

Introduction to Representation



Presented for Latino Tax Professionals Association

By

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Representation

In this presentation you will learn:

- What representation is
- Who can represent taxpayers
- What is involved in representation

Acronyms

Before we start, there are some acronyms you need to be familiar with:

- POA - Power of Attorney
- RA - Revenue Agent
- TCO - Tax Compliance Officer
- IDR –Information Document Request
- RAR - Revenue Agents Report

Acronyms cont ...

- SNOD - Statutory Notice of Deficiency
- ATG - Audit Technique Guide
- IRM - Internal Revenue Manual
- CAF - Central Authorization File
- RGS - Report Generating System
- ACS – Automated Collection System

What is representation?

- Meaning of representation
- Taxpayer Bill of Rights
- Representing taxpayers in Audits
- Representing taxpayers in Collections
- Representing taxpayers in Appeals
- Representing taxpayers in Tax Court

Representation ...

- Representation is what the word means, you as a qualified individual may take the place of your client at all administrative levels of the IRS.
- You can obtain information about your clients' tax controversies by phone, from the Revenue Officer in charge of your client's case, or through e-Services.

Taxpayer Bill of Rights

The Taxpayer Bill of Rights, published by the Internal Revenue Service as Publication 1, gives Taxpayers the right to retain an authorized representative of their choice to represent them in their dealings with the IRS



Your Rights as a Taxpayer

Publication 1

This publication explains your rights as a taxpayer and the processes for examination, appeal, collection, and refunds.
Also available in Spanish.

The Taxpayer Bill of Rights

1. The Right to Be Informed

Taxpayers have the right to know what they need to do to comply with the tax laws. They are entitled to clear explanations of the laws and IRS procedures in all tax forms, instructions, publications, notices, and correspondence. They have the right to be informed of IRS decisions about their tax accounts and to receive clear explanations of the outcomes.

2. The Right to Quality Service

Taxpayers have the right to receive prompt, courteous, and professional assistance in their dealings with the IRS, to be spoken to in a way they can easily understand, to receive clear and easily understandable communications from the IRS, and to speak to a supervisor about inadequate service.

3. The Right to Pay No More than the Correct Amount of Tax

Taxpayers have the right to pay only the amount of tax legally due, including interest and penalties, and to have the IRS apply all tax payments properly.

4. The Right to Challenge the IRS's Position and Be Heard

Taxpayers have the right to raise objections and provide additional documentation in response to formal IRS actions or proposed actions, to expect that the IRS will consider their timely objections and documentation promptly and fairly, and to receive a response if the IRS does not agree with their position.

5. The Right to Appeal an IRS Decision in an Independent Forum

Taxpayers are entitled to a fair and impartial administrative appeal of most IRS decisions, including many penalties, and have the right to receive a written response regarding the Office of Appeals' decision. Taxpayers generally have the right to take their cases to court.

6. The Right to Finality

Taxpayers have the right to know the maximum amount of time they have to challenge the IRS's position as well as the maximum amount of time the IRS has to audit a particular tax year or collect a tax debt. Taxpayers have the right to know when the IRS has finished an audit.

7. The Right to Privacy

Taxpayers have the right to expect that any IRS inquiry, examination, or enforcement action will comply with the law and be no more intrusive than necessary, and will respect all due process rights, including search and seizure protections and will provide, where applicable, a collection due process hearing.

8. The Right to Confidentiality

Taxpayers have the right to expect that any information they provide to the IRS will not be disclosed unless authorized by the taxpayer or by law. Taxpayers have the right to expect appropriate action will be taken against employees, return preparers, and others who wrongfully use or disclose taxpayer return information.

9. The Right to Retain Representation

Taxpayers have the right to retain an authorized representative of their choice to represent them in their dealings with the IRS. Taxpayers have the right to seek assistance from a Low Income Taxpayer Clinic if they cannot afford representation.

10. The Right to a Fair and Just Tax System

Taxpayers have the right to expect the tax system to consider facts and circumstances that might affect their underlying liabilities, ability to pay, or ability to provide information timely. Taxpayers have the right to receive assistance from the Taxpayer Advocate Service if they are experiencing financial difficulty or if the IRS has not resolved their tax issues properly and timely through its normal channels.

Examinations, Appeals, Collections, and Refunds

Examinations (Audits)

We accept most taxpayers' returns as filed. If we inquire about your return or select it for examination, it does not suggest that you are dishonest. The inquiry or examination may or may not result in more tax. We may close your case without change; or, you may receive a refund.

