

Handling a Power of Attorney (POA) - i.e. Signing a Tax Return by a Person Other Than the Taxpayer and Submission of Supporting Documents to the IRS

A Client who asks to have a return completed for someone else, and intends to sign that return on behalf of the taxpayer whom he or she is representing, must have in his /her possession:

1. A valid General Power of Attorney (POA), naming the representative as the Attorney-in-Fact. The POA must be either legally signed by taxpayer and notarized; or, issued by a court. The client is also asked to bring an extra copy of the document to present to the counselor. This POA must contain a statement which defines the authority to prepare, sign, and file income tax returns with federal, state, and local or other governmental bodies. In many states this is part of any standard POA. However, be sure to check the practice in your home state. This signature must be permitted under the Internal Revenue Code. The circumstances under which another person may sign a return are:

- A. Disease or Injury;
- B. Continuous absence from the United States for a period of 60 days prior to date required by law for filing the return; or
- C. Specific permission is requested of and granted by the IRS for other good cause.

A copy of the POA must be attached to form 8879 when e-filing return. If the return is mailed to IRS, then the additional copy of POA must be attached to form 1040.

2. Form 2848, when properly completed can serve as a Power of Attorney for tax matters only. A copy of this Form should be attached to form 8453 and sent to IRS Processing Center within 3 business days after receiving acknowledgement that the IRS has accepted the electronically filed tax return. A copy of Form 8453 with form 2848 should also be attached to form 8879.

For further information, please see IRS Pub 470, Pub 947, and the Instructions for IRS Form 2848. Also, Pub. 17, page 14 has a reference to POA.

AARP volunteers should not complete form 2848 on behalf of clients. It is up to the individual client to complete the form 2848 and bring it to the site for handling with the return.

3. If the return is being prepared for a deceased taxpayer, then signing of the return depends on the specific circumstances:
 - a. A return signed by a surviving spouse—no documentation required;
 - b. A return signed by a court appointed administrator—court appointment papers required;
 - c. A return signed by a court appointed executor—court appointment papers required; or
 - d. A return signed by a personal representative who has not been appointed by a court—form 1310 required.

Normally the Power of Attorney (POA) does not survive the death of the taxpayer, and is not valid for a deceased individual.

A copy of court appointment papers must be attached to Form 8879 for an e-filed return or, if a paper return, attached to the return. Form 1310 can be e-filed or, if a paper return, attached to the return.

If an AARP volunteer does not feel comfortable working with a POA, court appointment papers, or Form 1310 the volunteer should refer the client to a paid preparer.