



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

5.1.23

OCTOBER 18, 2023

EFFECTIVE DATE

(10-18-2023)

PURPOSE

- (1) This transmits a revised IRM 5.1.23, Field Collecting Procedures, Taxpayer Representation.

MATERIAL CHANGES

- (1) The manual incorporates new text, reissues existing information, and reflects editorial and/or numbering changes throughout the subsections. Web addresses, links and IRM references have been updated (where necessary).
- (2) See the table below for significant changes to this IRM:

Subsection	Nature of Change
5.1.23.1	Added IRC reference.
5.1.23.1.2	Added Treasury Regulation and IRC references.
5.1.23.1.5	Added ATFR.
5.1.23.1.6	Relocated, retitled and added acronyms.
5.1.23.1.7	Added Related Resources section.
5.1.23.3	Added representative status research option.
5.1.23.4.2	Revised description of representative designations found on Form 2848 and table updates to reflect TFA amendment to IRC 6103(c).
5.1.23.4.2.2	Added link for IRS.gov Form 2848 upload.
5.1.23.4.3	Added Section 601.504 reference.
5.1.23.5.4	Reworded for clarity.
5.1.23.5	<p>Added DUT, TDC SM and other approved electronic communication services as approved methods for receipt of Form 2848 and Form 8821.</p> <p>Incorporated Interim Guidance Memorandum SBSE-05-1222-0085, Document Upload Tool (DUT) for Collection Employees, dated 12-05-2022. DUT is an application on IRS.gov where taxpayers can upload documentation.</p> <p>Incorporated Interim Guidance Memorandum SBSE-05-0523-0029, Interim Guidance on Secure Messaging for Field Collection Employees, dated 05-05-2023. TDC SM is a web-based system that allows Field Collection employees to communicate, send, and receive documentation from taxpayers and representatives.</p>
5.1.23.5.3.2	Replaced EEFax with generic description (to include new communication tools) for receipt notification retention requirement.
5.1.23.6	Added reference to Chief Counsel's Notice.

Subsection	Nature of Change
5.1.23.6.1.2	Changed access for RPC list from link to location description.
5.1.23.6.3	Added requirement for issuance of Letter 725-B. Reference IRM 5.1.10, Taxpayer Contacts.
5.1.23.8.3.1	Substantial process revision.
Throughout IRM	Removed obsolete references, fixed broken web addresses and links.

EFFECT ON OTHER DOCUMENTS

IRM 5.1.23, dated 07-22-2022, (effective 06-22-2022), is superseded. This IRM incorporates Interim Guidance Memorandum SBSE-05-1222-0085, Document Upload Tool (DUT) for Collection Employees, dated 12-05-2022, and Interim Guidance Memorandum SBSE-05-0523-0029, Interim Guidance on Secure Messaging for Field Collection Employees, dated 05-05-2023.

AUDIENCE

Revenue officers and group managers in SB/SE Field Collection who have direct contact with authorized representatives as part of their official duties.

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5.1.23

Taxpayer Representation

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5.1.23.1
(10-18-2023)
Program Scope and Objectives

- (1) **Purpose.** This IRM provides procedural guidance and instructions for revenue officers and group managers in SB/SE Field Collection to handle taxpayer representation issues when working Collection cases.
- (2) **Audience.** The guidance located in this IRM is specifically intended for use by revenue officers and group managers in SB/SE Field Collection as they are the primary users of this IRM.
- (3) **Policy Owner.** Director, Collection Policy, SB/SE is the policy owner of this IRM.
- (4) **Program Owner.** Collection Policy, SB/SE is the program owner of this IRM.
- (5) **Primary Stakeholders.** Revenue officers and group managers in SB/SE Field Collection, Office of Professional Responsibility, TIGTA, and GLS are the primary stakeholders for this IRM.
- (6) **Program Goals.** When involved with Field Collection, taxpayers have a right to retain representation. See IRC 7803(a)(3)(I). By following the procedures in this IRM, employees will understand the authorities granted to the authorized representative, actions Internal Revenue Service (IRS) employees must take when a taxpayer has an authorized representative, when and how to by-pass an authorized representative, and how to appropriately handle practitioner misconduct.
- (7) **Contact Information.** Recommendations and suggested changes to this IRM should be emailed to the IRM 5.1.23, Field Collecting Procedures, Taxpayer Representation, content product owner. The appropriate owner is indicated on the Product Catalog Information page which can be found on the Core Repository of Published Products (CROPP). Elevate any questions or concerns regarding these IRM procedures through your group manager (GM). GMs will direct any questions or concerns to the appropriate Area contact for possible referral to Headquarters.

5.1.23.1.1
(12-26-2019)
Background

- (1) IRM 5.1.23, Field Collecting Procedures, Taxpayer Representation, provides taxpayer representation procedural guidance to revenue officers and group managers in SB/SE Field Collection. This IRM provides guidance on the following topics: taxpayer representation, third party authorizations, changing or cancelling a third party authorization, by-passing a taxpayer's authorized representative, and practitioner misconduct as these topics will arise while communicating with taxpayers and their authorized representatives. These procedures are consistent with the Taxpayer Bill of Rights and the Privacy Act of 1974.

5.1.23.1.2
(10-18-2023)
Authority

- (1) The following authorities provide the basis for these guidelines:
 - 26 CFR 601.504(a)(2) through (6), Statement of Procedural Rules, Conference and Practice Requirements, Requirements for filing power of attorney.
 - Treasury Regulation 1.6012-1(a)(5), Individuals required to make returns of income.
 - Treasury Regulation 1.6061-1(a), Signing of returns and other documents by individuals.
 - IRC 3504, Acts to be performed by agents.
 - IRC 6011, General requirement of return, statement, or list.

- IRC 6064, Signature presumed authentic.
- IRC 6103, Confidentiality and disclosure of returns and return information.
- IRC 6304, Fair tax collection practices.
- IRC 7803(a)(3), Taxpayer Bill of Rights.
- *Circular 230*, Regulations Governing Practice before the Internal Revenue Service .
- Privacy Act of 1974 (5 U.S.C. 552a).
- Freedom of Information Act (5 U.S.C. 552).

5.1.23.1.3
(12-26-2019)

Roles and Responsibilities

- (1) Director, Collection Policy is responsible for the policies and procedures in this IRM.
- (2) Director, Field Collection, has executive oversight for all Field Collection programs.
- (3) Field Collection area directors, territory managers, and group managers are responsible for ensuring compliance by Field Collection personnel with these procedures.
- (4) Revenue officers are responsible for reading and implementing the procedures listed in this IRM.

5.1.23.1.4
(12-26-2019)

Program Management and Review

- (1) Program Reviews: Operational reviews are conducted by the Collection area directors and territory managers annually to evaluate program delivery and conformance to administrative and program requirements. Group managers participate in one or more Embedded Quality (EQ) consistency reviews each year to assist in rating EQ attributes. Group managers perform annual and periodic case and performance reviews as described in IRM 1.4.50, Resource Guide for Managers, Collection Group Manager, Territory Manager and Area Director Operational Aid. Collection Policy performs periodic program reviews to identify trends and opportunities for improvement.
- (2) Program Effectiveness: National Quality Reviews and consistency reviews are routinely conducted to measure program consistency, effectiveness in case actions, and compliance with policy and procedures. Trends reported in these reviews are used to promote and improve program effectiveness. Trends, recommendations, and corrective actions issued during the course of program and operational reviews are used to identify opportunities for improvement and achieve program goals.
- (3) Program Reports: The reports that Field Collection managers utilize to monitor inventory are addressed in IRM 1.4.50, Resource Guide for Managers, Collection Group Manager, Territory Manager and Area Director Operational Aid.

5.1.23.1.5
(10-18-2023)

Program Controls

- (1) Collection managers verify program and procedural compliance by conducting case consultations, case reviews, performance reviews, and security reviews. Prescribed internal controls are detailed in IRM 1.4.50, Resource Guide for Managers, Collection Group Manager, Territory Manager and Area Director Operational Aid which communicates responsibility to Collection managers for promoting quality case work and required internal controls. The ICS, ENTITY Case Management, Automated Trust Fund Recovery Program (ATFR), Embedded Quality Review, and National Quality Review Systems provide the case access, data, and reports used by managers to monitor internal controls.

