

# **BNA Daily Tax Report**

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## **Tax Practice: Power of Attorney Needed for Employees to Dispute Tax Issues under Circular 230**

Companies that want specific employees to advocate, negotiate or dispute issues with the Internal Revenue Service must provide a Form 2848, Power of Attorney, for that employee, the IRS Office of Professional Responsibility said in new Circular 230 guidance.

In these cases, Form 4764, Communications Agreement, LB&I Examination Plan, isn't enough and it doesn't replace Form 2848, the OPR said in a Sept. 9 bulletin. Form 4764 only allows a corporate taxpayer to designate one or more employees to (1) discuss tax matters, (2) provide and receive information, and (3) receive and discuss adjustments.

If an employee does anything beyond delivering facts, providing general explanations, or accepting materials, he or she will be considered to be "practicing" before the IRS and a power of attorney is required, the agency said.

In the context of the agency's Large Business & International Division, this typically involves advocating or defending positions related to the company's tax liabilities and adjustments, the IRS said.

### **Signature Requirement.**

According to the IRS, Form 2848 must be signed by a duly elected officer or director of the corporation. "Vanity-titled" corporate officers aren't legally authorized to execute a power of attorney, the IRS said.

The IRS point of contact should request the Form 2848 from the appropriate corporate official when representation activity has begun or is about to begin, the agency said.

The guidance cautioned that Form 2848 can be used as one source of evidence that an employee is practicing before the IRS when agency employees make referrals to OPR for alleged Circular 230 misconduct. Those referrals are made on the Form 8484, Suspected Practitioner Misconduct Report for the Office of Professional Responsibility.

The IRS issued the [guidance](#) in OPR Bulletin 2014-12 and said it is providing the bulletin in response to questions from the field.