

# Transcript: POA 101 – The Basics Webinar

## Slide 1

We are just getting ready to start the webinar and again thank you for your patience. Good morning and welcome to today's webinar, POA 101 – The Basics. I am Kelly Bluth and I am your presenter today.

## Slide 2

Before we get started, we wanted to take a moment to explain how the control panel on your screen works. In the upper right corner of your screen, you should see a tab. Just click on the arrow to expand out your control panel.

This slide shows an image of a control panel that is similar to the one on your screen. On it are the various parts of the control panel and their functions. Please use it as a reference to guide your use of the control panel during the presentation.

Notice that your control panel has a dial-in number and access code on it.

If during the presentation you lose our signal, or if you cannot hear the audio, please call the number listed on your screen to hear this webinar over the phone. We cannot help you during the presentation.

At the bottom of your control panel, there's a place for you to type in questions. Please feel free to type in your questions at any time during the webinar. I will do my best to answer those questions at the end of the presentation or respond back to you directly after the webinar.

## Slide 3

Our next webinar, Calling the Tax Practitioner Hotline, will be held on June 10, 2014 at 10:00 a.m.

## Slide 4

For the tax professionals attending today, this webinar is only 45 minutes in length and will not qualify for Continuing Education Credits.

## Slide 5

In today's webinar, we will be covering:

- You, your client and the POA
- Rejection – Top 6 reasons we reject your POA
- Taxpayer information
- Problems with adding additional representatives after the POA has been filed

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## Slide 6

- Authority for all years – Super Box
- How to avoid overlapping time periods
- Explaining the importance of your POA to your client

## Slide 7

Before we begin, I would like to mention that starting this year; we have a dedicated revocation fax number. The revocation fax number is 916.845.9144. Once again, that number is 916.845.9144. We encourage you to use this dedicated revocation fax line to ensure that we process your client's revocation within 5 working days.

Remember this fax line is only for revocations. Regular POAs faxed to this number, will be moved to the end of regular POA queue for the day they are discovered, which could add an additional five working days to your processing time.

## Slide 8

Breaking News! What do you get when you take – One fax machine - Three hundred pages – Containing 100 POAs – And fax them all at the same time to FTB? You get - One POA.

## Slide 9

Then 15 working days later - Polly POA technician opens your fax and sees a 300 POA page monster. Polly's supervisor then assigns your POA to – Suzy our student assistant who must now:

- Print 300 pages
- Separate them into 100 POAs
- Staple them and do
- Other tasks
- 

It takes Suzy two days to complete this task. She will now resubmit the 100 POAs to be processed. However, they will go to the end of the queue for that day.

So you thought you were saving time by faxing all of those POAs in one bundle, but in the end, it added several additional days to the processing of your POAs. It doesn't matter if you are faxing us two POAs or hundreds of POAs at the same time, we are going to have to pull them out of the processing queue and manually separate them.

## Slide 10

So let's begin with You, Your Client and the POA.

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### Slide 11

When you agree to represent your client, you and your client have created something called an *agency relationship*.

### Slide 12

A power of attorney is a written document in which the principal, your client, appoints you to act as an agent on their behalf. This grants you the authority to perform certain acts or functions on behalf of the principal.

An agent created by a power of attorney is called an attorney-in-fact.

### Slide 13

When the agency relationship is created by a written document, the plain meaning of the words in the document are used to determine the scope of the agent's authority.

The general rule is that the powers of attorney are strictly interpreted, and *without* regard to outside evidence.

### Slide 14

FTB cannot change the POA once it has been filed.

### Slide 15

Generally, it is the responsibility of the third person, that's us, to determine the scope of the agent's authority. So, it is important that you are clear in listing your additions or restrictions the POA's general privileges.

### Slide 16

When you submit the POA for us for processing it must be:

- Complete
- Correct, no strike outs and
- Signed by the taxpayer or a person who has the legal authority to sign the form.
- 

Now, that doesn't sound so hard does it?

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However, in 2013, we received **116,000** POA and rejected over **16,000 or 14%** of the POAs we received because they were incomplete or incorrectly filled out.

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When we reject the POA, we send a letter to the taxpayer listing the reasons the POA was rejected.

Why do we send the letter to the taxpayer instead of you? We send the letter to the taxpayer because you are not their authorized representative.

### Slide 19

Let's take a look at the top six reasons we reject your POA:

Number 1 – Specific Tax Years: Incorrectly listed or not listed.

As you can see from the slide, this taxpayer correctly listed their calendar years on Part 4A.