Procedural controls include: GMs must approve the issuance of Letter 4016-A, the TM and the Area RPC must be notified of an authorized representative's by-pass, GMs must concur with a decision to report suspected practitioner misconduct, and GMs must concur with a referral regarding post-employment violations. A relevant systemic control involves the input of the POA authorization to the CAF Function which will appear on both the IDRS and ICS systems.

5.1.23.1.6
(10-18-2023)

(1) **Acronyms:**

Terms and Acronyms

Acronym	Definition
AICPA	American Institute of CPAs
CAF	Centralized Authorization File
CAU	Caution Upon Contact
CIS	Collection Information Statement
CPA	Certified Public Accountant
CROPP	Core Repository of Published Products
DUT	Document Upload Tool
EA	Enrolled Agent
EEFax	Enterprise Electronic Fax
EFTPS	Electronic Federal Tax Payment System
EGG GLS	Ethics and General Government Law Branch in the Office of the Associate Chief Counsel (General Legal Services)
EPP	Enrolled Practitioner Program
EQ	Embedded Quality
FOIA	Freedom of Information Act
GLS	General Legal Services
GM	Group Manager
ICS	Integrated Collection System
IDRS	Integrated Data Retrieval System
IMF	Individual Master File
IRC	Internal Revenue Code
IRM	Internal Revenue Manual
IRS	Internal Revenue Service
LITC	Low Income Taxpayer Clinic
OPR	Office of Professional Responsibility

Acronym	Definition
PDT	Potentially Dangerous Taxpayer
POA	Power of Attorney
RA	Revenue Agent
RAF	Reporting Agents File
RO	Revenue Officer
RPC	Return Preparer Coordinator
RPO	Return Preparer Office
SB/SE	Small Business/Self Employed
STC	Student Tax Clinic
STCP	Student Tax Clinic Program
TAS	Taxpayer Advocate Service
TBOR	Taxpayer Bill of Rights
TDC SM	Taxpayer Digital Communications Secure Messaging
TIA	Tax Information Authorization
TIGTA	Treasury Inspector General for Tax Administration
TIN	Taxpayer Identification Number
TM	Territory Manager

5.1.23.1.7
(10-18-2023)

Related Resources

- (1) *Circular 230*, Regulations Governing Practice before the Internal Revenue Service
- (2) *TBOR*, IRS.gov Taxpayer Bill of Rights information
- (3) IRC 7803(a)(3), Execution of Duties in Accord with Taxpayer Rights
- (4) IRC 6304, Fair tax collection practices
- (5) 26 CFR 601.504(a)(2) through (6), Statement of Procedural Rules, Conference and Practice Requirements, Requirements for filing power of attorney
- (6) *Disciplined-Tax-Professionals*, IRS.gov search for disciplined tax professions
- (7) *CPA Verify*, National Association of State Boards of Accountancy (NASBA) information on licensed CPAs and public accounting firms
- (8) IRM 5.1.10, Taxpayer Contacts

5.1.23.2
(06-22-2022)

Taxpayer Rights

- (1) Awareness of taxpayer rights is vitally important. 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 accordance with taxpayer rights. See IRC 7803(a)(3), Execution of Duties in Accord with Taxpayer Rights. The

following taxpayer rights are in Publication 1 (rev. 9/2017), and are addressed in IRM 5.1.9, Collection Appeal Rights, and throughout IRM Part 5.

- The right to be informed.
- The right to quality service.
- The right to pay no more than the correct amount of tax.
- The right to challenge the IRS's position and be heard.
- The right to appeal an IRS decision in an independent forum.
- The right to finality.
- The right to privacy.
- The right to confidentiality.
- The right to retain representation.
- The right to a fair and just tax system.

- (2) For additional information about TBOR, see <https://www.irs.gov/taxpayer-bill-of-rights>.

5.1.23.3
(10-18-2023)
**Taxpayer
Representation/
Authorization**

- (1) Every taxpayer is entitled to retain representation. Taxpayers may either represent themselves or, with proper written authorization, have someone else represent them. A taxpayer's representative must be an individual authorized to practice before the IRS, such as an attorney, certified public accountant, or enrolled agent. Ordinarily, it is not required to research the status of a representative. However, you may choose to verify a representative's eligibility. See *Circular 230*, sec. 10.3, Who May Practice, and sec. 10.7, Limited Practice; IRM 5.1.23.4.2.2, Form 2848 Factors to Consider, for research guidance.
- (2) 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 (LITC). You may refer a taxpayer to a LITC if you feel a taxpayer may be eligible for assistance.
- (3) A taxpayer may also authorize a third party to receive their confidential tax information. These designees may be individuals or entities and do not have to be authorized to practice before the IRS. These designees do not represent the taxpayer in matters before the IRS.
- (4) This subsection provides guidance on the types of third party authorization requests that a taxpayer may file and the extent of authority that each authorization may convey to the third party. See IRM 11.3.3, Disclosure to Designees and Practitioners, for additional guidance.
- (5) Access Power of Attorney (POA) & Tax Information Authorizations (TIA) on the Disclosure and Privacy Knowledge Management website at: <https://portal.ds.irsnet.gov/sites/vl003/Lists/POATIA/LandingView.aspx> for additional guidance.
- (6) An authorized representative may be designated as a Potentially Dangerous Taxpayer (PDT) or Caution Upon Contact (CAU). See IRM 25.4.1.7, Power of Attorney (POA) Information, which guides employees on how to determine if an authorized representative has been designated as a PDT or CAU.

5.1.23.4
(08-19-2011)
**Third Party
Authorizations**

- (1) A taxpayer may use the following forms to record an authorization made to a third party:
- Form 2848, Power of Attorney and Declaration of Representative .
 - Form 8821, Tax Information Authorization.

5.1.23.4.1
(12-26-2019)

**Centralized
Authorization File**

- (2) Taxpayers are not required to use Form 2848 or Form 8821 to record a third party authorization. An alternate written format may be acceptable if it meets the requirements for authorizations. IRM 11.3.3, Disclosure to Designees and Practitioners, provides the requirements for authorizations not on these forms.

- (1) Records of all third party authorization documents are generally maintained on the automated Centralized Authorization File (CAF). See IRM 5.1.23.5.3.1, Exceptions to Sending a Third Party Authorization to the CAF Function, for exceptions for sending a third party authorization to the CAF.
- (2) The CAF system consists of taxpayer records and representative records:
- Taxpayer records consist of modules for which the taxpayer has given third party authorization and cross-references to the records of the involved authorized representative(s) / designee(s)
 - Representative records contain the name and address of the authorized representative
 - Designee records contain the name and address of the designee
- (3) The CAF system will send courtesy copies of notices and communications to the authorized representative/designee only when the appropriate box is checked on either Line 2 of the Form 2848 or Line 5 of Form 8821. No more than two authorized representatives or designees may receive copies of notices and communications sent to the taxpayer by the IRS.
- (4) Use IDRS Command Code CFINK to research third party authorization files.
- (5) See IRM 21.3.7.5.5.3, How to Report a Compromised or Potentially Compromised CAF Number, if you become aware of fraudulent or potentially fraudulent authorization requests or stolen CAF numbers through taxpayer contact or while conducting your official duties. Some examples that may be encountered include:
- Taxpayer states that they never filed Form 2848 or Form 8821
 - Taxpayer states that they do not know the CAF authorized representative
 - CAF authorized representative states that they do not know the taxpayer
 - CAF authorized representative states that they never filed Form 2848 or Form 8821

5.1.23.4.1.1
(12-26-2019)

Form 2848

- (1) The purpose of Form 2848 is to allow taxpayers to authorize a third party individual to represent them before the IRS. The authorized representative must be a person eligible to practice before the IRS. The authorization also allows that authorized representative to receive and inspect the taxpayer's confidential tax information.

Caution: A revenue officer may **not** accept a Form 2848 from an unenrolled tax return preparer. These individuals cannot represent a taxpayer before Collection.

5.1.23.4.1.2
(08-19-2011)
Form 8821

- (1) Form 8821 authorizes the taxpayer to designate any individual, corporation, firm, organization, or partnership to inspect and/or receive their confidential information in any office of the IRS for the type of tax and the years or periods listed on Form 8821. The taxpayer may file their own tax information authorization without using Form 8821, but it must include all the information that is requested on Form 8821.
- (2) Form 8821 does not authorize the taxpayer's designee to advocate any position with respect to the federal tax laws; to execute waivers, consents, or closing agreements; or to otherwise represent the taxpayer before the IRS.

