

## IRS Proposed Form 1023-EZ: The Threats to Nonprofits, Foundations, States, and Taxpayers

### The Issue

Interim leaders at the IRS inherited a backlog of applications for recognition as 501(c)(3) tax exempt entities. In an attempt to reduce the backlog, the IRS quietly developed an alternative application form – a two-page checklist instead of the traditional proven protocols of requiring applicants to submit materials showing they are prepared for the responsibilities of tax-exempt status. “And that’s about it: check the boxes, sign and send in the form, and presto, you’re a 501(c)(3), ready to accept tax-deductible contributions and foundation grants.” Jonathan Spack, [“An Ill-advised "Solution" to a Serious Problem”](#) (Third Sector New England blog; April 2014) (anticipating “chaos ensuing with respect to fundraising and foundation grantmaking if the field is suddenly flooded with hundreds of thousands if not millions of newly minted (c)(3)’s”).

“[T]he streamlined 1023-EZ is likely to exacerbate the proliferation of nonprofits and result in a marked increase in the number of applicants who are not prepared to run a nonprofit.” Carter Ellis, [“IRS Introduces Form 1023-EZ”](#) (*Charity Lawyer*; April 28, 2014) (see posted comment thereto: “This is going to be train wreck if it goes through”).

The proposed mini-checklist will radically change how to obtain status as a charity or foundation. Although nominally available only to “small” applicants (income of less than \$200,000, assets less than \$500,000, and other limitations), most applicants start out small. The checklist format will attract bad actors claiming to be “small” to escape a more thorough review. It will shift oversight to the more expensive back-end.

State charity officials have united to “uniformly oppose” the Form 1023-EZ, because it “will increase opportunity for fraud and heighten the burden on state regulators.”

See Comments in Opposition filed by the [National Association of State Charity Officials](#). The [National Council of Nonprofits](#) also filed extensive Comments in opposition to the proposed Form 1023-EZ Form, warning “that the proposed new Form 1023-EZ and related streamlined approval process for tax-exemption will:

1. Decrease, rather than improve, the quality of information the IRS needs to make informed decisions;
2. Reduce public trust; and
3. Inappropriately shift the IRS’ obligations onto others – foisting burdens on the public, existing charitable nonprofits, the funding community, and state charity regulators.”

### Major Flaws

- Substance: see above and Comments filed in opposition
- Process: ignored own Advisory Committee; failed to seek public input; information not shared equally across the country, but at exclusive conferences for attorneys and CPAs
- Fails to Address the Two Real Problems: existing 1023 needs work; lack of IRS staffing

### Learn More

- [“Express lane to more trouble for the IRS?”](#) Tim Delaney (*The Hill*; June 2, 2014)
- [“Is the 1023-EZ a Step Backward for Regulators and Nonprofits?”](#) Michael Wyland (*Nonprofit Quarterly*; June 4, 2014)
- [“Critics Say New Short Form for Tax-Exempt Status Will Draw 'Cheats'”](#), Alex Daniels (*Chronicle of Philanthropy*; May 18, 2014)
- [“Live From AICPA: IRS Readying Shorter Application Form,”](#) Mark Hrywna (*NonProfit Times*; June 13, 2014)