However, they incorrectly completed Part 4B. They made two separate errors. One, since they are a calendar year taxpayer they did not need to complete Part 4B and two, their tax year started on January 10 instead of January 1. We will go over account periods later in the presentation.

### Slide 20

Number 2 - The information on the POA does not match the information on our system, such as name, social security number, or business entity identification number. Let's look at an example.

### Slide 21

Even though Stanford and Skip have the same SSN and addresses, we still can't be sure they are the same person.

### Slide 22

Here is a helpful hint for you. If you are filing the POA for an individual who has changed their name due to marriage and has not changed their name with us, attach a copy of the marriage certificate to the POA and we will change their name on our system.

### Slide 23

Number 3 - The individual taxpayer's name in Part 1 does not match the taxpayer's signature or no signature was provided. For example if the taxpayer completed Part 1 listing his name as John Smith, but signed the POA as Jack Smith, we would reject the POA.

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Number 4 - The POA did not include the appropriate signer's title for your business entity or fiduciary.

## Slide 25

Who can sign a POA?

For a corporation or association, an officer who has the authority to bind the taxpayer must sign FTB 3520, as the taxpayer.

Examples of officers that have the authority to sign the POA are:

- President
- Vice President
- Chief Financial Officer
- Chief Executive Officer and
- Chief Operating Officer

## Slide 26

For general and limited partnerships, only the general partner can sign the POA.

And for Limited Liability Companies and Limited Liability Partnerships, only an authorized member or manager can sign the POA.

## Slide 27

Number 5 – Your client used a non-FTB POA, such as federal Form 2848, and did not modify it to apply to FTB. It is not uncommon for us to see copies of the federal POA.

We always recommend that you use the FTB POA to take advantage of Super Box.

## Slide 28

Finally, Number 6 - The general or durable POA that was submitted did not contain all the information we need. We recommend that you attach a completed FTB 3520 to the general or durable POA, and submit both documents to us.

### **What we look for:**

- Tax matters is listed in the durable or general POA
- Name of the taxpayer
- Name of the attorney-in-fact

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This is an example of the language we are looking for in the durable power of attorney. This sample was taken from a free online durable power of attorney.

### Slide 30

Remember: The general rule is that a powers of attorney are strictly interpreted, and *without* regard to outside evidence. Once filed, the POA **cannot** be corrected by us. So, review your POAs before sending or faxing it in for processing.

### Slide 31

Now for some quick tips on completing Part 1 – Taxpayer Information Section

There are three sections to Part 1:

- Individuals
- Fiduciaries and
- Business Entities.

### Slide 32

To help us correctly identify your taxpayer and process your POA, we **require** that you complete one POA per taxpayer.

### Slide 33

For example, Kelly Stickfigure is the president of Stickfigure Inc. Kelly and her corporations are considered two separate taxpayers and will have to file two separate POAs, even though they are represented by the same CPA.

### Slide 34

As with federal, you must complete a separate POA for each taxpayer, even if they filed a joint return.

### Slide 35

Here is a new change for this year. If you are filing a POA for a single return or returns for a combined unitary group of corporations, you no longer have to complete the "Authorization Schedule for Multiple Corporations." The POA filed by the parent or key corporation covers all the corporations in the combined report. We have revised the Schedule R-7, Terms and Conditions to reflect this change.

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The key corporation agrees to act as surety and agent (including filing a single power of attorney for the group, when applicable) for each member of the group.

### Slide 37

Reasons why the taxpayer's name does not match our records:

- Hyphenated & non-hyphenated names
- Just married – as I mentioned earlier, if you attach a copy of the marriage certificate, we will change the name in our system. And,
- Kelly Inc. is different than Kelly Incorporated. We recommend the you use the same business entity name that is on the return.

### Slide 38

Here are some examples of why the account numbers do not match our system:

- Spouse's SSN listed instead of taxpayer's
- Transposed numbers
- Incorrect CA account numbers. We recommend that you always use the business entity's California account numbers, instead of using the federal number.

### Slide 39

What happens if you file a POA for a taxpayer that is not in our system?

We enter the data from the POA into our data base. However, if your client files a return under a different name or number, you will have to file another POA with the correct information in order for us to help you.

### Slide 40

It happens to all of us, we forget to invite someone to the party. So you have sent in your client's POA and you discover that you forgot to list one of your staff. So, what do you do now?

### Slide 41

If you have permission to add another representative, send in a copy of the POA you are adding representatives to and write across the top "ADDING REPS" and we will update our data base.

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If you do not have permission to add a representative, you must file a new POA listing the new representative. A word of caution, the new POA will automatically revoke the prior POA.