5.1.23.4.2
(10-18-2023)
**Authority Granted to the
Authorized
Representative, Power
of Attorney, or Designee**

- (1) Interaction with the third party should be governed by the authority granted by the specific document:
 - Form 2848 is used to authorize a third party as the authorized representative or power of attorney.
 - Form 8821 is used to designate a third party as a designee to receive confidential tax information.
- (2) The major distinction between the forms is:
 - a. Form 2848 authorizes an eligible individual to represent the taxpayer before the IRS as well as to receive confidential information. An eligible individual may be an attorney, a Certified Public Accountant (CPA), an enrolled agent, an enrolled actuary, or other designated individual authorized to do so. A listing of the permitted representative designations is found in Part II on the Form 2848.
 - b. Form 8821 permits the third party designee to receive returns and return information. It does not authorize the third party to represent the taxpayer before the IRS.

Example: The designee cannot negotiate with the IRS on behalf of the taxpayer, advocate the taxpayer's position to IRS officials or employees, or perform the acts enumerated in *26 CFR 601.504(a)(2) through (6)*, Requirements for filing power of attorney.

- (3) The following table summarizes a few of the differences between designees and authorized representatives:

A Third Party Designee (Form 8821):	A Power of Attorney (Form 2848):
May be an individual or a business entity	Must be an individual authorized to represent the taxpayer before the IRS. See items a-r in Part II of Form 2848.
May inspect tax information	May inspect tax information
May receive tax information	May receive tax information
May not negotiate or advocate on behalf of the taxpayer	May negotiate or advocate on behalf of the taxpayer

A Third Party Designee (Form 8821):	A Power of Attorney (Form 2848):
May not execute waivers, consents, etc., on behalf of the taxpayer	May execute waivers, consents, etc., on behalf of the taxpayer; the POA may sign a tax return only if specifically authorized on Form 2848, line 5.
May not re-delegate the authority to receive the taxpayer's return or return information to another individual or entity	May re-delegate their authority to represent the taxpayer, but only if specifically authorized by the taxpayer to do so on Line 5 of Form 2848.
May not redisclose tax information without the taxpayer's express permission.	May not redisclose tax information without the taxpayer's express permission.

5.1.23.4.2.1
(12-26-2019)
**Authority Granted by
Form 2848**

- (1) Form 2848 may authorize an eligible individual, for example; an attorney, a Certified Public Accountant (CPA), an enrolled agent, an enrolled actuary, an enrolled retirement plan agent, a student (or law graduate) who works in a Low Income Taxpayer Clinic (LITC) or a Student Tax Clinic (STC) Program, an eligible employee, an eligible family member, or other recognized individuals per *Circular 230*, Regulations Governing Practice before the Internal Revenue Service to:
 - a. represent the taxpayer before the IRS,
 - b. receive confidential information, and
 - c. represent taxpayers before the IRS on collection matters.

Reminder: "Line 3, Tax Matters" must be properly completed to be valid.

- (2) Individuals are required to certify their eligibility to practice before the IRS on Form 2848. Lawyers, certified public accountants, and enrolled agents (EAs) can represent all taxpayers in all matters before Collection. Enrolled actuaries and enrolled retirement plan agents may only represent taxpayers on matters specified in *Circular 230*, Regulations Governing Practice before the Internal Revenue Service. In addition, students and law graduates with a special appearance authorization from the Taxpayer Advocate Service (TAS) may represent taxpayers in collection matters.
- (3) Anyone who is under suspension or disbarment from practice before the IRS is not allowed to represent taxpayers.
- (4) Form 2848 is generally input to the CAF so the authorization will be available to all areas and campuses.

5.1.23.4.2.2
(10-18-2023)
**Form 2848 Factors to
Consider**

- (1) Consider the following factors when you receive Form 2848 and follow the specific procedures, as applicable.
- (2) The IRS will not honor a Form 2848 if it designates a representative who is not authorized to practice before the IRS:
 - a. Do not treat Form 2848 as a taxpayer information authorization.

- b. Request an individual who cannot practice before the IRS to submit Form 8821 for access to tax information.

Caution: A revenue officer should **never** accept a Form 2848 from an unenrolled preparer. The Form 2848 instructions (beginning on page two) clearly state that an unenrolled return preparer cannot represent a taxpayer before Collection. Also, an individual who participates in the Annual Filing Season Program has limited representation rights and cannot represent a taxpayer before Collection.

- (3) A taxpayer may authorize a student or law graduate who works in a Low Income Taxpayer Clinic (LITC) or Student Tax Clinic Program (STCP) to represent them under a special appearance authorization issued by TAS per Delegation Order 25-18 (Rev. 5) in IRM 1.2.2, Servicewide Policies and Authorities, Servicewide Delegations of Authority.
 - a. Secure a copy of the special appearance authorization from TAS authorizing practice before the IRS and attach it to Form 2848.
 - b. A lead attorney or CPA must be listed as a representative, with their name listed on Line 2, and the student's or law graduate's name on the next line.
 - c. A lead attorney or CPA who is listed as a representative on Line 2 may replace the student or law graduate listed on the next line by submitting such change in writing. A new Form 2848 should be submitted to reflect the name of the new student or law graduate representative on Line 2 following the name of the LITC/STCP Director or Supervisory Attorney/CPA.
- (4) The power to sign the taxpayer's income tax returns can be granted only in limited situations. Refer to Form 2848 instructions to Line 5a and Treasury Regulations 1.6012-1(a)(5), (b)(3), and 1.6061-1(a) for additional information.
- (5) For IMF joint accounts, each spouse must execute their own power of attorney or tax information authorization on a separate Form 2848 or Form 8821, to designate an authorized representative/designee.
- (6) The taxpayer must sign and authorize each Power of Attorney. Ensure that page two of Form 2848 contains an original taxpayer signature. Forms 2848 with an electronic signature image or digitized image of a handwritten signature may only be submitted to the IRS online at <https://www.irs.gov/tax-professionals/submit-forms-2848-and-8821-online>.

Caution: The Office of Professional Responsibility (OPR) has observed instances where a practitioner submits a subsequent Form 2848 to include additional or different tax periods or types of tax after discovering the taxpayer has a liability or potential liability for those other periods or tax types. If the practitioner submits an additional or subsequent Form 2848, the new form should be checked to ensure that a new original signature by the taxpayer is included on the form. **Do not accept Form 2848 if a practitioner submits a new page one of Form 2848 and simply attaches a photocopy of the original page two with the taxpayer's signature.**

- (7) If you choose to check on the eligibility status of a taxpayer's representative you may use the IRS's website at <https://www.irs.gov/tax-professionals/search->

for-disciplined-tax-professionals to determine whether a representative is suspended or disbarred from practice before the IRS. Select the “Disciplinary Look-Up” link.

- (8) Refer to IRM 21.3.7.5.1(4), Essential Elements for Form 2848 and Form 8821, for essential elements needed to process Form 2848.

5.1.23.4.2.3 (12-26-2019)

Written Communication to a Taxpayer’s Authorized Representative

- (1) Generally, an authorized representative is authorized to receive any notice or other written communication required or permitted to be given to the taxpayer in the matter concerning the taxpayer.
- (2) Furnish copies to the authorized representative as directed on Form 2848.
- (3) Copies of notices and communications are no longer routinely sent to the taxpayer’s authorized representative. Taxpayers can “check the boxes”, to have copies of notices and communications sent to up to two authorized representatives.

Note: IRS employees may provide a copy of a notice or communication to an authorized representative if the box is not checked, even if the notice predates the authorization. If the IRM says that a particular notice should be sent to the authorized representative, then Collection should continue to do so unless/until the IRM is revised to eliminate the requirement. However, authorized representatives should not expect courtesy copies of notices and communications when the box is not checked.

- (4) Furnish copies of communications received from the taxpayer if the communications have a direct bearing on the nature of their representation.
- (5) Ensure that the authorized representative is authorized to receive taxpayer data on all modules contained in any communication you plan to send to the authorized representative.

Example: In a case where you have sent a levy, Letter 937, Transmittal Letter For Power of Attorney, generates systemically when Form 668-A, Notice of Levy, is issued if POA data exists on the ICS case and the authorized representative is in good standing. Ensure the Form 2848 covers all the periods on the levy and that the authorized representative is authorized to receive taxpayer data on all modules to avoid disclosure problems before mailing a copy of Form 668-A to the authorized representative.

