with respect to the areas delineated on the power of attorney.

5. Discipline Cases

A. Receipt of Referrals

Matters raising questions of impropriety by tax practitioners are received from a variety of sources. They include:

- a. clients of practitioners
- b. other practitioners
- c. professional associations
- d. the Internal Revenue Service

The greatest number of referrals are received from field offices of the Internal Revenue Service. Each operational area of the Internal Revenue Service, e.g., examination, collection, criminal investigation, and appeals, has internal requirements established in their respective segments of the Internal Revenue Manual to make referrals to the Office of Director of Practice when there is a question of violation of the regulations in Circular 230. See 31 C.F.R. 10.53 and HB 0735.1 217.4; IRM 4053.1; IRM 4053.3; IRM 4297.9; IRM 5155.5; IRM 8(11)34; IRM 8(23)23.2; IRM 9531.2 Form 1327; IRM 9558.1; H.B. 9781 691 General; IRM (10) 311 940.

B. Processing and Disposition of Referrals

Upon receipt of a referral, the matter is first reviewed to determine (a) if the person who is the subject of the referral is an attorney, certified public accountant, enrolled agent or enrolled actuary, and (b) if the reason for the referral appears to raise, as a threshold matter, a question of misconduct by the practitioner. If such criteria are met, the referral is placed on the case inventory and assigned to a member of the legal staff.

The attorney to whom the case is assigned evaluates and analyzes the information, and performs any necessary research. The facts in many referrals are insufficient for a complete review to be made. In those instances, what is needed to provide the basis for an informed decision is identified and a request is made for investigation or for additional information. Investigatory work is conducted for the Office of Practice by the Inspection Service of the Internal Revenue Service, which has offices throughout the country. In addition, requests for additional information (documents, etc.) are made of the Internal Revenue Service office which has such information.

If the attorney responsible for the case concludes a genuine question of violation of the regulations is raised and there is concurrence in that conclusion, the matter is first handled on an informal basis.

- a. The practitioner is notified by letter of the facts and provision(s) of the regulations in question, and is requested to furnish a response. The response may be in writing, at conference, or both.
- b. The purpose of the response is to ascertain the practitioner's position relative to the matter in issue, to determine whether or not there are relevant mitigating circumstances and to provide him or her an

opportunity to demonstrate or achieve compliance with the regulations in Circular 230.

The practitioner's position and any supporting documents are reviewed and evaluated together with the entire file. If additional information is needed, a supplementary investigation will be conducted.

A decision thereafter will be made regarding the appropriate disposition. The following alternative are available.

- a. If the practitioner's explanations overcome the basis for the initial contact, the case will be removed from the case inventory without further action.
- b. If a violation of the regulations is found and such violation is not of sufficient seriousness to warrant the practitioner's suspension or disbarment from practice before the Internal Revenue Service, the Director of Practice is authorized to issue a reprimand. See 31 C.F.R. 10.54. The reprimand is private and takes the form of a letter from the Director of Practice to the practitioner. It does not affect his or her eligibility to practice before the Internal Revenue Service; rather, it serves as an admonition not to engage in further conduct of the nature which occasioned the reprimand. The facts and circumstances of each case determine if the official action of the office will be limited to a reprimand.
- c. If an aggravated violation of the regulations is found, the Director of Practice is authorized to initiate a proceeding the practitioner's suspension or disbarment from practice before the Internal Revenue Service. See 31 C.F.R. 10.54. After due notice and opportunity for hearing, suspension or disbarment from practice before the Internal Revenue Service may be invoked against a practitioner.
- d. A practitioner, in order to avoid the initiation or conclusion of a disciplinary proceeding, may offer his or her consent to voluntary suspension from practice before the Internal Revenue Service. In the case of an enrolled agent or an enrolled actuary, there also may be an offer of resignation of enrollment. The Director of Practice, in his discretion, may accept the offered resignation and may suspend a

practitioner in accordance with the consent offered. See 31 C.F.R. 10.55 (b).