### Slide 43

If you do not want to limit yourself by specific tax years or income periods and you want the authority to handle all your taxpayer's FTB issues, then Super Box is for you.

### Slide 44

Super Box allows the taxpayer to authorize you to handle all their FTB matters by checking just one box.

### Slide 45

For example, you are representing Kelly Stickfigure on an FTB collection matter. Your POA covers 2010 through 2014.

You are talking to Cindy Collector about Kelly's tax liabilities.

Cindy tells you that there is an outstanding liability for a year not covered by your POA and that she needs a new POA in order to help you. So you have gone back to Kelly and get her to sign a new POA so you can resolve the matter.

### Slide 46

If Kelly had checked Super Box, you could have handled all of her FTB matters at once. Here are some the advantages of Super Box:

- One & DONE! Check Super Box and your able to handle all of your clients FTB issues.
- Good for 4 years unless it is revoked or a new POA is filed
- No need to specify tax years or income periods
- No need to specify three future years or income periods

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If your client doesn't want to use Super Box, you are going to have list the income period or tax years covered by the POA.

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For individual taxpayers it is easy. At least 99% of them file on a calendar year for a full 12 months.

However, business entities, such as corporations and partnerships, can file on a either a calendar or fiscal year basis.

Also, business entities can also have a short-period tax return.

### Slide 49

Let's take a moment and go over some definitions:

- A **calendar year** means an accounting period of 12 months or less ending on the last day of December.
- A **fiscal year** means an accounting period of 12 months or less ending on the last day of any month except December.
- A **short period tax year** is a period of less than 12 months.

### Slide 50

Here are some examples of when a short period return is required:

- C Corporation electing to be treated as an S Corporation
- Federal S Corporation status terminated or revoked
- Partnerships & LLCs - Technical Termination
- Single member LLC becoming a Multiple member LLC
- Multiple member LLC becoming a Single member LLC
- Dissolution, Termination or Cancellation
- Corporation – Bought, Sold and Mergers

### Slide 51

As I mentioned, most individuals and some business entities are calendar year filers, so it is easy to designate them in Part 4 by just using the tax year date such as 2009 or 2009 – 2013.

### Slide 52

However, when it comes to fiscal and short-period returns, we need a little more information to process your POA.

Let's look an example where a corporation has both a fiscal and short-period return.

Stickfigure, Inc. is normally a fiscal filer with a July 1 to June 30<sup>th</sup> fiscal year.

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On July 1, 2009, Stickfigure, Inc. was purchased by another corporation. Stickfigure, Inc. filed a short-period return from July 1 to December 31, 2009 to match its new parent's year end after which it continued to file on a calendar year basis.

Stickfigure, Inc. hires C. P. Accountant to work with FTB on matters concerning these two returns. This is how Section 4 would look based on our example.

### Slide 53

When completing Part 4, be careful and watch out for overlapping dates. As you can see from the slide, we have overlapping dates for 2008. If we receive a POA with overlapping dates, we will reject it and send a rejection letter to the taxpayer.

### Slide 54

I know this is going to be a shock to you, but your client may be giving a power of attorneys to other professionals. We are seeing POAs from credit repair companies, tax credit firms, and unclaimed property specialists.

### Slide 55

When your client files a new POA, it **automatically** revokes any prior POAs that were filed with us using Super Box or covering the same tax years or income periods.

### Slide 56

Let's look at an example.

- On May 1, 2013, you filed a POA for your client, using Super Box.
- On June 15, 2013, Kelly Stickfigure of Tax Credit Finders, Inc files a POA for your client, using Super Box.
- On July 1, 2013, your client calls to tell you they just received a Notice before Levy. You call us and find out that.

### Slide 57

The June 15, 2013 POA filed by Tax Credit Finders, Inc automatically revoked your POA. And we can't talk to you. **What do you do now?**

### Slide 58

Not All is lost! You can resolve the matter quickly, if you can get a copy of you client's most current notice. Normally, we would talk to you if you tell us information regarding your client's prior year; however, this will not work this time. We know that the taxpayer has revoked your Power of Attorney and we need have some proof that your are still authorized to work on their behalf.

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### Slide 59

If you aren't able to handle the issue with one phone call, you will need to contact your client and find out why your POA was revoked. We cannot disclose why the taxpayer revoked your POA. If your client has a need for multiple POA, they may want to file a new POA for you and check the box to retain a prior power of attorney.