- (6) Follow these procedures when a POA (Form 2848) does not cover all periods which need to be included on the Form 2848:
 - a. Issue Letter 5427, Incomplete Power of Attorney, to the taxpayer to notify the taxpayer that their authorized representative has not received a copy of Form 668-A or other correspondence.
 - b. Inform the taxpayer that the existing Form 2848 does not cover all of the periods on a levy or other correspondence and it must cover all of the periods in order for the authorized representative to be entitled to receive a copy of Form 668-A or other correspondence.
 - c. State that if the taxpayer wishes their authorized representative to receive a copy, the taxpayer needs to resubmit the Form 2848 covering all of the periods.

- d. Attach Letter 5427 to the taxpayer's copy of Form 668-A or other correspondence.

Note: When you are not sending the authorized representative a copy of any correspondence sent to the taxpayer you need to clearly document this in the ICS history.

5.1.23.4.3
(10-18-2023)
**Authority Granted by
Form 8821**

- (1) Form 8821 authorizes the designee to receive confidential information limited to the tax matters and tax periods specified on line 3.
 - a. Limit any disclosure of information to the designee to the type of tax, the tax form number, and the tax years or periods, or the specific tax matter.
 - b. Provide copies of tax information, notices, and other written communication to the designee on an ongoing basis if the box below the designee's name and address on line 2 of Form 8821 is checked.
- (2) Form 8821 does not authorize the designee to negotiate with the IRS on behalf of the taxpayer, advocate the taxpayer's position to IRS officials or employees, or perform the acts enumerated in Section 601.504(a)(2) through (6), Conference and Practice Requirements, Section 601.504 Requirements for filing power of attorney.
- (3) Form 8821, "Line 3, Tax Matters", provides space in column (d) for the taxpayer to enter any specific information they want the IRS to provide to the designee. Tax Matters must be properly completed to be valid. Examples of information that could be listed in column (d) include lien information, a balance due amount, a specific tax schedule, or a tax liability.
- (4) Find further information about the differences between the authority conveyed by Form 2848 and Form 8821 in IRM 11.3.3-1, Quick Guide to the Powers of Attorney and Tax Information Authorizations.
- (5) Form 8821 is generally input to CAF so the authorization will be available to all areas and campuses.

5.1.23.4.3.1
(06-22-2022)
**Form 8821
Considerations**

- (1) Form 8821 must contain critical information which can only be provided by the taxpayer. Essential information includes:
 - the tax year(s) or period(s)
 - the type of tax
 - the taxpayer's signature
 - the date signed
- (2) Review Form 8821 to ensure it contains the essential information that can only be provided by the taxpayer. The Form 8821 instructions state "Enter 'Not applicable,' in any of the columns that do not apply." The instructions also state "Do not use a general reference such as 'All years,' 'All periods,' or 'All taxes.' Any tax information authorization with a general reference will be returned."
- (3) Return any Form 8821 to the taxpayer if it is missing essential information which can only be provided by the taxpayer. For additional information, refer to IRM 21.3.7.5.1(4), Essential Elements for Form 2848 and Form 8821.
- (4) Return any Form 8821 to the taxpayer if it advocates a position that would indicate attempts to authorize the designee to act in a representational role.

The designee is not entitled to respond to any type of IRS correspondence on behalf of the taxpayer if the response advocates a position that would indicate a representational role.

5.1.23.4.4
(12-26-2019)
**Authority Granted by
Form 8655**

- (1) A reporting agent will often have information needed to resolve an open case since they are involved in the filing of the tax returns and/or the payment of the taxes for the taxpayer.
- (2) A taxpayer may prepare and sign Form 8655, Reporting Agent Authorization, to designate a reporting agent to file certain tax returns electronically. Form 8655:
 - Does not authorize the designee or any officer or employee of the designee to represent the taxpayer before the IRS
 - Does not grant authority that allows disclosure of the details of a case to the reporting agent
- (3) Form 8655 authorizes a reporting agent to:
 - Sign and file certain federal employment tax returns and make payments through the Electronic Federal Tax Payment System (EFTPS) for the taxpayer
 - Receive copies of notices, correspondence, and/or transcripts relating to the returns filed by the agent or deposits or payments made by the agent
 - File amended returns for any returns the agent filed for the taxpayer
 - Provide IRS with information to aid in penalty relief determinations related to the authority granted on Form 8655
- (4) The Reporting Agents File (RAF) is the IRS file of taxpayers and reporting agents who file employment tax returns electronically (e-file). See IRM 21.3.9, Processing Reporting Agents File Authorizations, for procedures on disclosure to a reporting agent and use of the Form 8655.
- (5) See IRM 5.1.24.4, Types of Third-Party Payer Arrangements, and IRM 5.1.24.4.3, Reporting Agent, for additional information on reporting agents.

5.1.23.4.5
(08-19-2011)
**Military Power of
Attorney (POA) for
Representation of
Deployed Military
Personnel**

- (1) A military POA is sufficient authorization to permit an individual to represent a deployed member of the military before the IRS.
- (2) An individual holding a military POA is often the spouse of the deployed military member. Since the military POA is broader and cannot be input into the CAF, it is acceptable for the IRS to require the non-deployed spouse (or other military POA holder) to complete a Form 2848. The spouse (or other military POA holder) should be permitted to sign the Form 2848 for the military member and as the deployed military member's authorized representative if the signer is a spouse, immediate family member, or otherwise eligible to represent the taxpayer.
- (3) Attach a copy of the military POA to the completed Form 2848 before submission to the IRS.

5.1.23.4.6
(12-26-2019)
Bankruptcy Authority

- (1) In a bankruptcy proceeding involving the tax liabilities of a debtor-taxpayer, the IRS may disclose to the debtor-taxpayer's attorney of record the debtor-taxpayer's return information relevant to the resolution of those tax matters affected by the proceeding. In this situation, a Form 2848 or Form 8821 is not required.
- (2) See the Exhibit in IRM 5.9.19-1, Disclosure Chart, for additional information on bankruptcy authority.

5.1.23.5
(10-18-2023)
Processing a Third Party Authorization

- (1) Form 2848 and Form 8821 may be received in-person, by mail, or by electronic means such as: email, Enterprise Electronic Fax (EEFax), Document Upload Tool (DUT), Taxpayer Digital Communications Secure Messaging (TDC SM), and other IRS approved electronic taxpayer communication systems.
- (2) IRM 21.3.7, Processing Third Party Authorizations onto the Centralized Authorization File (CAF), provides information on third party authorizations. Paragraph (5) of IRM 21.3.7.1.6, Audience-Processing Sites (CAF Function), requires IRS employees to fax valid authorizations to the CAF Function within 24 hours of receipt.

Exception: Send the authorization by mail if a fax option is not available. CAF Function mailing addresses are located in IRM 21.3.7.1.6(6).

- (3) For exceptions to sending a third party authorization to the CAF Function, see IRM 5.1.23.5.3.1, Exceptions to Sending a Third Party Authorization to the CAF Function.

5.1.23.5.1
(12-26-2019)
Case History Recordations

- (1) Record the receipt of Form 2848 or Form 8821 in the Integrated Collection System (ICS) case history when a taxpayer submits either of these documents.
- (2) Document the ICS case history as follows:
 - a. Record the date and the specific CAF Function location (Memphis, Ogden, or Philadelphia (International)) to which you faxed or mailed the authorization.
 - b. Annotate whether you faxed or mailed the authorization.
- (3) Add the Power of Attorney (POA) information in the ICS "Name and Address" application.

5.1.23.5.2
(06-22-2022)
Authorization Document Perfection

- (1) To determine if the authorization is valid:
 - a. Ensure all parts of the authorization are complete.
 - b. Ensure the authorization is signed by the representative and the taxpayer.
- Note:** For additional information on how the Centralized Authorization File (CAF) function verifies the validity of the Form 2848 and Form 8821, see IRM 21.3.7.5.1, Essential Elements for Form 2848 and Form 8821.
- (2) Request the taxpayer (or the taxpayer's authorized representative or designee) to perfect Form 2848 or Form 8821, if necessary. See IRM 21.3.7, Processing Third Party Authorizations onto the Centralized Authorization File (CAF).

5.1.23.5.3
(06-22-2022)

Sending the

Authorization to the CAF Function

- (1) Send a properly executed, valid authorization to the appropriate CAF Function by fax or mail within 24 hours of receipt unless an exception applies.

Exception: A Form 2848 provided by an authorized representative of a whistleblower (an individual who submits a Form 211, Application for Award for Original Information) must remain in the case file. See IRM 5.1.23.5.3.1.

