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From:

Sent: Wednesday, October 20, 2010 8:11:42 AM

To:

Cc:

Subject: Form 8849 signature authority of POA

In general, a taxpayer may use a Form 2848, *Power of Attorney and Declaration of Representative*, or other document that meets the requirements of a power of attorney to appoint a recognized representative to perform certain specified acts on behalf of the taxpayer. See Statement of Procedural Rules, Conference and Practice Requirements § 601.501 et seq. Two essential requirements of any power of attorney are that it include a description of the matter(s) for which representation is authorized and provide a clear expression of the taxpayer's intention concerning the scope of authority granted to the recognized representative.

In the instant case, the representative has not provided a Form 2848 or other power of attorney that expressly authorizes him to sign the Form 8849, *Claim for Refund of Excise Taxes*, on the taxpayer's behalf. Accordingly, the representative will need to provide a Form 2848 or other power of attorney signed by the taxpayer that shows he is authorized to sign the Form 8849 on the taxpayer's behalf before the IRS will consider the Form 8849 as a formal claim for refund.

We note, however, that the reference to Treasury Regulation § 1.6012-1(a)(5) is misplaced. That regulation sets forth the limited circumstances and the procedures by which a representative named on a power of attorney is authorized to sign an income tax return [or claim for refund of such tax] on behalf of a taxpayer.

Please let me know if you have any further questions.

Thanks,