Bond Case Briefs

Municipal Finance Law Since 1971

Streamlined Exemption Application Could Pose Compliance Problems.

The IRS has released a draft of a simplified exemption application for charities in an apparent effort to reduce burdens on smaller organizations, but some attorneys worry it could make it more difficult to get charities to comply with the tax laws.

The draft Form 1023-EZ, "Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code," accompanied by draft instructions, was announced in the *Federal Register* March 31.The notice described the draft as a shorter and less burdensome version of the 25-page Form 1023 and estimated it would take 14 hours to complete as opposed to 101 hours for the standard form.

The IRS provided a statement to Tax Analysts April 18 saying the Form 1023-EZ is intended to make applying for tax-exempt status easier and quicker for smaller organizations and that the Service has submitted the latest draft of the form to the Office of Management and Budget.

But attorneys who spoke with Tax Analysts said the brevity of the draft could raise compliance issues. Charles M. Watkins of Webster, Chamberlain & Bean LLP, who recently discovered the draft's existence and brought it to the attention of other exempt organization practitioners, said it might not give the IRS all the information it needs to determine whether an applicant qualifies for section 501(c)(3) status, adding that it appears an applicant would not even have to show the agency its organizing documents.

"I would be concerned that they're not getting enough information and some people are going to be recognized as exempt when in fact what they're actually doing is not an exempt function," Watkins said.

Benjamin Takis of Tax-Exempt Solutions PLLC said the standard Form 1023 provides applicants with a useful educational tool that a streamlined application may not offer.

"As I work with the organizations and we go through all the parts of the 1023, that's an opportunity for them to learn about all their compliance responsibilities," Takis said. He listed the exempt purpose test, the commerciality doctrine, and private benefit and private inurement rules as examples, adding, "In the absence of the Form 1023 and the rigor of that process, I think a lot of new organizations are not going to get that education."

Watkins also noted that the Form 1023-EZ would be available only to organizations whose gross receipts do not exceed $200,000 and that churches, hospitals, colleges and universities, supporting organizations, organizations with donor-advised funds, and other entities could not use it.

Watkins was puzzled about why the IRS so far appears to have made no mention of the draft. "Nobody [at the IRS] has said a word about it," he said. "If it's something you're doing that actually might help the situation, why wouldn't you talk about it, especially in the context of a situation

where you really do need to rebuild trust with the exempt organizations community?”

Treasury has asked for comments on the draft by April 30.

by Fred Stokeld

APRIL 21, 2014

Copyright © 2026 Bond Case Briefs | bondcasebriefs.com