

IRS Introduces New Form 1023-EZ to Streamline Applications for 501(c)(3) Tax-Exempt Status

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On July 1, 2014, the **Internal Revenue Service (IRS)** launched a new Form 1023-EZ, ***Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code***, that is intended to enable small charities to more easily apply for recognition of tax-exempt status under Internal Revenue Code Section 501(c)(3). The IRS has described the new form as a “common sense approach” to easing the filing burdens for small organizations and to shorten the time delays associated with IRS processing. Although not expressly stated, the new form is undoubtedly part of the IRS’s current effort to alleviate the huge backlog of pending applications awaiting IRS review.

What’s the general idea behind the new form?

The concept associated with the Form 1023-EZ is that the existing 26-page Form 1023 is simply unnecessary in the case of most small organizations. As designed, the new form becomes effectively a “registration” for exemption, rather than a comprehensive description of an organization’s activities, operations, governance, finances, etc. The IRS has clarified that the new forms will not undergo substantive review by IRS personnel. Rather, the IRS will defer that review until a later date when organizations are up and running; at that point, the IRS will evaluate whether organizations are functioning as described in their original filings.

When the new form was announced in draft form earlier this year, many industry experts voiced concern about foregoing the important educational and compliance opportunities associated with completing the full Form 1023 in its standard form. Others expressed doubt as to whether the IRS would be able to effectively and consistently perform the type of follow-up reviews asserted as the means for ensuring compliance with exemption standards. Nonetheless, the IRS has forged ahead, presumably under pressure to address its internal processing challenges and perhaps to present some much-needed “taxpayer-friendly” news from the Exempt Organizations Division.

Concurrent with issuing the new form, the IRS released Revenue Procedure 2014-40, which sets forth the procedures for using the new form and IRS’s processing of the same.

Who is eligible to use the new form?

The Revenue Procedure describes the scope of organizations that are eligible to use the form, consisting generally of organizations whose annual gross receipts have not exceeded \$50,000 during any of the past three years and whose projected gross receipts for the current year and next two years are below that threshold. In addition, eligible organizations may not have total assets exceeding \$250,000. Notably, when the draft Form 1023-EZ was initially announced earlier this year, the thresholds were appreciably higher – annual gross receipts of \$200,000 or less and assets of \$500,000 or less. In setting the final eligibility requirements, the IRS reduced those thresholds, presumably in response to exempt community (and possibly state charity official) voices expressing concern about this new approach being poorly suited to ferreting out actual or intended noncompliance, as discussed above.

The Revenue Procedure goes on to list other criteria that render an applicant ineligible to use the new form, including foreign organizations, successors to for-profit entities, churches, schools, colleges, universities, hospitals, supporting organizations described in IRC Section 509(a)(3), HMOs, ACOs, and entities maintaining

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donor-advised funds.

Notwithstanding the foregoing restrictions, the IRS has estimated that as many as 70 percent of organizations applying for 501(c)(3) status will be eligible to use the new form.

What does the new form look like?

Anyone who has tackled the process of preparing a Form 1023 in the past will recall the burden associated with wading through the standard 26-page application, which by necessity has traditionally covered a vast range of organizations (by size, scope and character) falling under the umbrella of 501(c)(3) status. By comparison, the new Form 1023-EZ is only three pages long and calls for:

- Identifying information;
- Form of entity under applicable state law, including check-box attestations regarding inclusion of appropriate language in pertinent organizational documents;
- General information regarding the organization's activities, using NTEE classification codes, check-box attestations regarding compliance with basic exemption requirements, and yes-or-no answers to high-level questions presumably aimed at fleshing out potentially at-risk conduct;
- A check-box approach for attesting to public charity status; and
- A check-box approach for organizations seeking reinstatement after losing their exemption due to failure to file annual information returns for three consecutive years.

A copy of the new form is available [here](#). The accompanying instructions can be found [here](#).

How is the new Form 1023-EZ to be filed?

Form 1023-EZ must be filed electronically, using the www.pay.gov website. A \$400 user fee applies. Once filed, the IRS process will consist of determining whether an application is complete, meaning that the applicant has provided a response to each line item in the form. If a form is incomplete, the IRS may request additional information accordingly. Once complete, the IRS will accept the form for processing.

What if we have a pending Form 1023 already in the queue at the IRS?

If an organization has already submitted Form 1023 to the IRS, it may nevertheless submit Form 1023-EZ if its Form 1023 has not yet been assigned for review. In that case, the IRS will treat the Form 1023 as withdrawn and will instead process the organization's Form 1023-EZ.

Corey Kestenberg contributed to this article.

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