

# **Bond Case Briefs**

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## **ABA Meeting: IRS Official Addresses Concerns About EO Form.**

An IRS official May 9 addressed concerns that have been raised about the recently released draft of a simplified application for tax-exempt status, saying there could be changes as to who is and is not eligible to use the new form.

Speaking at the Exempt Organizations session of the American Bar Association Section of Taxation meeting in Washington, Sunita Lough, commissioner, IRS Tax-Exempt and Government Entities Division, discussed the draft Form 1023-EZ, "Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code," which the IRS introduced last month and which organizations can use if they have annual gross receipts of \$200,000 or less and meet other eligibility requirements.

Practitioners have asked why some categories of EOs — hospitals, colleges and universities, and organizations with donor-advised funds, to name a few — would be ineligible to use the short form. Lough said the draft and its eligibility requirements are not set in stone and that some categories of organizations not eligible to use the simplified application could become eligible later and vice versa. She said the IRS will need to review its eligibility checklist to determine whether to make changes.

Other commentators have noted that unlike the longer Form 1023, the draft Form 1023-EZ does not require a narrative statement of an applicant's exempt purpose, leading some to wonder how the IRS will determine whether an organization will pursue charitable activities. But Lough said a narrative statement is not necessarily dispositive of how an organization will operate and that the IRS believes looking at what a small organization does after receiving its determination letter will show whether it is furthering exempt functions.

In response to worries that the Form 1023-EZ will not be an adequate learning tool because of its simplicity, Lough said the IRS has tried to make the instructions educational, adding that information will also be available on the EO portion of the IRS website.

The IRS will do some predetermination checks on a sample of Forms 1023-EZ by asking filers about items they have checked on the form, according to Lough. The contacts will give the IRS feedback on areas of the form and instructions that may need improvement, she said.

Lough said she expects the Form 1023-EZ to be ready for electronic filing by midsummer.

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by [Fred Stokeld](#)