In our example, currently Kelly has a POA with Tax Credit Finders and still needs to keep that POA active. Kelly also needs to have a POA with you. So, Kelly will need to file a new POA for you and needs to check the box in Part 6 to retain Tax Credit Finder's POA.

### Slide 60

Now it is time for questions. Please note, that we will be answering general questions. For account specific questions, please call us at 916.845.7057, Monday through Friday from 7 a.m. to 5 p.m.

You can submit your questions through the "Ask Question" window on your Go To Meeting Dashboard.

Depending on the volume of questions we receive, we may present a series of standard questions and answers.

If we cannot answer all of your questions within the allotted time period, we will email you with the answer.

### Slide 61

Remember for account specific questions; please call the Tax Practitioner Hotline at 916.845.7057, Monday through Friday from 7 a.m. to 5 p.m. Again, that number is 916.845.7057. Also, our next webinar on June 10, will be "Calling the Tax Practitioner Hotline," where we give you useful tips to make the most of your call to the Hotline.

Now for questions!

**The first question is:** How do I get a copy of this presentation?

You can request a copy of this power point presentation and script by using the questions box on the dashboard.

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**Next question submitted:** What is the timeframe for processing a power of attorney? Is there an expedited method?

It can take us up to 15 working days to process your POA that has been mailed or faxed into our POA unit.

We don't have a way to expedite the processing of your client's POA. In most cases, if you have your client's notice or a copy of their prior year return, we can talk to you about your client's account.

**Next question:** We have a question that we did talk about in the webinar. Can a POA cover a married couple or required to file their own?

Under both state and federal POA requirements, you must file single, separate POAs for each of the spouses.

**Next question:** I was not expecting to answer until later. This question I'll until later. I do not have the POA fax number handy or the POA fax line. We are within goal and it takes us about 15 working days to process your POA and get it into our system.

**Here is another question:** When completing the tax years covered by a POA, can you input dates in both A and B as long as the periods don't overlap?

Yes, you can do that. We also suggest taking advantage of Super Box and not have to complete Part 4.

**Next question:** If I made a mistake on my POA, how do I correct it?

The only way your client can correct the original POA is to submit a new copy to us. Once again, we cannot alter the POA once it's been submitted.

**The next question is:** If I previously submitted POA for a client and then I submit a new POA with FTB, will the new POA automatically void the prior POA and the tax years it covered by it?

Yes, when you file a new POA, it automatically revokes any prior POAs that you filed with us covering the same income period or tax years. This is also true for federal. If you do not want it the automatic revocation to take place, you can check the box in Part 6, Retention or Revocation, and attach copy of the POA you are retaining.

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**Here is a good question:** I have a durable POA from client. Do I still need to file a POA?

Yes, you're still going to have to file that POA. Remember that the durable power of attorney must contain the same information that is required on FTB 3520. It is important to note that we reject most general and durable POAs because they do not contain the required information.

**We have a question here:** I am not sure what the revocation fax line is for? When do we use it for?

There are times when your clients are going to want to revoke a prior POA. Perhaps they had a different CPA or EA and now they would like to use your services from your prior POA. To do that, they would have to revoke the prior POA. To have this take place as fast as possible, we put in the revocation fax line so you can fax it in so we can get it in the system. That would be done in five working days to revoke a prior POA. There might be a chance for identity thief. So it is very important that we process the revocations as fast as possible.

**Question:** Can POAs be submitted along with Tax Matters?

You can list the tax matters in the other section of Part 4 that you can list out other things that you want your POA to cover.

**Someone was nice enough....** To send what our POA fax number. You can fax your POA to FTB at 916.843.5440. Once again, our fax number is 916.843.5440. Thank you to whoever sent that into us.

**Question:** Can you tell us again where Super Box is?

Super box is located at Part Three on the FTB 3520. You just go ahead and check that box and have your client sign the POA, save it and you are done.

**Question:** To revoke a POA, is there a different form to use?

No, there isn't. You can go ahead and revoke the old POA by faxing it and writing "REVOKED" on the top. We will revoke it. You can also send us a letter and in the instructions to the 3520, we do talk about what we need to know to revoke a POA.

There are also going to be times when you, the preparer, EA, CPA or other tax professional, will want to revoke your POA from the client and you can do that by using the same method and go ahead and see the instructions to the 3520.

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**This is a good question. It happens all the time.** If Super Box is marked and the year is also filled out, which one counts?

The true, true tax answer...both. Super Box will stay in affect for four years before it automatically revokes itself. If you have dates put in Part 4B or 4A, they stay in effect until you have resolved the matter with FTB and then they basically fade away. So, both are good.