C. Public Record

Disciplinary actions resulting in suspensions or disbarments are matters of public record. A roster of suspended and disbarred practitioners is maintained (See 31 C.F.R. 10.98(a)) and the name of a person listed thereon is disclosed upon request. In addition, notification of a suspension or disbarment action (or of a voluntary resignation) normally is published in the Internal Revenue Bulletin and in an Internal Revenue Service generated quarterly report of disciplinary and related actions. Pursuant to agreements with a number of state licensing authorities, notifications of suspension or disbarment actions concerning practitioners licensed with that state are furnished. The bases for suspensions or disbarment may be provided upon request in a manner consistent with the disclosure laws. The underlying reasons for voluntary suspensions are not furnished inasmuch as the allegations have not been proven. The identity of persons who are issued reprimands, which are private in nature, are not maintained on a public roster.

D. Effect of Suspension or Disbarment

Suspension or disbarment prohibits the individual from practice before the Internal Revenue Service as defined in the regulations. See 31 C.F.R. 10.3(a). Such individual may continue to prepare most tax returns and may furnish information to the Internal Revenue Service at its request. Other practitioners are prohibited, in practice before the Internal Revenue Service, from employing or accepting assistance from a person under suspension or disbarment or from accepting employment as associate, correspondent, or subagent from, or sharing fees with, any such person. See 31 C.F.R. 10.24. In addition, maintaining a partnership for the practice of law, accountancy, or other related professional services with a person who is under disbarment from practice before the Internal Revenue Service is presumed to constitute aiding or abetting another person to engage in such practice during a period of ineligibility, an activity prohibited by the regulations. See 31 C.F.R. 10.51(h).

6. Formal Proceeding

A. Initiation of Proceeding

1. Complaint

A formal disciplinary proceeding against a practitioner is initiated by a complaint which names the practitioner (respondent) and is signed by the Director of Practice (complainant). The complainant (a) describes the allegations which constitute the basis for the proceeding, and (b) notifies the respondent of the time within which to file an answer and the place of such filing. See 31 C.F.R. 10.56. A complaint is deemed sufficient if it fairly informs the respondent of the charges in order to prepare a defense. See 31 C.F.R. 10.56(a).

2. Answer

The practitioner may file an answer to the complaint. The time for answer may not be less than 15 days from the date of service of the complaint. A 30 day period normally is provided. The absence of an answer may result in a decision by default, a fact of which the respondent is advised in a notice accompanying the complaint. See 31 C.F.R. 10.56(b).

The answer is required to contain a statement of the facts which constitute the grounds for defense, and it must specifically admit or deny each allegation set forth in the complaint. However, a respondent may not deny a material allegation in the complaint which is known to be true or state that he or she is without sufficient information to form a belief when in fact the respondent possesses such information. Affirmative statements of defense also may be included in the answer. See 31 C.F.R. 10.58(b). Every allegation in the complaint which is not denied in the answer is deemed to be admitted and may be considered proven. Similarly, failure to answer the complaint within the time prescribed in the notice to the respondent is considered admission of the complaint's allegations. The answer must be filed in duplicate in the Office of the Director. See 31 C.F.R. 10.58(a) and (c). A reply to an answer is not required. See 31 C.F.R. 10.60. If it appears that the respondent has no knowledge sufficient to form a belief, when the respondent in fact possesses such information, or if it appears that the respondent has knowingly introduced false testimony during proceedings for disbarment or suspension, the Director of Practice may thereupon file supplemental charges against the respondent. Such supplemental charges may be tried with other charges in the case, provided the respondent is given due notice thereof and is afforded an opportunity to prepare a defense. See 31 C.F.R. 10.59.

B. Proceeding

The presiding judicial officer at a disciplinary proceeding is an administrative law judge, who is appointed as provided by 5 U.S.C. 3105. See 31 C.F.R. 10.64(a). The administrative law judge is authorized to do the following:

- a. administer oaths and affirmations (see 31 C.F.R. 10.64(b)(1));
- b. make rulings upon motions and requests, which rulings may not be appealed from prior to the close of a hearing except at the discretion of the administrative law judge, in extraordinary circumstances (see 31 C.F.R. 10.64(b)(2));
- c. determine the time and place of hearing and regulate its course and conduct (see 31 C.F.R. 10.64(b)(3));
- d. adopt rules of procedure and modify the same from time to time as occasion requires for the orderly disposition of proceedings (see 31 C.F.R. 10.64(b)(5));
- e. rule upon offers of proof, receive relevant evidence, and examine witnesses (see 31 C.F.R. 10.64(b)(5));
- f. take or authorize the taking of depositions (see 31 C.F.R. 10.64(b)(6));
- g. receive and consider oral or written argument on facts or law (see 31 C.F.R. 10.64(b)(7));
- h. hold or provide for the holding of conferences for the settlement or simplification of the issues by consent of the parties (see 31 C.F.R. 10.64(b)(8));
- i. perform such acts and take such measures as are necessary or appropriate to the efficient conduct of any proceeding (see 31 C.F.R. 10.64(b)(9); and
- j. make initial decisions (see 31 C.F.R. 10.64(b)(10).