- (2) Determine the appropriate CAF Function (Memphis, Ogden, or Philadelphia (International)) to direct the authorization to depending on the taxpayer's state of residence (for individuals) and taxpayer's principal place of business (for entities). See IRM 21.3.7.1.6, Audience-Processing Sites (CAF Function), to determine which CAF Function should receive the third party authorization. The appropriate CAF Functions are located in:

- Memphis
- Ogden
- Philadelphia (International)

- (3) CAF Function information is also provided in the following sources:

- On the irs.gov Internet site at: <https://www.irs.gov/businesses/small-businesses-self-employed/caf-unit-addresses-fax-numbers-and-state-mapping>
- In the "Where To File Chart" on Page 1 of Instructions for Form 2848.
- In the "Where To File Chart" on Page 1 of Instructions for Form 8821.

5.1.23.5.3.1
(12-26-2019)

Exceptions to Sending a Third Party

Authorization to the CAF Function

- (1) A Form 2848 and/or Form 8821 is intended for one-time specific use if the "specific use" box is checked.

- (2) Retain the original third party authorization in the case file if it is:

- Submitted with a Freedom of Information Act (FOIA) request
- Related to a Congressional inquiry
- Submitted by an authorized representative of a whistleblower (an individual who submits Form 211, Application for Award for Original Information)

- (3) For information on how to properly process a whistleblower case, see IRM 25.2.1, General Operating Division Guidance for Working Whistleblower Claims, and IRM 25.2.2, Whistleblower Awards.

- (4) Forward a third party authorization that covers a specific tax period for a specific tax return to the appropriate CAF Function (Memphis, Ogden, or Philadelphia (International)) unless it falls into the specific-use category.

5.1.23.5.3.2
(10-18-2023)

Authorization Document Retention

- (1) Retain a copy of the authorization document, as applicable:

- a. Retain a copy in the case file if you have mailed the original authorization to the appropriate CAF function.
- b. Retain the original in the case file if you have electronically sent the authorization to the appropriate CAF function.

- (2) When Form 2848 or Form 8821 is received electronically along with an email notification which identifies the sender of the authorization, retain a copy of the

incoming email notification in the case file. If the sender is not identified on the email, case file retention of the email is not required.

5.1.23.5.4
(10-18-2023)
**Change or Cancel a
Third Party
Authorization**

- (1) Request a written statement from the taxpayer when the taxpayer wants to revoke an existing third party authorization, or from the taxpayer's authorized representative or the taxpayer's designee when the representative or designee wants to withdraw from representing the taxpayer.
- (2) A taxpayer can revoke an existing Power of Attorney (POA) or Tax Information Authorization (TIA) without naming a new authorized representative or authorized person by either:

Revocation Option	Requirement
Filing a copy of the POA or TIA to be withdrawn with each office of the IRS where the POA or TIA was filed.	The taxpayer must write "REVOKE " across the top of the first page of the Form 2848 or Form 8821 with a current signature and date below this annotation.
Filing a revocation statement with each office of the IRS where the POA or TIA was filed.	The statement of revocation must: <ul style="list-style-type: none"> • Indicate that the authority of the POA or designee is revoked • List the name and address of each authorized representative or designee whose authority is revoked • List the tax matters and tax periods • Be signed and dated by the taxpayer(s)

- (3) An authorized representative/designee may withdraw from representation or appointment by either:

Withdrawal Option	Requirement
Filing a copy of the POA or TIA to be revoked with each office of the IRS where the POA or TIA was filed.	The authorized representative/designee must write "WITHDRAW" across the top of the first page of the copy of authorization form with a current signature and date below the annotation.
Filing a statement of withdrawal with the IRS office(s) where the POA or TIA to be revoked was filed.	The statement of withdrawal must: <ul style="list-style-type: none"> • Identify the name(s), TIN, address of the taxpayer(s) • Identify the tax matter(s) from which the authorized representative/designee is withdrawing • Be signed and dated by the authorized representative/ designee

- (4) Upon receipt of a written statement, annotate the bottom of the statement requesting revocation or withdrawal with the date of receipt and your area office name or area office address. Write across the top of the form the word "REVOKE" or "WITHDRAW."
- (5) Review the revocation or withdrawal to ensure basic information is correct.

- (6) Send the statement of revocation or withdrawal to the appropriate CAF Function (Memphis, Ogden, or Philadelphia (International)).

Note: The filing of a subsequent Form 2848 for the same period(s) and type(s) of tax as a previous authorization automatically replaces and revokes the previous Form 2848 unless specified otherwise by the taxpayer.

Note: Similarly, a new Form 8821, automatically replaces and revokes a prior Form 8821 for the same period(s) and tax type(s).

- (7) Update or delete the POA address in the ICS "Name and Address" application, as appropriate.
- (8) When a third party authorization change or cancel request is received via EEFax, the incoming email should be retained in the case file to document the origin of the EEFax.

5.1.23.6 (10-18-2023)

By-Passing a Taxpayer's Authorized Representative

- (1) Where an authorized representative has **unreasonably delayed or hindered** an examination, collection, or investigation by failing to furnish, after repeated requests, non-privileged information necessary to the examination, collection or investigation, the IRS employee conducting the examination, collection, or investigation may request permission from their immediate supervisor to by-pass the authorized representative and contact the taxpayer directly for such information.

Note: Unreasonable delay or hindrance of an investigation may constitute a violation of a provision(s) of *Circular 230*. However, because only the Office of Professional Responsibility (OPR) can determine whether such a violation has occurred, you should refer a suspected violation of *Circular 230* to OPR.

Note: It is important to understand that a referral to OPR, based on an authorized representative's **unreasonable delay or hindrance**, should not be submitted without having first exercised the by-pass procedure.

- (2) See IRM 5.1.23.8.1, Referrals to the Office of Professional Responsibility, for further information on reporting suspected violations to OPR.
- (3) It may be necessary to by-pass the authorized representative when the authorized representative has unreasonably delayed or hindered collection by repeatedly:
 - a. failing to provide the taxpayer's records or information upon request,
 - b. failing to return telephone calls or respond to written correspondence,
 - c. canceling scheduled appointments at the last minute without timely notification, or
 - d. requesting extensions of time beyond established deadlines for submitting requested records or information.

Note: Employees are encouraged to use appropriate enforcement tools to obtain the information necessary for collection in a timely manner without by-passing the authorized representative even when the authorized representative unreasonably delays or hinders collection.

Example: Necessary information may be obtained by contacting third parties (without issuing a summons) or by issuing summonses to third parties or to the taxpayer for the necessary information. In such cases, it is not necessary to by-pass the authorized representative.

- (4) Do not by-pass an authorized representative simply because you wish to interview the taxpayer.
- (5) Keep in mind that IRC 6304 precludes the IRS from communicating with a represented taxpayer in connection with the collection of any unpaid tax unless the taxpayer or taxpayer's authorized representative has given prior consent to that communication.
- (6) The IRS may, however, work directly with a taxpayer who has an authorized representative to resolve an issue on the taxpayer's account if all of the following three conditions are met:
 - a. The taxpayer initiates the contact to resolve the issue on the account, and
 - b. The taxpayer expresses a specific desire to resolve the issue without the involvement of the authorized representative after the IRS employee has advised the taxpayer of the current authorized representation, and
 - c. The taxpayer's desire to have the IRS work directly with the taxpayer instead of the authorized representative is properly documented in the case file.

Note: If you are employed by the IRS as an attorney, you should **not** work directly with a represented taxpayer without the permission of the authorized representative; the American Bar Association Model Rules of Professional Conduct prohibit attorneys from discussing a matter with a represented person without the permission of the authorized representative. See Chief Counsel Notice CC-2017-006 for additional guidance regarding communications with pro se petitioners and Form 2848 representatives in Tax Court litigation.

- (7) The process for by-passing a taxpayer's authorized representative is a two-part process. The first part is a warning and the second part is the actual by-pass. The two-part process is discussed below. If you are working directly with a taxpayer to resolve an issue in the situation described in (6)(a) through (c) above, this is not "bypassing an authorized representative" and you do not need to follow the two-part process.

5.1.23.6.1
(12-26-2019)
**By-Pass Warning
Procedures**

- (1) Notify your group manager (GM) when you first encounter instances of unreasonable delay or hindrance by an authorized representative on a collection case.
- (2) Document the notification in the ICS case history.
- (3) Consider using Letter 4016-A, By-Pass Warning to Power of Attorney, to advise the authorized representative of their responsibilities and of the possible consequences of failing to fulfill them.
- (4) Take the following actions from that point on:
 - a. Confirm all appointments with the authorized representative in writing.
 - b. Make all requests for documents in writing.