**Here we have another question:** I have completed 4A for 2007-2017. How are completing Part 3 and not Part 4 more advantageous?

It depends on your client's needs which one is better. With Super Box, you get to take care of everything for them. You could be dealing with an auditor. You could be dealing with a collector or you just might be needing information from the Tax Practitioner Hotline. You wouldn't have to ... there are no dates. Super Box covers everything however; it is only good for four years.

So let's say you were in amidst of an audit and you thought it was going to go more than four years and you wanted to make sure that your POA was not automatically revoked, you could list the dates in Part 4 to take care of that.

**Another question:** Can a non-licensed preparer file a POA?

Yes. We refer to this as "Cousin Jack." There are going to be times when the taxpayer is going to use one of their family members as their POA and that is perfectly legal for them to do as long as the POA is correctly filled out.

**We have a question here but I am not sure what this meant:** POA was recently revised as of 09-2013.

That is the most current version out there. You might see it with a different date in 2014. We have made recent changes to our POA that we could not put into this webinar. It happened just a couple of days ago. We have some error fields if you are incorrectly completing the POA. It will give you an error message to allow you to correct the error.

**Another question:** If I have a client that was recently divorced, what information do I need to include with the 3520?

Well, as I mentioned, there will not be just one single POA. Each of the spouses must file their own POA. They are entitled to their own representation so there is nothing you need to put in the 3520. We do log the spouses in as separate people.

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**Another question:** Can Part 4A cover more than four years and will it expire four years later?

Yes, it can cover more than four years depending on the needs of your client and the statutes. Will it expire four years later? No. When you put things into Part 4, that POA stays in force until whatever it was drawn up for is taken care of. So, if you have completed your audit, the POA becomes void at that point in time.

**Here is a follow-up question:** Current plus four years or current back four years?

Well, going backwards is okay as long as the statute is open. You could be dealing with an audit and you might be dealing with old years, or you might have a filing enforcement to cover old years, then you can go ahead and put those on. It is current plus three years which is the same as federal and we use the same definition as federal.

**This is a really good question. Thank you for whoever asked this one:** What other documentation do you need when you file a POA for a trust or an estate? IRS requires Form 56 "Fiduciary Relationship."

For us, you can go ahead and attach a copy of Form 56 to your POA and that would be great. For others, if you don't have that, we need something from the trust that says you have the ability or the taxpayer signing it, has the ability to sign on behalf of the trust, or represents the estate. You need to actually send us something that says that. If you look in our instructions, we might give you more information.

**Another question:** Do I have to use your form or can I use the IRS one instead?

We do accept the federal Form 2848 and the Board of Equalization Joint POA form, BOE 392.

However, the federal form needs to be modified to state that it is for state purposes.

**Here we have one:** If the California corporation number changed and a CPA needs to represent the client for another year with the old number, which number should be on the POA?

It really depends on why the number was changed and if you have one or two different owners. Normally, when we see the corporation number change, there has been a change of ownership, and we want to make sure you have the ability to represent in those prior years. So you would need to have an officer of one of those prior years make sure that they sign your POA for that time period.

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If you are just doing an F reorganization where you have changed your domicile or your address which is also typical, either number will work as long as we can match it in our system. It would be safer if you went ahead and filed two POAs, one under each number. It would save you a lot of heartache in the time.

**Question:** We don't see the new form on the website. When will it be available?

The most current POA is always on the website. So, the one that is there now is the current one and it works for all years.

**This will be our last question:** Do I need a POA to obtain a California W2 or a 1099 withholding?

The answer is you can get this information from your client off of MyFTB Account on our website. You can get your client to get in there or your own access into MyFTB Account. You can readily get that available.

Now if you do not have access to MyFTB Account, then yes you are going to need a POA to talk to us and we can give you that information over the phone. You can do it two ways with the POA – you can do a full POA with attorney-in-fact and you can handle all of their issues or you can go ahead a request for authorized information only which would give you the information but you could not represent the client.

**The very last one:** What is the proper method to modify a Federal form 4828 to say that it is for state purposes?

Please see the instructions to the form. We do list it out there, how you would modify it where you would normally list 1040 or 1120. In there, you would go ahead and put 540, 100S or 100 whatever. That's how you would do the general modifications. Once again, we do go over it in detail in the instructions.

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To finalize, if you would like to view this webinar or prior ones, please go to our website and click on "News & Events." Webinars is the third item listed on the navigation bar.

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This brings us to the end of our webinar. We hope you found this webinar interesting and helpful. On behalf of the Franchise Tax Board, thank you for attending today's webinar.