A respondent may appear in person or be represented at hearing. The complainant may be represented by an attorney or other employee of the Internal Revenue Service. See 31 C.F.R. 10.63.

Hearings normally are held at a location convenient to the respondent. They are stenographically recorded (See 31 C.F.R. 10.65) and the government has the burden of proving its case by substantial evidence. See *Washburn v. Shapiro*, 409 F. Supp. 3

(SD Fla 1976). The rules of evidence prevailing in courts of law and equity are not controlling at a disciplinary hearing. However, an administrative law judge is required to exclude evidence which is irrelevant, immaterial or unduly repetitious. See 31 C.F.R. 10.66(a). The regulations provide for the use of depositions at the administrative hearing, a matter which is within the discretion of the administrative law judge. See 31 C.F.R. 10.67.

As soon as practicable after the conclusion of a hearing and the receipt of any proposed findings and conclusions timely submitted by the parties, the administrative law judge is required to make an initial decision in the case. The decision includes a statement of findings and conclusions and an order of disbarment, suspension, reprimand or of dismissal of the complaint. See 31 C.F.R. 10.70.

C. Appeal and Judicial Review

Within 30 days from the date of the initial decision, either the complainant or respondent may appeal the initial decision to the Secretary of the Treasury. The appeal is required to include the exceptions to the initial decision and supporting reasons for the exceptions. The opposing party may file a reply brief to the appeal. See 31 C.F.R. 10.71. The Secretary of the Treasury is required to make a decision on the appeal. Such decision, which is made on the record, constitutes the final agency action. See 31 C.F.R. 10.72. In the absence of a timely appeal from the initial decision, such initial decision becomes the final agency action. See 31 C.F.R. 10.70.

After the decision on appeal is issued, an aggrieved party may bring the matter into the Federal court system (district court) for review.

7. Traditional Bases for Discipline

A. Duties and Restrictions

The regulations in Circular 230 set forth duties and restrictions relating to practice before the Internal Revenue Service. See 31 C.F.R. Part 10, Subpart B). A practitioner's violation of a duty or engaging in a restricted area of practice may form a basis for disciplinary action. The duties required of a practitioner are general in nature, and are available for use in the evaluation of most referrals of allegations of practitioner impropriety. In many instances, such duties do not relate to specific provisions of the Internal Revenue Code of regulations. The provisions of Circular 230 generally address basic precepts of professional conduct and fair dealings with

the Internal Revenue Service, percepts that are considered traditional in nature. Violations include:

1. failing to furnish records or information to the Internal Revenue Service upon proper and lawful request (see 31 C.F.R. 10.20);
2. upon learning of the client's noncompliance with the revenue laws or of having submitted a document to the Internal Revenue Service containing an error or omission, failure to advise the client promptly of the noncompliance, error or omission (see 31 C.F.R. 10.21);
3. failure to exercise due diligence in oral or written representations made either to the Internal Revenue Service or to a client (see 31 C.F.R. 10.22);
4. unreasonably delaying the prompt disposition of matters pending before the Internal Revenue Service (see 31 C.F.R. 10.23);
5. accepting assistance from a practitioner who is under suspension or disbarment from eligibility to practice before the Internal Revenue Service (see 31 C.F.R. 10.24);
6. charging unconscionable fees (see 31 C.F.R. 10.28);
7. representing conflicting interests without the parties' consent after full disclosure of the conflict (see 31 C.F.R. 10.29);
8. engaging in unauthorized advertising or solicitation of employment in matters related to the Internal Revenue Service (see C.F.R. 10.30);
and
9. negotiating or endorsing a client's check made in respect of income taxes (see 31 C.F.R. 10.31).

