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To:

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Subject: Powers of Attorney

Here is the discussion on powers of attorney that you requested.

The IRS will accept a power of attorney executed by the taxpayer that is not on a Form 2848, including a durable power of attorney, provided the power of attorney contains:

- name and mailing address of the taxpayer;
- identification number of the taxpayer (*i.e.*, social security number and/or employer identification number);
- employee plan number (if applicable);
- name and address of the recognized representative(s);
- description of the matter(s) for which representation is authorized, which, if applicable, must include—
 - ▶ the type of tax involved;
 - ▶ the Federal tax form number
 - ▶ the specific year(s)/period(s) involved; and
 - ▶ in estate matters, decedent's date of death;
- a clear expression of the taxpayer's intention concerning the scope of authority granted to the recognized representative(s); and
- a declaration from the recognized representative(s) made under penalties of perjury that:
 - ▶ He/She/They is(are) not currently under suspension or disbarment from practice before the IRS;
 - ▶ He/She/They is(are) aware of the regulations contained in Circular 230 (31 CFR Part 10) concerning the practice of attorneys, certified public accountants, enrolled agents, enrolled actuaries and others;
 - ▶ He/She/They is(are) authorized to represent the person identified for the matters specified in the power of attorney; and
 - ▶ He/She is(are) (choose the applicable one):

- i) an attorney 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;
- ii) a certified public accountant who is duly qualified to practice as a certified public accountant in any state, possession, territory, commonwealth, or the District of Columbia;
- iii) enrolled agent who is enrolled to practice before the IRS and is in active status pursuant to the requirements of Circular No. 230;
- iv) enrolled retirement plan administrator who is enrolled to practice before the IRS and is in active status pursuant to the requirements of Circular 230;
- v) enrolled actuary who is enrolled as an actuary by and is in active status with the Joint Board for the Enrollment of Actuaries;
- vi) bona-fide officer of the taxpayer;
- vii) a regular full-time employee of the taxpayer;
- viii) an immediate family member of the taxpayer;
- ix) an individual outside the United States who is representing a taxpayer who is outside the United States before IRS personnel where the representation will take place outside the United States;
- x) an individual who is granted temporary recognition to practice before the IRS by the Director, Office of Professional Responsibility.

If a power of attorney fails to include some or all of the required information, the attorney-in-fact can cure the defect by executing a Form 2848 (on behalf of the taxpayer) that includes the missing information and attaching the Form 2848 to the power of attorney.

The IRS will not accept a durable power of attorney naming an individual other than a recognized representative or a Form 2848 executed by that individual on behalf of the taxpayer that purporting to authorize a recognized representative to represent the taxpayer.

Also, although the IRS accepts a power of attorney that meets the above requirements regardless of the form in which it is provided, a power of attorney that contains these elements but is not on a Form 2848 will not be loaded onto the centralized authorization file (CAF) unless the recognize representative(s) signs and attaches a Form 2848 to the power of attorney.