



# Power of Attorney Policy

Effective January 1, 2021

## *I. Introduction*

This document describes the power of attorney policy of the Department of Revenue. It applies to all powers of attorney considered by the Department on or after January 1, 2021 and supersedes all prior documents. A power of attorney (“POA”) authorizes an individual to represent a taxpayer before the Department, receive and inspect the taxpayer’s confidential tax information, and perform any and all acts the taxpayer can perform unless otherwise noted in the POA. A representative must have a valid POA on file with the Department in order to take any of the above actions. Information on how to submit a POA is provided on the [Department’s website](#).

## *II. POA Requirements*

### **A. Form GEN-58**

The Department recommends taxpayers use [Form GEN-58](#) to authorize a POA for North Carolina tax matters. In order to be valid, Form GEN-58 must have all of the following completed:

- Taxpayer Information (including name, address, and ID number)
- Representative Information (including name and address)
- Tax Information (must specify tax periods and tax types)
- Signatures of all Taxpayers and Representatives

Form GEN-58 may authorize an individual to represent a taxpayer for the current tax period and any earlier tax period. However, Form GEN-58 may only authorize an individual to represent a

taxpayer for future tax periods ending three years after the end of the period during which the POA is executed. The Form GEN-58 must authorize representation for one or more specific tax types (entries for “all taxes”, “state taxes”, “all types” will not be accepted). Additional information is available in the [Instructions for Form GEN-58](#).

Example: Taxpayer submits Form GEN-58 to the Department on July 1, 2020 for individual income tax periods 2014-2025. The POA is valid for the current and previous years (2014-2020) and for the three years ending on December 31, 2023 (2021-2023). The POA is not valid for tax years 2024 and 2025.

## **B. Other POA Forms**

While the Department recommends taxpayers use [Form GEN-58](#), the Department will accept valid POAs on alternative forms. A POA other than Form GEN-58 must contain all of the following information:

- Taxpayer Name
- Taxpayer Identification Number
- Representative Name
- Authorized representation for North Carolina tax matters
- Taxpayer signature and date
- Representative signature and date

In general, POA forms other than GEN-58 must meet the same requirements as the GEN-58 unless otherwise authorized by statute.

## **C. GEN-58B, Power of Attorney for Bankruptcy Matters**

Due to the specialized nature of Bankruptcy Law, the Department provides [Form GEN-58B, Power of Attorney for Bankruptcy Matters](#). Taxpayers and others dealing with Bankruptcy issues should use this form to request Bankruptcy related returns and information.

### ***III. POA Effective Period***

A valid POA will generally remain in effect for the tax periods listed on the POA until the taxpayer revokes the POA. For more information, see Section IV, Revoking a POA, below. All POAs are terminated upon the death of the taxpayer and only the taxpayer's fiduciary, or a POA authorized by the taxpayer's fiduciary, may represent the taxpayer. A Form GEN-58 on file with the Department will remain in effect after a taxpayer becomes incapacitated.

### ***IV. Revoking a POA***

#### **A. Taxpayer Revoking a POA without Naming a New Representative**

A taxpayer may revoke a POA without naming a new representative by submitting a copy of the Form GEN-58, re-signed and dated by the taxpayer in Part 2 and writing "Revoke" across the top of the form. A taxpayer may also submit a written statement revoking the POA. The written statement must include the taxpayer's name and ID number, the representative's name, and must be signed by the taxpayer. The revocation will be effective on the date it is submitted to the Department unless the revocation provides a future date for revocation.

#### **B. Taxpayer Revoking a POA and Naming a New Representative**

A taxpayer may revoke a POA and name a new representative by submitting a new Form GEN-58 listing a different representative. Any previous POA on file with the Department is automatically revoked with respect to the tax matters and tax periods listed on the new POA. A taxpayer may name a new representative without revoking a previous representative's authority, by submitting a new Form GEN-58 with the box on line 6 checked and attaching a copy of the previously executed POA.

#### **C. Representative Revoking a POA**

A taxpayer's representative may revoke the POA by submitting a copy of the Form GEN-58, re-signed and dated by the representative in Part 2 and writing "Revoke by Representative" across the top of the form. A representative may also submit a written statement revoking the POA. The written statement must include the taxpayer's name and ID number, the representative's

name, and must be signed by the representative. The revocation will be effective on the date it is submitted to the Department unless another date is provided.

## ***V. POA Exceptions***

There are only six limited exceptions to the requirement for a written POA.

### **1. Paid Preparers Signing Returns**

The Department will accept a paid preparer's signature on a return as authorization to discuss certain matters relating to that return, such as assessment and adjustment notices, information contained or missing on the return, and information about a refund or payment. This authority is extended only to an individual paid preparer, not to a company, and does not include discussing audit activity or requests for review of proposed assessments or proposed denials of refunds. Beginning with tax year 2018, certain forms provide taxpayers with a checkbox authorizing the Department to discuss the applicable tax form and its attachments with the paid preparer listed on the return. The box must be checked in order for the Department to discuss the applicable tax form and its attachments with the paid preparer.

### **2. Fiduciaries**

A fiduciary (trustee, executor, administrator, receiver, or guardian) stands in the position of a taxpayer and acts as the taxpayer. Therefore, a fiduciary does not act as a representative and should not file a POA. The fiduciary must provide evidence to the Department substantiating the fiduciary relationship. If a fiduciary wishes to authorize an individual to represent or perform certain acts on behalf of the taxpayer, a POA must be filed and signed by the fiduciary acting in the position of the taxpayer.

### **3. Taxpayer Verbal Permission**

If a taxpayer and third party visit the Department in person or call the Department together, the Department may discuss tax matters with the third party as long as the taxpayer authorizes the Department to do so and remains present during the discussion. The taxpayer must remain able to hear the conversation and be able to participate in the conversation as necessary.

With respect to federal tax information provided to the Department pursuant to the exchange agreement with the Internal Revenue Service, the Department will not discuss federal tax information with a representative without a POA. This restriction applies even if the representative meets the verbal permission requirements listed above.

#### **4. Business Taxpayers**

G.S. 105-259(b)(11b) authorizes the Department to share certain business tax information to a person without a POA if, under the circumstances, section 6103(e)(1) of the Code would require disclosure to that person of any corresponding federal return or information. With respect to federal tax information provided to the Department pursuant to the exchange agreement with the Internal Revenue Service, the Department will not discuss federal tax information with a representative without a written POA.

#### **5. Payroll Service Provider with MOA in Place with the Department**

The Department cannot disclose taxpayer information to a taxpayer's payroll service provider unless the payroll service provider has a Memorandum of Agreement in place with the Department.

#### **6. Sales Tax and Certified Service Providers**

Certified service providers ("CSPs") enter into a contract with the Secretary or Streamlined Sales Tax Governing Board pursuant to N.C. Gen. Stat. §105-164.42I to collect and remit sales and use taxes. The Department will accept the contract as authorization to discuss certain matters relating to the sales and use returns and payments submitted by the CSP on behalf of a taxpayer.