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Getting 501(c)(3) tax-exempt status gets EZ-er

Nonprofit organizations, also known as 501(c)(3) organizations, are growing in popularity. According to the National Center for Charitable Statistics, there were more than 1 million 501(c)(3) organizations in the United States as of last year, a nearly 20 percent increase since 2003.

"Section 501(c)(3) exemption offers charities substantial benefits, including federal income tax exemption and the ability to receive tax-deductible charitable contributions," said Kimberly T. Boike, a principal at Chuhak & Tecson P.C. and a co-founder of its not-for-profit practice group. Up until now, however, the traditional IRS Form 1023 to apply for Section 501(c)(3) status was daunting.

On July 1, the IRS released an abbreviated application for 501(c)(3) tax-exempt status which significantly eases the application burden on small charities. The IRS estimates that the 2½-page Form 1023-EZ, titled "Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code," will take 19 hours to complete — a dramatic departure from the 26-page Form 1023, which the IRS estimates can take more than 123 hours to complete.

Who qualifies?

As many as 70 percent of all 501(c)(3) applicants qualify to use Form 1023-EZ, according to an IRS estimate. Based on the form's instructions, organizations with assets exceeding \$250,000, annual gross receipts exceeding \$50,000 for any of the past three years, or projected annual gross receipts exceeding \$50,000 for any of the next three years are ineligible to file Form 1023-EZ.

Churches, foreign organizations, hospitals, LLCs, schools, supporting organizations, health maintenance organizations, accountable care organizations and other specified entities — regardless of their assets or revenues — are also ineligible.

Application requirements

Unlike Form 1023, Form 1023-EZ does not ask applicants to attach additional documents — such as financial statements, narrative activity descriptions or organizational documents. Rather, the applicant certifies that the documents contain the necessary clauses and the IRS can request additional information and documentation.

Each Form 1023-EZ applicant must:

- Complete an eligibility worksheet.
- Identify officers, directors and trustees.
- Include a purpose clause and dissolution clause.
- Answer seven pages of check-the-box questions regarding its organizational structure, specific activities and classification as a private foundation or public charity.
- Attest they will operate primarily for non-exempt purposes and will not engage in political activity or private inurement, among other things.
- File online using Pay.gov and pay the \$400 user fee.

Applicants seeking reinstatement of their 501(c)(3) statuses after automatic revocation also must attest that they unintentionally failed to comply with annual reporting requirements and have since created adequate reporting procedures.

"While the new Form 1023-EZ is a great tool for smaller organizations to obtain 501(c)(3) status," Boike explained, "it is critical to work with an experienced

THE BUZZ



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attorney in completing the application so they can identify any issues that could cause a delay in IRS processing."

Reduced backlog

The new form also will help the IRS reduce its backlog of more than 60,000 501(c)(3) applications. According to the Taxpayer Advocate Service's 2013 Annual Report to Congress, the backlog is more than the number of initial applications the IRS usually receives in a year. As of July 3, half of the unassigned tax-exempt status applications were submitted before October 2013, according to the IRS "Where's My Exemption Application?" website.

"This is a common-sense approach that will help reduce lengthy processing delays for small tax-exempt groups and ultimately larger organizations as well," IRS Commissioner John Koskinen said in a July 1 news release. "The change cuts

paperwork for these charitable groups and speeds application processing so they can focus on their important work."

The Pension Protection Act of 2006, which imposes annual reporting requirements on small exempt organizations and requires that the IRS revoke the tax-exempt status of any nonprofit that fails to file mandatory information returns three years in a row, caused much of the nine-month backlog.

The PPA allows formerly exempt organizations to apply for reinstatement within one year of revocation. According to the Taxpayer Advocate Service, an independent organization within the IRS that helps resolve taxpayer issues, the number of reinstatement requests increased more than threefold between 2011 and 2013.

During the same period, the number of full-time IRS employees handling tax-exempt applications decreased by more than 10 percent. By fall 2013, the 501(c)(3) backlog swelled to 1½ years' worth of applications, the TAS reported.

Filing Form 1023-EZ isn't the only way to avoid the IRS backlog. Although the IRS usually reviews 501(c)(3) applications in the order they are submitted, it will expedite review of certain applications if there is a compelling reason to do so.

Furthermore, applicants that have not received a decision within 270 days of submitting their completed applications can petition the U.S. Tax Court, Court of Federal Claims or U.S. District Court for the District of Columbia for a declaratory judgment regarding their 501(c)(3) status.

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