

STATE OF NEW JERSEY – DIVISION OF TAXATION
INSTRUCTIONS FOR FORM M-5008-R
APPOINTMENT OF TAXPAYER REPRESENTATIVE

Purposes of Form. Form M-5008-R, Appointment of Taxpayer Representative, may be used to designate an individual(s) named as representative(s) and grants the representative(s) the authority to obligate, bind or appear on your behalf with respect to the tax matters listed in Section 3 of the Appointment of Taxpayer Representative Form. This form may be used for all New Jersey taxes except those pertaining to Property Administration. (Refer to Form M-5041).

The representative(s) may be authorized to receive your confidential tax information. Unless otherwise indicated, the representative(s) may also perform any and all acts that you can perform, including consenting to extend the time to assess tax, or executing consents that agree to a tax adjustment. Representatives may not sign returns or delegate authority unless specifically authorized on the Appointment of Taxpayer Representative.

Note: *Authorizing someone to represent you before the Division by an Appointment of Taxpayer Representative does not relieve you of your tax responsibilities or obligations. It primarily allows for representation by others in most matters concerning tax administration, investigations, examinations/audits and other forms of taxpayer conferences. Since the obligation for tax liabilities lies with the taxpayer, the authority granted to a representative may not extend through certain aspects of the collection process to include, but not limited to judgments, levies, liens and seizures. In those instances the Division may require telephone communication, direct contact and/or interaction with the taxpayer. To the extent possible, however, the Division will make a reasonable effort to honor authorized representation. Additionally, to protect the interests of the taxpayer, the Division will contact the taxpayer directly when it has documentable instances of unreasonable delays, incompetence or other forms of malfeasance of the appointed taxpayer representative.*

Form M-5008-R, Appointment of Taxpayer Representative, will not be required when an individual appears with the taxpayer or with an individual who is authorized to act on behalf of taxpayer. For example, Form M-5008-R is not required if an individual appears on behalf of a corporate taxpayer with an authorized corporate officer. The Form is also not required if a trustee, receiver or attorney has been appointed by a court having jurisdiction over a debtor. In addition, the Form is not required if an individual merely furnishes tax information or prepares a report or return for the taxpayer.

Fiduciaries. A fiduciary (such as a trustee, 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 an Appointment of Taxpayer Representative. However, if a fiduciary wishes to authorize an individual to represent or act on behalf of the entity, an Appointment of Taxpayer Representative must be filed and signed by the fiduciary.

Who Can Execute the Appointment of Taxpayer Representative?

- Any individual, if the request pertains to a personal income or individual use tax return filed by that individual (or by an individual and his or her spouse/cu partner if the request pertains to a joint income tax return and joint representation is requested). If joint representation is not requested each taxpayer must file his or her own separate Appointment of Taxpayer Representative.
- A member of a Limited Liability Company (LLC), if the taxpayer is an LLC and there is no manager;
- A manager of the LLC;
- A sole proprietor;
- A general partner of a partnership or limited partnership;
- The administrator or executor of an estate;
- The trustee of a trust.
- If the taxpayer is a corporation, a principal officer or corporate officer who has legal authority to bind the corporation; any person who is designated by the board of directors or other governing body of the corporation; any officer or employee of the corporation upon written request signed by a principal officer of the corporation and attested by the secretary or other officer of the corporation; or any other person who is authorized to receive or inspect the corporation's return or return information under I.R.C. §6103(e)(1)(D).

Tax Matters

The Appointment of Taxpayer Representative will apply to all tax types and taxable years or privilege periods unless the taxpayer(s) designates otherwise.

Retention/Revocation of Prior Powers of Attorney and/or Appointment of Taxpayer Representative

You may not partially revoke a previously filed Appointment of Taxpayer Representative or Power of Attorney. If a previously filed Appointment of Taxpayer Representative or Power of Attorney has more than one representative and you do not want to retain all the representatives on the previously filed Form, you must execute a new Appointment of Taxpayer Representative indicating the representative(s) you want to retain.

Taxpayer's Signature

Form M-5008-R must be signed by the taxpayer or by an individual who is authorized to execute the Appointment of Taxpayer Representative on behalf of the taxpayer. The taxpayer or his/her or its representative(s) may be required to provide identification and evidence of authority to sign this Appointment of Taxpayer Representative.

Individuals. You must sign and date Form M-5008-R. If a joint gross income tax return has been filed and both husband and wife/both cu partners will be represented by the same individual(s), both must sign Form M-5008-R unless one spouse/cu partner authorizes the other, in writing, to sign for both. In that case, attach a copy of the authorization. If, however, a joint income tax return has been filed and husband and wife/cu partners will be represented by different individuals, each taxpayer must execute his or her own Appointment of Taxpayer Representative on a separate Form M-5008-R.

Corporations. The president, vice-president, treasurer, assistant treasurer, or any other officer of the corporation having authority to bind the corporation must sign Form M-5008-R.

Partnerships. All partners must sign Form M-5008-R, or if the Appointment of Taxpayer Representative is executed on behalf of the partnership only, it must be signed by a partner authorized to act for the partnership. A partner is authorized to act in the name of the partnership if, under state law, the partner has authority to bind the partnership.

Limited Liability Companies. A member or manager must sign Form M-5008-R, or, if the Appointment of Taxpayer Representative is executed on behalf of the Limited Liability Company (LLC) only, it must be signed by any member or manager duly authorized to act for the LLC, who must certify that he or she has such authority.

Fiduciaries. In matters involving fiduciaries under agreements, declarations or appointments, Form M-5008-R must be signed by all of the fiduciaries, unless proof is furnished that fewer than all fiduciaries have the authority to act in the matter under consideration. Include evidence of the authority of the fiduciaries to act when filing Form M-5008-R.

Estates. The administrator or executor of an estate may sign on behalf of an estate.

Trusts. The trustee of a trust may execute the Appointment of Taxpayer Representative.

Others. Form M-5008-R must be signed by the taxpayer or by an individual having the authority to act in the name of the taxpayer.

The signature of an individual(s) that is/are not the taxpayer(s) identified in Section 1 certifies that he or she has or they have the authority to act for the taxpayer(s). This applies to a corporate officer, partner, guardian, tax matters partner, executor, administrator, or trustee acting on behalf of the taxpayer(s).

You must indicate the date of execution on Form M-5008-R.