The process of selecting a return for examination usually begins in one of two ways. First, we use computer programs to identify returns that may have incorrect amounts. These programs may be based on information returns, such as Forms 1099 and W-2, on studies of past examinations, or on certain issues identified by compliance projects. Second, we use information from outside sources that indicates that a return may have incorrect amounts. These sources may include newspapers, public records, and individuals. If we determine that the information is accurate and reliable, we may use it to select a return for examination.

Publication 556, Examination of Returns, Appeal Rights, and Claims for Refund, explains the rules and procedures that we follow in examinations. The following sections give an overview of how we conduct examinations.

By Mail

We handle many examinations and inquiries by mail. We will send you a letter with either a request for more information or a reason why we believe a change to your return may be needed. You can respond by mail or you can request a personal interview with an examiner. If you mail us the requested information or provide an explanation, we may or may not agree with you, and we will explain the reasons for any changes. Please do not hesitate to write to us about anything you do not understand.

By Interview

If we notify you that we will conduct your examination through a personal interview, or you request such an interview, you have the right to ask that the examination take place at a reasonable time and place that is convenient for both you and the IRS. If our examiner proposes any changes to your return, he or she will explain the reasons for the changes. If you do not agree with these changes, you can meet with the examiner's supervisor.

Appeals

If you do not agree with the examiner's proposed changes, you can appeal them to the Appeals Office of IRS. Most differences can be settled without expensive and time-consuming court trials. Your appeal rights are explained in detail in both Publication 5, Your Appeal Rights and How To Prepare a Protest If You Don't Agree, and Publication 556, Examination of Returns, Appeal Rights, and Claims for Refund.

If you do not wish to use the Appeals Office or disagree with its findings, you may be able to take your case to the U.S. Tax Court, U.S. Court of Federal Claims, or the U.S. District Court where you live. If you take your case to court, the IRS will have the burden of proving certain facts if you kept adequate records to show your tax liability, cooperated with the IRS, and meet certain other conditions. If the court agrees with you on most issues in your case and finds that our position was largely unjustified, you may be able to recover some of your administrative and litigation costs. You will not be eligible to recover these costs unless you tried to resolve your case administratively, including going through the appeals system, and you gave us the information necessary to resolve the case.

Collections

Publication 594, The IRS Collection Process, explains your rights and responsibilities regarding payment of federal taxes. It describes:

- What to do when you owe taxes. It describes what to do if you get a tax bill and what to do if you think your bill is wrong. It also covers making installment payments, delaying collection action, and submitting an offer in compromise.
- IRS collection actions. It covers liens, releasing a lien, levies, releasing a levy, seizures and sales, and release of property.

Your collection appeal rights are explained in detail in Publication 1660, Collection Appeal Rights.

Innocent Spouse Relief

Generally, both you and your spouse are each responsible for paying the full amount of tax, interest, and penalties due on your joint return. However, if you qualify for innocent spouse relief, you may be relieved of some or all of the tax

However, we sometimes talk with other persons if we need information that you have been unable to provide, or to verify information we have received. If we do contact other persons, such as a neighbor, bank, employer, or employees, we will generally need to tell them limited information, such as your name. The law prohibits us from disclosing any more information than is necessary to obtain or verify the information we are seeking. Our need to contact other persons may continue as long as there is activity in your case. If we do contact other persons, you have a right to request a list of those contacted.

Refunds

You may file a claim for refund if you think you paid too much tax. You must generally file the claim within 3 years from the date you filed your original return or 2 years from the date you paid the tax, whichever is later. The law generally provides for interest on your refund if it is not paid within 45 days of the date you filed your return or claim for refund. Publication 556, Examination of Returns, Appeal Rights, and Claims for Refund, has more information on refunds.

If you were due a refund but you did not file a return, you generally must file your return within 3 years from the date the return was due (including extensions) to get that refund.

Taxpayer Advocate Service

TAS is an *independent* organization within the IRS that can help protect your taxpayer rights. We can offer you help if your tax problem is causing a hardship, or you've tried but haven't been able to resolve your problem with the IRS. If you qualify for our assistance, which is always free, we will do everything possible to help you. Visit taxpayeradvocate.irs.gov or call 1-877-777-4778.

Tax Information

The IRS provides the following sources for forms, publications, and additional information.

- **Tax Questions:** 1-800-829-1040 (1-800-829-4059 for TTY/TDD)
- **Forms and Publications:** 1-800-829-3676 (1-800-829-4059 for TTY/TDD)
- **Internet:** www.irs.gov
- **Small Business Ombudsman:** A small

Who can represent clients?