- c. Document all instances of unreasonable delay or hindrance in the case file.
 - d. Document all your actions in response to the unreasonable delay or hindrance.
- (5) Prepare Letter 4016–A when you determine that it may be necessary to by-pass the authorized representative.
 - a. Complete all the required entries on Letter 4016–A.
 - b. Date Letter 4016–A with the date you prepare it.
 - c. Allow 15 to 30 calendar days for response in the line that reads: “The currently outstanding items must be submitted by ____days from the date of this letter.”
- (6) Obtain your GM’s approval of Letter 4016–A either in person, over the phone, or via **secure** email.
 - a. Document your GM’s approval in the ICS case history.
 - b. Sign Letter 4016–A for your GM.

Note: Sign Letter 4016–A with your GM’s name and title followed by the word “by” followed by your name, your title, and your signature.

Reminder: Do not sign Letter 4016–A with your signature only.
- (7) Mail Letter 4016–A to the authorized representative only.
- (8) Notify the territory manager (TM) and the area return preparer coordinator (RPC) about the potential by-pass according to the following procedures:
 - a. See IRM 5.1.23.6.1.1, Notifying the Territory Manager
 - b. See IRM 5.1.23.6.1.2, Notifying the Area Return Preparer Coordinator
- (9) Monitor the case for the authorized representative’s appropriate response to the by-pass warning letter within the period of time specified in the letter (generally 15 to 30 calendar days).

5.1.23.6.1.1
(12-26-2019)
**Notifying the Territory
Manager**

- (1) Send a copy of Letter 4016–A to the territory manager using the following procedures:
- (2) Prepare a **secure** email message to the TM:
 - 1. Open an email message.
 - 2. Address the message to the TM.
 - 3. Include your GM’s name on the “Cc” line.
 - 4. Type “Notification of Letter 4016-A sent to Taxpayer’s Authorized Representative” in the “Subject” line of the message.
 - 5. Annotate a copy of Letter 4016–A “/s/ (GM’s name and title by your name)” to indicate your GM signed the letter.

Reminder: Obtain your GM’s approval of Letter 4016–A before you annotate the letter.

 - 6. Attach the annotated copy of Letter 4016–A to the email message.
 - 7. Send the message to the TM via **secure** email.

5.1.23.6.1.2
(10-18-2023)
**Notifying the Area
Return Preparer
Coordinator**

- (1) Send a copy of Letter 4016–A to the Area RPC using the following procedures:
- (2) Access the list of the RPCs at: Knowledge Base Homepage Site >SB/SE Field Exam Procedures >Return Preparers/ Representatives/ POAs >Overview>Return Preparer Information>Return Preparer Coordinator (RPC) Listing.
 - a. The name of the RPC is listed in the column labeled “Coordinator”.
 - b. Each coordinator’s name is a hyperlink — click on it to open up an email message addressed to the coordinator.
- (3) Prepare a **secure** email message to the RPC using the following procedures:
 1. Click on the name of the “Coordinator.”
 2. Type “Notification of Letter 4016-A sent to Taxpayer’s Authorized Representative” in the “Subject” line of the message.
 3. Annotate the copy of Letter 4016–A “/s/ (GM’s name and title by your name)” to indicate your GM signed the letter.

Reminder: Obtain your GM’s approval of Letter 4016–A before you annotate the letter.
 4. Attach the annotated copy of Letter 4016–A to the email message.
 5. Send the message to the RPC via **secure** email.

5.1.23.6.2
(12-26-2019)
By-Pass Procedures

- (1) The Letter 4016–B, By-Pass Power of Attorney - Contact Taxpayer Directly:
 - a. notifies the authorized representative they are being by-passed, and
 - b. outlines the facts and circumstances underlying the decision to by-pass.
- (2) Prepare Letter 4016–B if the authorized representative does not appropriately respond to Letter 4016–A within the period of time specified in the letter (generally 15 to 30 calendar days).
 - a. Complete all the required entries on Letter 4016–B except for your GM’s signature.
 - b. Date Letter 4016–B with the date you prepare it.

Reminder: Do not sign Letter 4016–B; your GM must sign it for the TM.
- (3) Prepare an email message to send Letter 4016–B to your GM using the following procedures:
 - a. Type “Request for TM to Approve Sending Letter 4016–B to the Taxpayer’s Authorized Representative” in the “Subject” line of the message.
 - b. Attach Letter 4016–B as an attachment.
- (4) Type a request to your GM into the body of the message; request your GM to:
 - a. Obtain the TM’s approval of Letter 4016–B, either in person, over the phone, or via secure email.
 - b. Sign Letter 4016-B with the TM’s name and title “by” their (GM’s) name, title, and signature if the TM approves.
 - c. Return the signed Letter 4016–B to you via **secure** email.
- (5) Document your GM’s approval and the TM’s approval in the ICS case history.
- (6) Mail Letter 4016–B to the authorized representative.
- (7) Notify the taxpayer and the Area RPC about the by-pass.

5.1.23.6.3
(10-18-2023)

**Procedures After
By-Passing the
Authorized
Representative**

- a. Send a copy of Letter 4016-B to the taxpayer.
- b. Send a copy of Letter 4016-B to the Area RPC.

- (1) Letter 4016-B provides that the authorized representative may respond within ten calendar days to offer evidence of reasonable cause for the delays, however, you may initiate contact with the taxpayer after mailing Letter 4016-B to the authorized representative.
- (2) Issue Letter 725-B to schedule an IRS office or telephonic appointment per taxpayer contact procedures in IRM 5.1.10, Taxpayer Contacts.
- (3) Following the mailing of Letter 4016-B and the initial contact meeting, the taxpayer may be contacted when you need to obtain information or advise the taxpayer of any decision you made on their case.
 - a. Advise the authorized representative in writing of the time and place of all future appointments with the taxpayer.

Note: The authorized representative may attend such appointments.

 - b. Send copies of all correspondence with the taxpayer to the authorized representative.

Note: Permission to contact the taxpayer directly does not disqualify an authorized representative from acting as the authorized representative of the taxpayer.
- (4) Monitor the case for a possible response from the authorized representative within the ten calendar day timeframe specified in Letter 4016-B.

5.1.23.6.3.1
(12-26-2019)

**Authorized
Representative's
Response**

- (1) The taxpayer's authorized representative has ten calendar days to respond and offer evidence of reasonable cause for the delays cited in Letter 4016-B.
- (2) Carefully consider the authorized representative's response if you receive a response within ten calendar days.
- (3) Determine if the authorized representative had reasonable cause for the delays.
- (4) Take the following action depending upon your determination.
 - a. Continue the by-pass, or
 - b. Reverse the by-pass determination.

5.1.23.6.3.2
(12-26-2019)

**Reversing the By-Pass
Determination**

- (1) Advise the taxpayer and the authorized representative if you change your determination about by-passing the authorized representative.
- (2) Follow the normal procedures for contacting an authorized representative from that point forward:
 - a. Contact the authorized representative whenever you need to obtain information or advise of any decision you made on the case.
 - b. Send copies of all notices or communications to the taxpayer.
 - c. Send copies of all notices or communications to the authorized representative if requested by the taxpayer on the Form 2848.

5.1.23.7

(12-26-2019)

Suspected Practitioner Misconduct

- (1) Practitioners may be subject to discipline under Treasury Department *Circular 230* (31 CFR Part 10), Regulations Governing Practice before the Internal Revenue Service, for misconduct.
- (2) Field Collection employees are required to:
 - a. Become generally familiar with practitioner responsibilities as set forth in *Circular 230*.
 - b. Know and understand the indicators of practitioner misconduct. See IRM 5.1.23.7.1, Indicators of Practitioner Misconduct.
 - c. Be alert to the patterns and/or trends of misconduct.

