

IRS Issues Shortened Form 1023-EZ for Small Startup Organizations

On July 1, 2014, the IRS announced the release of a new, shorter application for eligible small organizations seeking recognition of tax exempt status under Section 501(c)(3).

Form 1023-EZ, *Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*, is the Service's effort to simplify the application process for smaller organizations, and to reduce its existing backlog of exempt organization applications.

Who Can File Form 1023-EZ?

Generally speaking, organizations with gross receipts of under \$50,000 AND assets of less than \$250,000 may be eligible to file Form 1023-EZ. The IRS estimates that approximately 70% of new applicants will be able to use the new form.

However, a number of organizations are NOT able to file Form 1023-EZ, and must still file Form 1023. These include, but are NOT limited to:

- Organizations whose gross receipts have exceeded \$50,000 in any of the last three years, or which project more than \$50,000 in gross receipts during the current or two upcoming tax years.
- Organizations with assets exceeding a fair market value of \$250,000.
- Limited Liability Companies (LLCs).
- 509(a)(3) supporting organizations.
- Organizations that maintain, or intend to maintain, donor advised funds.
- Credit counseling organizations.
- Organizations which lack a mailing address in the United States, and organizations formed under the laws of a foreign country.
- Churches, universities and hospitals.
- Under certain circumstances, organizations whose exempt status has been **automatically revoked for failure to file Form 990/990-EZ/990-N/990-PF** for three consecutive years **may** be able to use Form 1023-EZ to apply for reinstatement if they meet the other eligibility requirements described above (see [IRS Revenue Procedure 2014-11](#) for more details). However, organizations whose exemption has been **revoked for any other reason** may NOT use Form 1023-EZ.

A complete list of eligibility requirements is provided in [IRS Revenue Procedure 2014-40](#), available at www.irs.gov/pub/irs-drop/rp-14-40.pdf. Organizations that are not eligible to use the Form 1023-EZ must file for recognition of exemption using the full IRS Form 1023. The full Form 1023 is available for all organizations, even those that may be eligible to use Form 1023-EZ.

A Word of Caution about Form 1023-EZ

It's worth noting that a broad range of non-profit organizations (including the Center for Non-Profits), regulators and professionals have expressed concern that, while the existing Form 1023 is widely regarded as overly complex and in dire need of revision, in issuing Form 1023-EZ the IRS seems to have gone too far in the opposite direction. The new Form 1023-EZ is, in essence, a three-page checklist, and provides few of the checks, balances and obligatory reviews that can help prevent an organization from making potentially damaging legal and operational missteps. If you file a 1023-EZ instead of a 1023, the review of organizational documents and other key supporting information by IRS officials is automatically bypassed. While this may save processing time up front, there is a risk that an organization may unwittingly engage in inappropriate practices for years before a problem is discovered, leaving it open to significant penalties and liabilities. Additionally, the absence of document review by the IRS makes it harder to screen out those that deliberately wish to engage in unethical or illegal behavior, hampering enforcement and potentially undermining public trust in the charitable community over the long run.

The new Form 1023-EZ makes thorough preparation and competent professional or legal guidance more critical than ever.

www.njnonprofits.org

Tel 732.227.0800 | Fax 732.27.0087 | 3575 Quakerbridge Road, Suite 102, Mercerville, NJ 08619 (as of 5/11/2013)

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Center for Non-Profits is a New Jersey non-profit corporation and a federally recognized 501(c)(3) publicly supported charity.

Keep in mind that the availability of a shorter form is NOT a substitute for thorough preparation and competent professional or legal guidance. In fact, the new Form 1023-EZ makes these reviews – performed in advance -- more critical than ever. Ultimately, it is up to each organization, its governing board and managers to ensure that its proposed (and actual) purposes, programs and revenue streams are appropriate for gaining and maintaining 501(c)(3) tax exemption. BEFORE you file, be sure that you and your board fully understand the requirements and implications. We encourage you to explore the resources at the end of this article for more information.

Process for submitting Form 1023-EZ:

This is an abbreviated summary of the process assumes that an organization has already carefully taken steps to assess whether pursuing 501(c)(3) tax exemption is an appropriate step that it is ready to undertake. The Center for Non-Profits provides a [simple readiness questionnaire](#) to help you as you consider whether to apply. The following steps also assume that other requirements (such as forming a board, non-profit incorporation, obtaining a federal Employer Identification Number (EIN), adopting bylaws, etc.) are already in place. For more information about the steps required, see the Center's booklet, [Thinking of Forming a Non-Profit? What to Consider Before You Begin](#).

If you choose to use Form 1023-EZ:

1. Download and carefully review the [Form 1023-EZ instructions](#).
2. You may download a [sample of Form 1023-EZ](#), but the actual Form must be submitted electronically (see #4 and 5 below).
3. Complete the Eligibility Worksheet on pages 11 of the Form 1023-EZ instructions. Although this worksheet is not submitted to the IRS, truthful and accurate answers will determine if your organization is eligible to use Form 1023-EZ. You will need to attest on the Form 1023-EZ itself that you have accurately and honestly completed this worksheet.
4. Register online at www.pay.gov in order to access the electronic Form 1023-EZ. Form 1023-EZ cannot be submitted in paper form.
5. Fully complete Form 1023-EZ online, and submit the completed Form with the user fee (currently \$400).

Effective date of tax exemption

Generally speaking, if an organization submits Form 1023-EZ within 27 months of its date of incorporation, its tax exemption will be valid retroactive to the incorporation date. If the Form is submitted later than 27 months following its incorporation date, tax exemption will be effective as of the date in the determination letter. (See Rev. Proc. 2014-40 for more details.)

Suggested resources:

IRS

- [Rev. Proc. 2014-40](#)
- [Form 1023 Information Page](#)
- [Form 1023-EZ \(Sample\)](#) and [Form 1023-EZ Instructions](#)
- [Publication 557, Tax Exempt Status for Your Organization](#)
- [Stayexempt.org](http://stayexempt.org), *Tax Basics for Exempt Organizations*

Center for Non-Profits

- [“Forming a Non-Profit”](#) page
- [Readiness Self-Assessment Questionnaire](#)

Pro Bono Partnership

National Council of Nonprofits

This document is provided for general informational purposes and does not constitute legal advice or a legal opinion. For answers to specific questions concerning your situation, you should consult a knowledgeable attorney who can advise you regarding your particular circumstances.