- Enrolled Agents (EA)
- Certified Public Accountants (CPA)
- Attorneys (ESQ)
- Original tax preparer (Limited to the Tax Return)

Circular 230

All of these professionals are regulated by the Department of the Treasury under Circular 230. All of them have to be in good standing with the IRS, must have a PTIN assigned by the IRS, and must adhere to the most high standards in regards to tax law

What is an Enrolled Agent?

Enrolled Agents are regulated by the Department of the Treasury, CPAs and Attorneys are regulated by their States.

As an Enrolled Agent you have the ability to practice representation anywhere in the world

Another benefit ...

Another benefit of being an EA is that in order for you to become one, you must prove your competence and when you get that license, you proclaim to the world that you know what you are talking about, you become a part of a very elite group of professionals who specialize in taxation.

What is involved?

The first step in representing someone is to obtain the legal right to represent them, this is done through a Power of Attorney (POA), IRS form 2848.

Once completed and duly executed, you must fax the POA to the appropriate CAF Unit.

Once the POA is on the IRS' records, usually about week, you may begin to obtain records through e-Services. This will be discussed later.

If you have the need to speak with an IRS employee before the CAF unit has gotten your POA in file, as you speak with this individual, you may fax your POA directly to them so that they have the necessary authority to speak to you and discuss your clients' personal information.

Forms commonly used

- Form 2848
- Form 433-A / 433-A(OIC)
- Form 433-F
- Form 9465
- Form 12153
- Form 9423
- Form 911

Your client gains ...

The most important benefit your clients gain by having someone represent them with the IRS, is the peace of mind that come with the fact that they do not need to talk to the IRS at all but in a few instances, and even then, you can direct them to the proper answer.

Three things you must do

- Obtain an engagement letter
- Get a Power of Attorney
- Get paid ahead if possible

Power of Attorney and Declaration of Representative

OMB No. 1545-0150

For IRS Use Only

Received by:

Name _____

Telephone _____

Function _____

Date / /

▶ Information about Form 2848 and its instructions is at www.irs.gov/form2848.

Part I **Power of Attorney**

Caution: A separate Form 2848 must be completed for each taxpayer. Form 2848 will not be honored for any purpose other than representation before the IRS.

1 Taxpayer information. Taxpayer must sign and date this form on page 2, line 7.

Taxpayer name and address	Taxpayer identification number(s)	
	Daytime telephone number	Plan number (if applicable)

hereby appoints the following representative(s) as attorney(s)-in-fact:

2 Representative(s) must sign and date this form on page 2, Part II.

Name and address	CAF No. _____
	PTIN _____
	Telephone No. _____
	Fax No. _____
Check if to be sent copies of notices and communications <input type="checkbox"/>	Check if new: Address <input type="checkbox"/> Telephone No. <input type="checkbox"/> Fax No. <input type="checkbox"/>

to represent the taxpayer before the Internal Revenue Service and perform the following acts:

- 3 Acts authorized (you are required to complete this line 3).** With the exception of the acts described in line 5b, I authorize my representative(s) to receive and inspect my confidential tax information and to perform acts that I can perform with respect to the tax matters described below. For example, my representative(s) shall have the authority to sign any agreements, consents, or similar documents (see instructions for line 5a for authorizing a representative to sign a return).

Description of Matter (Income, Employment, Payroll, Excise, Estate, Gift, Whistleblower, Practitioner Discipline, PLR, FOIA, Civil Penalty, Sec. 5000A Shared Responsibility Payment, Sec. 4980H Shared Responsibility Payment, etc.) (see instructions)	Tax Form Number (1040, 941, 720, etc.) (if applicable)	Year(s) or Period(s) (if applicable) (see instructions)

b Specific acts not authorized. My representative(s) is (are) not authorized to endorse or otherwise negotiate any check (including directing or accepting payment by any means, electronic or otherwise, into an account owned or controlled by the representative(s) or any firm or other entity with whom the representative(s) is (are) associated) issued by the government in respect of a federal tax liability.

List any other specific deletions to the acts otherwise authorized in this power of attorney (see instructions for line 5b):

6 Retention/revocation of prior power(s) of attorney. The filing of this power of attorney automatically revokes all earlier power(s) of attorney on file with the Internal Revenue Service for the same matters and years or periods covered by this document. If you **do not** want to revoke a prior power of attorney, check here

YOU MUST ATTACH A COPY OF ANY POWER OF ATTORNEY YOU WANT TO REMAIN IN EFFECT.