Note: Patterns of misconduct may be prevalent in one collection case but a pattern may not become apparent until viewed in the context of several collection cases.
 - d. Document the ICS case history appropriately.
 - e. Take appropriate action, depending on the situation and the facts of the case. See IRM 5.1.23.7.2, Suspected Practitioner Misconduct Procedure.
- (3) The Office of Professional Responsibility (OPR) is responsible for communicating and enforcing the standards of professional conduct governing tax professionals who practice before the IRS. OPR's jurisdiction includes all matters connected with a presentation to IRS. This includes all individuals who represent taxpayers before the IRS, provide written advice on federal tax matters, or otherwise practice before the IRS. OPR's jurisdiction often includes attorneys, CPAs, Enrolled Agents and others compensated to prepare documents for submission to IRS in tax controversy matters. OPR enforces *Circular 230*. See IRM 1.1.20, Office of Professional Responsibility (OPR), for more information.

5.1.23.7.1

(10-18-2023)

Indicators of Practitioner Misconduct

- (1) *Circular 230*, Section 10.23, Prompt Disposition of Pending Matters, states that a practitioner may not unreasonably delay the prompt disposition of any matter before the IRS. OPR investigates and disciplines violations of this section, particularly where a practitioner has demonstrated a pattern of delay. However, before referring a practitioner for a violation of Section 10.23, consult IRM 5.1.23.6, By-Passing a Taxpayer's Authorized Representative, procedures for guidance concerning authorization to by-pass an authorized representative and instances when a represented taxpayer may be contacted directly.
- (2) Three common indicators of practitioner misconduct are:
 - Pattern of Inappropriately Attempting to Influence an IRS Employee
 - Pattern of Delay
 - Pattern of Significant Omissions

Note: Practitioners may engage in other types of Circular 230 misconduct, such as not responding to requests for information or representing taxpayers who have conflicting interests.

- (3) Clearly document all instances of practitioner misconduct in your ICS case history.
 - a. Document all case actions leading to the request for information, documents, or substantiation in the ICS case history.

- b. Document the practitioner's failure to comply with your request for information or if the practitioner only provides incomplete information in the ICS case history.
- (4) Use Form 8484, Report of Suspected Practitioner Misconduct and Report of Appraiser Penalty to the Office of Professional Responsibility (OPR).
- (5) Consult with your local Counsel office if a practitioner refuses to provide information on grounds of privilege.

5.1.23.7.1.1
(06-22-2022)

**Pattern of
Inappropriately
Attempting to Influence**

- (1) The first indicator of practitioner misconduct is a pattern of inappropriately attempting to influence an IRS employee regarding the disposition of a case to obtain desired results.
- (2) Practitioners may attempt to influence IRS employees in a collection investigation by:
 - Using abusive language.
 - Threatening claims of purported misconduct by the collection employee.
 - Making false claims of such misconduct.
 - Making false accusations.
 - Verbal / Physical threats or assaults.
 - Offering a bribe.

Example: Offering money, gifts, or other things of value.

Note: See *Circular 230*, Incompetence and disreputable conduct, section 10.51(a)(9).

- (3) An authorized representative may be designated as a Potentially Dangerous Taxpayer (PDT) or Caution Upon Contact (CAU). See IRM 25.4.1.7, Power of Attorney (POA) Information, which guides employees on how to determine if an authorized representative has been designated as a PDT or CAU.
- (4) Consult the OPR website at <https://irssource.web.irs.gov/OPR/Pages/Home.aspx> for additional information on how OPR monitors that all tax practitioners, tax return preparers who perform limited practice, and other regulated third parties in the tax system adhere to professional standards and follow the law while also determining if any disciplinary sanctions have been imposed against an authorized representative that restrict their eligibility to practice before the IRS.

5.1.23.7.1.2
(10-30-2014)

Pattern of Delay

- (1) A second indicator of practitioner misconduct is a pattern of delay by the practitioner in performing one or more of the following actions during the course of a collection case. Refer to Section 10.23, Prompt disposition of pending matters, of *Circular 230*.
 - a. Missing appointments
 - b. Canceling appointments at the last moment with no good cause provided
 - c. Agreeing to provide requested documentation and/or information and then refusing to do so, thereby hindering the IRS's efforts to continue its collection investigation
 - d. Providing incomplete information requiring repeated call backs and correspondence, causing delays

Note: These facts may also support referrals under Sections 10.20, Information to be furnished, or 10.22, Diligence as to accuracy, of *Circular 230*.

5.1.23.7.1.3
(12-26-2019)
Pattern of Significant Omissions

- (1) A third indicator of practitioner misconduct is a pattern of significant omissions (of assets or significant and unreasonable discounts on a number of assets on financial statements that may violate Sections 10.22, Diligence as to accuracy, and 10.51(a)(4), Incompetence and disreputable conduct, of *Circular 230*) reflecting the practitioner's failure to exercise due diligence or the act of providing, by way of omission, false or misleading information. Failure to exercise due diligence is conduct more than a simple error but is less than willful or reckless misconduct; it is generally considered negligence. The information provided by the practitioner, or lack thereof, must be shown to be materially inaccurate or misrepresented, not merely a simple error.
- (2) The patterns of omissions or material misrepresentations could include, but are not limited, to the following:
 - a. Assets are omitted or undervalued
 - b. Income is understated or expenses are overstated
 - c. Collection Information Statement(s) (CIS) reflect(s) a large number of claimed dependents who would not be allowable as an exemption on the taxpayer's income tax return
 - d. CIS reflects similar dollar amounts in both checking and savings accounts (e.g., \$100 or \$1000) and the taxpayer has not provided bank statements to validate the balances
 - e. CIS reflects no available credit, including no credit cards which is not validated by a comparison with the taxpayer's credit bureau reports which shows available credit
 - f. CIS shows similar listings for monthly income and expenses and the taxpayer has not validated the income or expenses as being legitimate

Example: Same low wages, same child care expenses

Note: Do not assume that an authorized representative is misrepresenting any facts without validating the information on the CIS, either through property records, credit bureau checks, etc.

- (3) Clearly document all instances of suspected practitioner misconduct in your ICS case history. Include all of the information about the practitioner's failure to exercise due diligence, as well as an explanation of why you believe that the practitioner's behavior falls below the expected standards.

5.1.23.7.2
(12-26-2019)
Suspected Practitioner Misconduct Procedure

- (1) Maintain a carefully detailed chronology in the collection ICS case history throughout the course of the collection case when you suspect practitioner misconduct.
 - a. Document any abusive behavior or any threat(s).
 - b. Write a memo immediately after a practitioner misconduct event; include everything that was stated and the names of any witnesses.
 - c. Preserve any threat message(s) left on your voice mail.

Note: A carefully detailed chronology will go a long way towards supporting the underlying allegations when OPR and/or TIGTA analyzes your report of

suspected practitioner misconduct and/or GLS analyzes the facts of your case about a practitioner performing a possible post-employment violation.

- (2) Make a referral to report suspected practitioner misconduct when you:
 - a. Detect these patterns during a collection investigation.
 - b. Receive a credible report of misconduct from any person other than an officer or employee of the IRS.
 - c. Become aware that a suspended or disbarred practitioner is practicing or attempting to practice before the IRS.
- (3) Contact Associate Chief Counsel, Office of General Legal Services (GLS), Ethics and General Government Law Branch when you need to seek legal advice about a practitioner committing a possible post-employment violation.

Note: When an IRS employee contacts GLS with an inquiry seeking legal advice about a possible post-employment violation, GLS's role is that of a legal advisor. The employee is not considered to be making a report.

- (4) When reporting misconduct or seeking legal advice from the Office of Chief Counsel:
 - a. Provide as much relevant factual background as possible to fully communicate the reasons why you suspect the practitioner of misconduct.
 - b. Ensure that you include all available documentary evidence in support of your allegation(s).

5.1.23.8
(12-26-2019)

Referrals of Suspected Practitioner Misconduct

- (1) When situations exist and are fully documented that a duly authorized representative persistently shows a pattern of misconduct, either with respect to a particular client or several clients, employees should make a referral. Depending on the type of referral, you may need to contact:
 - a. OPR
 - b. TIGTA
 - c. Chief Counsel, Office of General Legal Services

- (2) Prior to contacting any of these offices, you will need to contact your immediate manager.

5.1.23.8.1
(10-18-2023)

Referrals to the Office of Professional Responsibility

- (1) IRS employees have an obligation to report suspected practitioner misconduct to OPR under section 10.53(a), Receipt of information, of *Circular 230*.
- (2) IRS employees may contact the Office of Professional Responsibility at the EEFax number and mailing address shown on the *OPR-At-A-Glance* web page during the course of working a case to discuss any perceived instances of practitioner misconduct or for questions about *Circular 230* issues.
- (3) Prior to making the referral use the Disciplinary Look-Up provided by IRS on its website at <https://www.irs.gov/tax-professionals/search-for-disciplined-tax-professionals> to determine whether a practitioner has been suspended or disbarred from practice before the IRS.
- (4) The IRS Source homepage also provides additional resources for the verification of practitioner credentials, links to the state boards of accountancy and state bar associations, and additional information about reporting suspected

practitioner misconduct at <https://irssource.web.irs.gov/OPR/sitepages/AdditionalResources.aspx>. If a state does not make information available electronically, you may have to contact the State Bar Association or the State Board of Accountancy directly.

