

New IRS Procedures Will Impact Nonprofits

January 25, 2018

The IRS has announced procedural changes that will impact exempt organizations in 2018. These changes concern new organizations and organizations that have lost exemption due to automatic revocation. They also affect any organization where the IRS is proposing to retroactively revoke its exemption as a result of an IRS examination.

The most significant changes are as follows:

I. New application form for 501(c)(4) organizations.

On January 16, the IRS released [Form 1024-A](#), Application for Recognition of Exemption Under Section 501(c)(4) of the Internal Revenue Code. Organizations that choose to apply for section 501(c)(4) exemption may no longer use the same application form as other non-501(c)(3) organizations. In 2015, Congress recommended that the IRS draft an application specifically for 501(c)(4)s, and Form 1024-A is the result. 501(c)(4)s often choose to apply for exemption, even though it is not required, because they prefer the certainty associated with IRS recognition of their exempt status. And, whether or not 501(c)(4) organizations apply, they must within 60 days of formation file Form 8976 to notify the IRS of their intent to operate.

II. Revised exemption application forms.

Other organizations applying for exemption should be sure to file the latest versions of the applications, since obsolete versions of forms are rejected by the IRS as incomplete. For charitable organizations, the new [Form 1023](#) has been updated to reflect IRS procedures concerning public charity status and retroactive recognition of exempt status. And, the new [Form 1024](#) has been updated to remove questions that were applicable to section 501(c)(4) organizations.

III. Reduced application fees for many organizations.

The user fee for filing applications for recognition of tax-exempt status (other than Form 1023-EZ) is now \$600 for all filers. Previously, the user fees varied based upon an organization's gross receipts, with many organizations paying the maximum fee of \$850. The user fee for group exemption letters has also been reduced from \$3,000 to \$2,000.

IV. Additional purposes not eligible for recognition of exemption.

The IRS will no longer issue a determination letter to an organization whose purpose is to improve business conditions of a line of business relating to an activity involving a controlled substance which is prohibited by Federal law regardless of state legality, such as activities involving marijuana. In addition, the IRS will not issue a determination letter to a 501(c) organization (other than a government entity) that requests a determination to relinquish its exempt status.

V. No more flexibility on timing of certain rulings/decisions.

The IRS has eliminated the use of terms like “generally” and “usually” to clarify areas where it no longer makes exceptions for special circumstances. For example, in prior guidance there appeared to be flexibility in ruling dates for organizations seeking exemption more than 27 months after formation. The new guidance makes clear that for those organizations, the effective date of exemption will be the date their application is post-marked and not their date of incorporation.

In addition, the IRS announced certain “behind-the-scenes” changes affecting requests for relief when the IRS proposes to close an examination by retroactively revoking an organization’s or modifying its determination. For example, the IRS might propose to reclassify a public charity as a private foundation. The procedural changes eliminate multiple layers of approval and should allow organizations to obtain decisions more quickly.

Whether you are an established exempt organization or are thinking of seeking tax-exempt status for your entity, attorneys at [Caplin & Drysdale](#) have the experience you need to accomplish your goals. For more information, please contact a member of Caplin & Drysdale’s [Exempt Organizations](#) practice group:

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