7 Signature of taxpayer. If a tax matter concerns a year in which a joint return was filed, each spouse must file a separate power of attorney even if they are appointing the same representative(s). If signed by a corporate officer, partner, guardian, tax matters partner, executor, receiver, administrator, or trustee on behalf of the taxpayer, I certify that I have the legal authority to execute this form on behalf of the taxpayer.

▶ IF NOT COMPLETED, SIGNED, AND DATED, THE IRS WILL RETURN THIS POWER OF ATTORNEY TO THE TAXPAYER.

Signature _____ Date _____ Title (if applicable) _____

Print Name _____ Print name of taxpayer from line 1 if other than individual _____

Audits

There are many different ways the IRS audits a taxpayer.

- Correspondence audits
 - Letter 566
 - CP2000
- Office Audit
- Field Audit

Correspondence Audits

- Correspondence audits are the main source of revenue to the IRS
- 70% of correspondence audit is the fault of Self-Prepared tax returns
- 20% Uninformed tax preparers
- 10% Other

Office Audits

- Usually wage earners with incomes less than 200,000.00
- Schedule A possible exaggerations
- Schedule D Missing transactions
- Large Schedule A deductions vs W2 income

Field Audits

- Usually small business owners with gross revenues greater than \$500K
- Unusual expenses
- Large deductions
- Deductions that all end with Zeros
- Missing EINs
- Mileage too high

Field Audits cont ...

- Home office deduction – Know the rules
- Industry standards not met
- Home and business unwanted visits
- Never face alone

Collections

- Is the return in question correct?
- Can you amend the return to lower the tax liability?
- If tax assessment is correct, what options does your client have?
- Is your client solvent?
- Has your client filed bankruptcy?

Collections Alternatives

- Payment plan – Client pays the entire tax debt in a number of months
- Partial Payment Agreement – Clients pays what they can until statutes run out
- Offer in Compromise – Clients settle for a much lesser amount
- Currently Not Collectable

What if you do not agree?

- What if you do not agree with the auditor or collector?
- You can appeal both, an audit report and a collection decision if you can substantiate your position
- Purpose of an Appeal officer is to look at the information at hand through a different set of eyes

Appeals

- You can appeal an auditor by asking for an audit reconsideration
- File a protest with your point of view along with all the facts that you believe to be in the best interest of your client
- For collection actions, you can file form 12153 – Collection Due Process

Appeals Cont ...

- Form 9423 Collection Appeal Request
- File a petition with the Tax Court
 - Only Attorneys and USTCP may do this on behalf of someone
 - USTCP – United States Tax Court Practitioner

Tax Court

Tax court can only be represented by an licensed attorney or United States Tax Court Practitioner.

USTCP are licensed EAs or CPAs that have passed the Tax Court Bar admission test.

Tax Court cont ...

Remember that you would be practicing law if you help your client file for tax court. Your clients may petition the court by themselves with the information you provide them to complete the petition.

How to become an EA

- Obtain a Preparer Tax Identification Number (PTIN)
- Visit the Special Enrollment Examination (SEE) web page to apply to take the test and review the SEE Candidate Information Bulletin and other useful information

Become an EA Cont...

- Review old SEE questions and answers
- Achieve passing scores on all 3 parts of the SEE.*
- Apply for enrollment and pay enrollment fee electronically at Pay.gov or by downloading Form 23 and mailing the completed form and a check to the IRS.

Become an EA ...

- Pass a tax compliance check to ensure that you have filed all necessary tax returns and there are no outstanding tax liabilities. This check is conducted on your behalf after submission of Form 23.

e-Services

The IRS has a great way for you to get information through their e-Services, located on their website www.irs.gov. e-Services is a suite of web-based tools that allow tax professionals and payers to complete certain transactions online with the IRS. The tools include Registration Services, e-file Application, Transcript Delivery and TIN Matching. These services are only available to approved IRS business partners and not to the public.

Summary

To summarize, representation is an area of taxation that is in great demand. Competent representatives have a great opportunity to develop a very lucrative business that will keep your office open all year long. Representing someone at an audit is extremely rewarding and profitable.

- The IRS only recognizes Enrolled Agents, Certified Public Accountants and Attorneys as legal representation to your clients.
- Enrolled Agents is the preferred representative IRS personnel wants to work with in solving tax controversies.
- The EA license is a Federal license not subject to State regulations, and with this license you can practice in any part of the world where the help with tax controversies is needed.

- e-Services is the fastest way to obtain clients' information and to analyze their individual situation.

TAX ACADEMY

Questions???

CPE%
TAX ACADEMY