

Chapter 5. Helping someone with their tax

5.1 Introduction

If an individual needs help with their tax affairs, for example from a professional adviser or a friend or relative, HMRC present a number of options for the helper to deal with them on behalf of the individual. Those options are explored in this chapter.

At the centre of HMRC's commitment to recognise the validity of such helpers is the obligation set out in the Charter:

"Recognising that someone can represent you

"We'll respect your wish to have someone else deal with us on your behalf, such as an accountant, friend or a relative. We'll only deal with them if you have authorised them to represent you. To protect you, HMRC works with professional bodies to set the standard expected of professional agents who support you to meet your tax obligations. We can refuse to work with professional agents who fail to adhere to this standard."

Professional agents such as chartered tax advisers, lawyers or accountants (see **5.2**) are commonly engaged by taxpayers to act for them in their dealings with the tax system. If the taxpayer cannot afford to pay professional fees, they may seek help from one of the tax charities whose staff and volunteers are professional tax advisers, such as TaxAid or Tax Help for Older People.

If the taxpayer is elderly, disabled (for example by a mental health condition such as depression or dementia, or physically frail), has suffered a bereavement or similarly disturbing life event, or simply needs help in dealing with their tax, they can also appoint an attorney under a power which enables the attorney (**5.3**) to take charge of their affairs. Alternatively they can appoint an "intermediary" or a "trusted helper" (**5.4**) who will be recognised as such by HMRC provided certain formalities are observed.

5.2 Professional advisers

A professional agent whom a taxpayer appoints may obtain recognition from HMRC by getting the taxpayer to sign form 64-8 and submitting it to HMRC. There is also an online authorisation service for professional agents' use. Agents may manage their clients' affairs online through an online services for agents account.

All paid agents must be registered for money laundering purposes and adhere to certain standards set by HMRC, who monitor agent behaviour as part of their compliance activity. In addition, tax professionals who are regulated by their professional bodies are required to uphold strict practice and behavioural standards policed by the professional bodies' own disciplinary committees (the main tax and accountancy bodies have agreed to *Professional Conduct in Relation to Taxation* (PCRT) between themselves and with HMRC.

Guidance: *The HMRC standard for agents* ([HMRC standard for agents - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/hmrc-standard-for-agents))

Professional Conduct in Relation to Taxation (republished 1 March 2019 jointly by a number of tax and accountancy bodies)

5.3 Powers of attorney

5.3.1 General

A power of attorney is a document which enables the donor to appoint a trusted person or persons to act and make decisions on their behalf.

In England and Wales there are two types of power: the ordinary power (see below) and the lasting power of attorney (LPA). The latter is of two kinds: the one gives authority to the donee or attorney concerning the donor's health and welfare, the other enables them to conduct and manage the donor's property and financial affairs. The former can only be used if the donor has lost mental capacity; the latter can be used as soon as it is registered but is most commonly intended to deal with the situation that arises if the donor loses mental capacity and can no longer make decisions.

In addition to LPAs, there are also ordinary powers and enduring powers. Enduring powers of attorney were superseded by lasting powers in 2007 but any enduring powers that were executed before then remain in force until the power comes to an end (e.g. on the death of the donor). An ordinary power is only valid for making financial decisions on behalf of the donor for as long as the donor retains mental capacity.

Once made, a power of attorney must be registered with the Office of the Public Guardian which also oversees the operation of the power and investigates complaints or concerns about the conduct of the attorney.

In Scotland, there are general powers of attorney, continuing powers, and welfare powers. A continuing or welfare power has much the same characteristics as the LPA, and is regulated by the Office of the Public Guardian (Scotland). In Northern Ireland there are general and enduring powers, regulated by the Office of Care and Protection.

This commentary deals with the situation where a taxpayer loses mental capacity and a lasting power of attorney or its Scotland or Northern Ireland equivalent comes into force. A lasting power must be executed before the donor loses mental capacity, in which case it will come into force at that point; otherwise the appropriate route is to apply to the Court of Protection for the appointment of a deputy to deal with the individual's affairs.

5.3.2 Tax treatment

HMRC will only deal with an attorney whose power has been registered with, and marked as such by, the Office of the Public Guardian or its Scottish or Northern Ireland counterpart.

Therefore, if a taxpayer who has granted a lasting power of attorney loses mental capacity, the attorney must register the power before they can use it to deal with the donor's tax affairs or access the donor's HMRC data. The original document, or a certified copy of it, must be submitted separately to HMRC once it has been registered, whereupon HMRC will share information about the donor with the attorney, allow the attorney to process repayments owed to the donor, and so forth. When the donor of the power dies, HMRC can no longer deal with the attorney but must deal only with the personal representative.

If the taxpayer loses capacity but has not executed a lasting power of attorney, HMRC will deal with a deputy appointed by the Court of Protection on production of the original, or a certified copy of, the order setting out the scope of the deputy's authority.

Guidance: IDG30430ff.

5.4 Trusted helpers and intermediaries

In certain circumstances HMRC will deal with a representative of the taxpayer who is neither a professional agent nor acting under a power of attorney, but the taxpayer remains legally responsible for their tax.

The term “intermediary” includes a friend or relative of the taxpayer, or a voluntary organisation, whom the taxpayer asks to deal with HMRC on their behalf. The taxpayer must write to HMRC at the National Insurance contributions and Employers Office giving their name, address, tax reference number or UTR, and the name and address of the person they want to authorise as their representative. The taxpayer must sign the letter in person; if they cannot do so, they must contact the relevant department within HMRC or ask someone to do this for them.

An intermediary cannot normally deal with HMRC online. But a “trusted helper” is a friend or relative of the taxpayer who has registered themselves with HMRC via UK Government Gateway as the taxpayer’s representative. Once registered, a trusted helper can:

- check the taxpayer is paying the right amount of income tax;
- check or update the taxpayer’s personal tax account (PTA);
- claim a refund; or
- check or update the taxpayer’s company car tax.

The taxpayer does not necessarily have to be physically or mentally disabled to appoint a trusted helper. For example, a trusted helper can be appointed to deal with HMRC if the taxpayer is abroad.

A helper who is not officially an intermediary or a trusted helper may nevertheless, in closely prescribed circumstances, deal with HMRC on the taxpayer’s behalf by telephone. This procedure is known as “deemed consent”, and it depends upon the taxpayer being in the same room as the helper when the call takes place, and both the taxpayer and helper identifying themselves to HMRC over the phone.

Guidance: [Appoint someone to deal with HMRC on your behalf - GOV.UK \(www.gov.uk\)](https://www.gov.uk/appoint-someone-to-deal-with-hmrc-on-your-behalf) Appoint someone to deal with HMRC on your behalf

[Help friends or family with their tax - GOV.UK \(www.gov.uk\)](https://www.gov.uk/help-family-or-friends-with-their-tax) Help family or friends with their tax

5.5 Extra support

If your personal circumstances make it difficult when you contact HMRC, you may be able to get extra support. The taxpayer’s representative, or indeed the taxpayer themselves, can ask to set up an appointment with HMRC’s Extra Support Team, which is able to assist above and beyond the capability of the ordinary helplines. A professional agent cannot use the Extra Support Team.