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Subject: Reference: Proposed IRS Form 1023-EZ. https://federalregister.gov/a/2014-07066
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From Ellis Carter, JD, LL.M. in Taxation

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Form 1023-EZ would offer a significant reduction in time, money and paperwork for many small nonprofit organizations. It would save nonprofits at $500-$3,000 in professional fees from hiring a professional (usually an attorney or Certified Public Account) to prepare the current Form 1023.

I estimate the timesavings could conservatively be 20-40 hours per application. The new Form 1023-EZ will also permit the IRS to save time in evaluating Form 1023 applications. The Form 2013-EZ is a positive step in the right direction for reducing the burden of tax exempt application especially for small, all-volunteer charities.

Specific comments on the Proposed Form 1023-EZ:

Part II. Line 2: It appears that the IRS is not requesting a copy the organizing documents. Instead, the IRS is merely requiring the organization to attest that they have organizing documents that contain the required provisions. Many lay persons forming small nonprofits do not understand their organizing documents and are unlikely to be able to properly evaluate whether their documents contain the required provisions. Accordingly, the IRS should continue to request a copy of applicants' organizing documents to be included with the Form 1023-EZ. Requiring Applicants to attach a copy of their organizing documents is not an undue burden on the applicant and ensures that the applicant is properly organized.

Part III Line 5 includes in compensation "personal or family educational benefits." The definition of "educational benefits" is unclear. Many 501(c)(3)s are educational organizations, offering education to the public, their members, their as well as their officers, directors and trustees. It is unclear if checking Yes to Line 5 includes these incidental educational benefits offered by educational charities. It is also unclear if checking Yes to Line 5 means the applicant is ineligible for 501(c)(3) status or for the filing Form 1023-EZ.

Part III Line 6 "Pay expenses for individuals" is also unclear. A charity might send its officers to a training which could be interpreted as "paying expenses for individuals." I assume the question is geared toward scholarship or other individual grant programs but this is not clear.

Part V: A User fee is not noted. A User fee of $200 or less would be reasonable for small organizations and reflects the greatly reduced burden on the IRS to process the 1023-EZ.

In the Instructions, under General Instruction/Who Can File This Form: The list of who can file this form is confusing because of the sentence with the word "not." The list of questions in the Eligibility Worksheet is much clearer but is still likely to confuse lay people.

The eligibility worksheet should be placed near the beginning of the instructions, not at the end. I can imagine applicants reading through the entire instructions and completing the form before realizing they are ineligible. In general, I applaud the simplicity of the Form 1023-EZ and appreciate the IRS's attempt to lessen burdens on smaller nonprofits and to make a more strategic use of IRS resources.

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