B. Disreputable Conduct

The regulations in Circular 230 also delineate conduct which is characterized as disreputable in nature. See 31 C.F.R. 10.51. Such conduct generally carries with it an element of willfulness or by its nature evidences, prima facie, aggravated misconduct by the practitioner. A finding that a practitioner has engaged in an act of

disreputable conduct almost always forms the basis of a disciplinary action. Such conduct includes:

1. conviction of a crime under the Federal revenue laws or of an offense involving dishonesty or breach of trust (see 31 C.F.R. 10.51(a));
2. giving false or misleading information to the Department of the Treasury or to any tribunal authorized to pass on Federal tax matters, knowing such information to be false or misleading (see 31 C.F.R. 10.51(b));
3. false or misleading representations with intent to deceive a client or prospective client in order to procure employment (see 31 C.F.R. 10.51(c));
4. intimating that special consideration from the Internal Revenue Service can be obtained by the practitioner (see 31 C.F.R. 10.51(c));
5. willfully failing to make a Federal tax return in violation of the Revenue laws (see 31 C.F.R. 10.51(d));
6. evading, attempting to evade or participating in evading any Federal tax or payment thereof (see 31 C.F.R. 10.51(d));
7. misappropriating or failing to promptly remit funds received from a client for the payment of taxes or other obligations due the United States (see 31 C.F.R. 10.51(e));
8. directly or indirectly attempting to influence, or offering or agreeing to attempt to influence, the official action of an Internal Revenue Service officer or employee by the use of threats, false accusations, duress or coercion, by the offer of any special inducement or promise of advantage or by the bestowing of any gift, favor or thing of value (see 31 C.F.R. 10.51(f));
9. disbarment or suspension as an attorney, certified public accountant, public accountant or actuary by any licensing authority, Federal court of record or Federal agency (see 31 C.F.R. 10.51(g));

10. knowingly aiding and abetting another person to practice before the Internal Revenue Service during a period of ineligibility of such other person (see 31 C.F.R. 10.51(h));
11. engaging in contemptuous conduct in connection with practice before the Internal Revenue Service (see 31 C.F.R. 10.51(i)); and
12. giving a false tax shelter opinion, knowingly, recklessly, or through gross incompetence, including an opinion which is intentionally or recklessly misleading, or a pattern of providing incompetent opinions on questions arising under the Federal tax laws (see 31 C.F.R. 10.51(j)).

8. Basic Areas of Professional Responsibility

A. Areas of Tax Practice

There are several dimensions of tax practice. They include:

- a. tax planning;
- b. tax return preparation;
- c. representation of a client's interests before the Internal Revenue Service; and
- d. actual litigation.

Each area of tax practice has different considerations with respect to professional responsibility.

B. Dual Responsibility

At the base of all areas of responsibility is a practitioner's obligation to a client of competence, loyalty and confidentiality.

Also present is a practitioner's responsibility to the tax system. Such responsibility is of pervasive importance. However, it is an imprecise concept which has been described as blending together obligations to society, one's profession and the law.

9. Powers of Attorney

A. Disclosure Rules

The power of attorney requirements assure that the power-holder is authorized to act for the taxpayer (organization), and that only individuals authorized under IRC 6103 receive tax information.

IRC 6103(c) provides for the disclosure of returns and return information to a taxpayer's designee if the taxpayer has consented in writing to such disclosure.

IRC 7213 provides, in general, that unauthorized disclosure of return and return information as defined in IRC 6103(b) is a felony, punishable upon conviction by a fine of up to \$5,000, or imprisonment of not more than 5 years, or both, together with the payment of the costs of prosecution.

B. Requirement of Power of Attorney

Rules governing powers of attorney are contained in the Commissioner's Conference and Practice Requirements, 26 C.F.R. Part 601, Subpart E (referred to herein as the "rules"). Under section 601.501(c)(1) of the rules, a power of attorney must be furnished by any person representing a taxpayer before a Service office. In particular, the rules provide that a power of attorney, in proper form, or a copy thereof, executed by the taxpayer, will be required when the taxpayer's representative desires to perform one or more of the following on behalf of the taxpayer:

1. To receive, but not to endorse and collect, checks in payment of any refund of Internal Revenue taxes, penalties, or interest.
2. To execute waivers (including offers of waivers) of restrictions on assessment or collection of deficiencies in tax and waivers of notice of disallowance of a claim for credit or refund.
3. To execute consents extending the statutory period for assessment or collection of taxes.
4. To execute closing agreements under IRC 7121.
5. To delegate authority or to substitute another representative.
6. To receive refund checks and sign returns.

