



Using IRS Form EZ to Set Up a New Foundation

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Has your association been waiting for the IRS to come up with an easier form to use in establishing a new supporting (c)(3) organization? If so, take a look at the new IRS Form 1023 EZ. At the outset, understand that if your "foundation" (or charity or education and research entity all of which I will include under the term "foundation") is to be tied closely to your (c)(6) organization, you can't use the Form 1023 EZ. However, if you can organize the new foundation so that it is not considered as a 509 (a)(3) supporting organization, you can complete the new Form 1023-EZ and file it online. The form is only three pages long and is easy to fill out. There is a \$200 filing fee.

If you want to use this form you need to think small....not big. The new foundation can't have planned gross receipts of more than \$50,000 in the first three years of operation and cannot start with assets exceeding \$250,000. However, as a startup, those numbers may be realistic.

The foundation must anticipate support from a broad base of dues payers or contributors not just a wealthy family. It must be US based and not a successor to a for-profit entity. The new organization can't be a church, a hospital or a college.

However, if you are the Widget Manufacturers Association and want to set up a foundation with the purpose of making the world a better place by teaching everyone everywhere how to better use widgets, and if you start small and don't have control over the foundation, you could start your foundation by filing form 1023-EZ.

At the present time if you file the full Form 1023, you can expect an average delay of 9 months or more before the IRS responds and, even then, the IRS may request additional information that will extend the process even longer. Further, while it is normal to anticipate that the IRS will give retroactive status to 1023 exemption requests, there is no guarantee that the IRS will do so. Some organizations file their 1023 tax exemption applications and then start soliciting funds immediately. Those groups advise potential donors that the exemption application has been filed and that if the application is granted, it is probable that those individuals making donations after the date of filing will be able to deduct their donations on their individual tax returns. They also must advise these prospective donors that if the application is rejected or is not retroactive, then the donations will not qualify for tax exemption. This certainly limits their ability to get donations. With the Form 1023-EZ, the IRS has indicated that not all

applications will be reviewed. Most of the applications (estimated 80%) will be approved automatically. The IRS has indicated that there will be a quick turnaround on these applications and if the application is filed within 27 months of the date that the foundation was created, the effective date of the exemption will be the date that the foundation was formed.

This combination is a huge benefit. It means that in most instances, your foundation will have an IRS exemption within 90 days.

As only the government can do, the IRS has provided 20 printed pages of instructions for use in filling out the 2 1/2 page 1023-EZ form. However, it is not a difficult form to complete and you and your accountants could sit down and complete the form and the worksheet included in the instructions in less than three hours.

If your organization is thinking about setting up a foundation and is thinking "small" for the first several years, Form 1023-EZ is something to consider. You will not have control over the foundation but you will be able to be up and running in a very short time period.

If you are interested in learning more about "Using IRS Form EZ to Set Up a New Foundation," contact Steven Fellman, GKG Law, P.C. at 202.342.5294 or sfellman@gkglaw.com.