Note: An alternate method to check the status of a taxpayer's authorized representative is by using the national asset locator tool to search for current CPA license information, state bar membership information, etc. Other search sites, such as *CPAVerify*, may provide similar information. Not all states provide online information so you may need to make a phone call to the appropriate state.

Example: Current CPA license information is available at: <https://www.aicpa.org/forthepublic/findacpa.html>, however, membership in the American Institute of CPAs (AICPA) trade organization is voluntary. Thus, not all licensed CPAs are members. Not all states make their license information available electronically. Therefore, in some cases, you may have to contact the State Board of Accountancy directly.

Example: Current bar membership information is available through each state's bar association. If a state does not make information available electronically, you may have to contact the State Bar Association directly.

Note: To check the status of an enrolled agent with the IRS Enrolled Practitioner Program (EPP), call the IRS Enrolled Practitioner Hotline at 855-472-5540 or send a secure email to EPP@irs.gov or *CC DCC epp. To verify if someone is an enrolled agent, consult the IRS website at <https://www.irs.gov/tax-professionals/verify-the-status-of-an-enrolled-agent>. To view the Return Preparer Office (RPO) listing of active enrolled agents, enrolled retirement plan agents, enrolled actuaries, and Annual Filing Season Program (AFSP) participants, see <https://irssource.web.irs.gov/RPO/Pages/Home.aspx>.

- (5) Complete Form 8484, Report of Suspected Practitioner Misconduct and Report of Appraiser Penalty to the Office of Professional Responsibility (OPR), to report suspected practitioner misconduct and to refer the practitioner to OPR for appropriate disciplinary action by following the specific "Instructions to Form 8484" (printed on the reverse side of the form).

Note: Submission of a referral for misconduct may result in an evidentiary hearing before an administrative law judge. OPR may request an IRS employee having information supporting the allegations of misconduct to appear as a witness at a hearing or to submit an affidavit or declaration under penalties of perjury. Misconduct referrals generally will be disclosed to practitioners under the Privacy Act, Freedom of Information Act, and IRC 6103(l)(4)(A)(ii), as applicable.

- (6) Ensure you include all the documentary evidence in support of your allegation(s).

Reminder: OPR cannot take a case before a judge without sufficient evidence, so you must maintain a carefully detailed chronology throughout the course of the collection case to document the underlying allegation(s).

- (7) Consider whether you should also make a referral to the Treasury Inspector General for Tax Administration (TIGTA) for potential criminal sanctions.
 - a. See IRM 5.1.23.8.2, Referrals to the Treasury Inspector General for Tax Administration.
 - b. Clearly document on any OPR referral any decision to refer a practitioner to TIGTA for potential criminal sanctions. Be sure to include all the documentary evidence in support of your allegation(s).
- (8) Scan and save any supporting document(s), as applicable, and save the scanned document(s) as a PDF file(s).
- (9) Compose an email message to your GM as follows:
 - a. Entitle the message "Report of Suspected Practitioner Misconduct"
 - b. Include a request in the body of the message to your GM to signify their approval by forwarding the message to OPR.

Note: As noted above, since the Form 8484 may be used in an evidentiary hearing before an administrative law judge your GM should be involved and know the circumstances surrounding the case.
- (10) Attach Form 8484 and any other supporting documents to the email message.
- (11) Send the message and attachment(s) to your GM via **secure** email.

Note: If your GM concurs, they should digitally sign and date Form 8484, in the part titled Management Approval.
- (12) Transmit Form 8484 and/or any supporting document(s) to the **OPR Referrals* mailbox.
- (13) In all but rare situations, OPR investigations begin at the conclusion of enforcement efforts and do not influence ongoing IRS compliance activity.
- (14) Refer a post-employment violation under Section 207 of Title 18 of the United States Code to GLS.
- (15) See IRM Exhibit 1.25.1-1, How to Make a Referral to the Office of Professional Responsibility, for detailed information on how to make a referral.

5.1.23.8.2
(12-26-2019)
**Referrals to the Treasury
Inspector General for
Tax Administration**

- (1) Practitioner misconduct may be an indicator of potential fraud, so it may be appropriate to discuss practitioner misconduct with the Fraud Technical Advisor.
 - a. Review IRM 25.1.8, Fraud Handbook, Field Collection, for procedures to use when developing a fraud referral.
 - b. Discuss possible practitioner misconduct with the Fraud Technical Advisor for assistance on whether to refer a practitioner to TIGTA for investigation.
- (2) Make a report to refer a practitioner for misconduct directly to TIGTA by one of the methods displayed in the following table:

Reporting to TIGTA	
a.	Access TIGTA's website at http://www.treas.gov/tigta/contact_report.shtml
b.	Complete the "ONLINE FORM."
•	Send a secure email message to TIGTA at <i>TIGTA Hotline Complaints Unit</i>
•	Contact the local TIGTA office, or
•	Call the TIGTA National Hotline at 800-366-4484.
	Note: After regular business hours, call 800-589-3718. This number reaches an answering service which answers calls from all fifty states (24 hours a day, 7 days a week). The answering service will send a page to the on-call TIGTA agent.

5.1.23.8.3
(12-26-2019)
**Contacts with General
Legal Services**

- (1) Consult with Counsel under the following circumstances:
 - a. Consult with Counsel to determine if you should make a referral to the Treasury Inspector General for Tax Administration (TIGTA) for investigation of practitioner misconduct as potential fraud.
 - b. Consult with the office of the Associate Chief Counsel Office of General Legal Services, Ethics and General Government Law Branch to determine if you should make a referral to the Treasury Inspector General for Tax Administration (TIGTA) for investigation about a post-employment violation under Section 207 of Title 18 of the United States Code.

- (2) Refer the matter to TIGTA for investigation if Counsel so advises.

Reminder: Whether or not you end up referring the matter to TIGTA for potential criminal sanctions, you must report suspected practitioner misconduct to OPR as discussed above.

Reminder: Clearly document on any OPR referral any decision to refer a practitioner to TIGTA for potential criminal sanctions.

- (3) Ensure that you include all the documentary evidence in support of your allegation(s).

Reminder: TIGTA may not be able to make the case for fraud without sufficient evidence, so you must maintain a carefully detailed chronology throughout the course of the collection case to document the underlying allegation(s).

5.1.23.8.3.1
(10-18-2023)

**Contacting General
Legal Services for
Advice on Potential
Post-Employment
Violations**

- (1) The Ethics and General Government Law Branch in the Office of the Associate Chief Counsel (General Legal Services) (CC:GLS:EGG) is responsible for advising former employees on the post-employment restrictions in Section 207 of Title 18 of the United States Code. GLS may recommend referral to TIGTA if an employee is determined to be violating these restrictions.

Note: When an IRS employee contacts GLS with an inquiry seeking legal advice about a possible post-employment violation, GLS's role is that of a legal advisor. The employee is not considered to be making a report.

- (2) A post-employment violation may occur when a former IRS employee works on a specific matter in the private sector that they worked on or had official responsibility for while employed by the IRS.
- (3) Access EthicsLink at: <https://ccintranet.prod.irsounsel.treas.gov/Common/EthicsLink/Pages/default.aspx> if you need further information on the post-employment laws.
- (4) Discuss the potential post-employment violation with your group manager when you have information to suggest that a former IRS employee is violating or has violated the post-employment laws. Managers are encouraged to contact GLS to discuss any such concerns.
- (5) Discuss a potential post-employment violation with EGG GLS by telephone if you need further guidance to understand the statutory prohibitions on a former IRS employee to determine their impact on your case.
- (6) Once you have determined you have a potential post-employment violation, submit the facts in writing to CC:GLS:EGG at GLS.ethics@irsounsel.treas.gov and copy your GM. Include relevant information such as:
 - The former IRS office of the practitioner
 - Extent of prior involvement in the matter
 - Facts about the case
 - Issues in the case
- (7) GLS may ask you to recommend that the former IRS employee contact their office directly.