Form 2848, Power of Attorney, or a privately designed instrument which meets the requirements of Form 2848, must be used in order to be entitled to exercise the acts enumerated above.

C. Requirement of Authorization and Declaration

The rules require that in order for a person designated by the taxpayer to receive or inspect confidential tax information, a tax information authorization will be required. A tax information authorization does not authorize representation of an individual before the Internal Revenue Service (as does a power of attorney) but only allows a second party to receive and inspect confidential information pertaining to a taxpayer. Examples of the receipt of inspection of confidential information for which a tax information is required are the discussion with Service officials on the substance or merits of a taxpayer's request for a ruling or determination letter, the receipt from Service officials at a conference of information disclosing the position of the Service with respect to the taxpayer's liability or disposition of a case, and the receipt of certain notices and other communications, such as a notice of deficiency. If, however, the taxpayer's representative has filed a power of attorney which is sufficient to permit the performance of one or more of the acts specified in 9.B above, the representative will be entitled to receive or inspect confidential information without being required to file a separate tax information authorization.

Form 2848-D, Tax Information Authorization and Declaration of Representative, or a privately designed instrument that conforms to the requirements of Form 2848-D is sufficient in order for a designee to receive and inspect confidential tax information discussed in this paragraph.

D. Exception to Requirement of Power of Attorney or Tax Information Authorization

Section 601.502(c)(3) of the rules provides, among other exceptions, that a tax information authorization is not required of a taxpayer's designee at a conference which is also attended by the taxpayer. However, a power of attorney or an authorization is required if the designee wishes to act as a representative for the organization, presenting facts and oral arguments. In that instance, only those who are eligible to practice may provide a power of attorney.

E. Waiver of Power of Attorney or Other Authorization for Certain Congressional Correspondence

IRC 6103(c) and the regulations thereunder establish the guidelines for disclosure of return or return information to a designee of an organization in certain circumstances where the organization requests information or assistance for such designees. Specifically, section 301.6103(c)-1(b) of the Income Tax Regulations provides, in part, that IRC 6103(c) applies to requests made by the taxpayer to other persons (for example, members of Congress, friends, or relatives of the taxpayer, and when not acting as a taxpayer representative, income tax returns preparers) for information or assistance relating to the taxpayer's return or a transaction or other contact between the taxpayer and the Service. The taxpayer's request for information or assistance must be in the form of a letter or other written document signed and dated by the taxpayer. The taxpayer must also indicate in the written request –

- a. The taxpayer's name, address, and identifying number;
- b. The identity of the person to whom disclosure is to be made; and
- c. Sufficient facts underlying the request for information or assistance to enable the Service to determine the nature and extent of the information or assistance requested and the returns or return information to be disclosed in order to comply with the taxpayer's request.

If an organization addresses a letter to a Congressman about a perceived tax problem and the Congressman transmits the original letter or a copy of the original letter to the Service for a reply, the Service will waive the requirement of a power of attorney or other authorization if the letter otherwise meets the requirement for a valid waiver of the taxpayer's confidentiality as described in section 301.6103(c)1(b) of the Income Tax Regulations. In this connection, particular caution should be taken to ensure that the response to the Congressman does not contain any information which the organization did not authorize the Congressman to receive. On the other hand, if an organization addresses a letter to a Congressman about a tax matter involving the organization, and sends a copy of that letter to another Congressman, the copy sent to the second Congressman does not constitute a valid waiver of the organization's confidentiality as to the second Congressman.

F. Responsibility of Exempt Organizations Specialists

The specialist to whom a case is assigned is responsible for ensuring that a power of attorney or other authorization is prepared in accord with the rules before providing tax information to an individual other than the person to whom the tax matter relates. Particular care should be taken in reviewing privately designed powers of attorney and other authorizations to ensure that they contain the basic requirements

regarding the scope of authority granted and the specific tax matter to which the authority relates. The information required to be included in powers of attorney or other authorizations is set forth in the rules.