

Volume 2

TAS RESEARCH AND RELATED STUDIES

**Study of Taxpayers That Obtained
Recognition as IRC § 501(c)(3) Organizations
on the Basis of Form 1023-EZ**

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EXECUTIVE SUMMARY

On July 1, 2014, the IRS released Form 1023-EZ, *Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*. The application allows certain organizations to attest that they meet requirements for exempt status and does not require any supporting documentation or substantiation of those attestations. TAS undertook a study to examine a representative sample of organizations in 20 states that make articles of incorporation viewable online at no cost whose Form 1023-EZ was approved by the IRS. The objective of the study is to ascertain the extent to which approved organizations actually satisfied the organizational test, a legal requirement for qualification as an Internal Revenue Code (IRC) § 501(c)(3) organization, and the extent to which approved organizations, whether they met the organizational test or not, were eligible to apply for exempt status using Form 1023-EZ. The study findings for the population studied are statistically valid at the 95 percent confidence level with a margin of error no greater than +/-5 percent.

The study found that for organizations in 20 states that make articles of incorporation viewable online at no cost:

- Thirty-seven percent do not meet the organizational test for qualification as an IRC § 501(c)(3) organization;
- Thirty percent of these organizations' articles of incorporation do not have an acceptable purpose clause;
- Twenty-three percent of these organizations' articles of incorporation do not provide for distribution of assets upon dissolution as the law requires;
- It takes on average less than three minutes to review articles of incorporation and determine whether the organizational test is met and in over 90 percent of the cases, it took five minutes or less; and
- Only about half of the organizations maintain websites that could provide additional information.

Thus, the IRS approves a significant portion of Form 1023-EZ applications from organizations that do not meet the legal requirements for qualification as IRC § 501(c)(3) organizations. To the extent these organizations receive amounts that should be treated as taxable receipts they are improperly subsidized by other taxpayers. Eight organizations in our sample filed Form 1120, *U.S. Corporation Income Tax Return*, for at least one tax period prior to obtaining recognition of exempt status, which raises the question of whether the organizations merely continued to operate a for-profit entity in the guise of an exempt organization. To the extent non-exempt organizations receive contributions deducted by the donor, tax dollars are inappropriately diverted. Moreover, the skeletal Form 1023-EZ, the brevity of the annual report required of these organizations, and the probability that the organizations will not have a website result in a disturbing lack of information about them, undermining the public's and the IRS's ability to effectively monitor this segment of the exempt organization population.

INTRODUCTION¹

Taxpayers seeking exempt status as IRC § 501(c)(3) organizations must generally apply to the IRS to have their exempt status recognized.² Those excepted from the requirement to apply include organizations with gross receipts of normally not more than \$5,000,³ but even these very small organizations must submit an application if they are seeking reinstatement of exempt status following automatic revocation.⁴ Some organizations, such as churches, request recognition of exempt status although they are not required to do so.⁵ From fiscal year (FY) 2010-2014, the annual number of applications for recognition of exempt status as an IRC § 501(c)(3) evaluated by the Exempt Organizations (EO) function of the Tax Exempt and Government Entities division (TE/GE) ranged from 45,000 to more than 100,000.⁶

Prior to July 1, 2014, organizations submitted their applications on Form 1023, *Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*, which is 12 pages long.⁷ Thereafter, many organizations submitted their application on the three-page Form 1023-EZ, *Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*, which appears as Appendix B. Most organizations that applied for exempt status as IRC § 501(c)(3) organizations in FY 2015 did so using Form 1023-EZ.⁸ Figure 1.1 shows the number of applications from organizations seeking IRC § 501(c)(3) status for which EO made determinations from FY 2010 to FY 2014, and the number and rate at which EO approved those applications.

1 The primary author of this study is Jill MacNabb, Senior Attorney Advisor to the National Taxpayer Advocate.

2 IRC § 508.

3 IRC § 508(c)(1)(B); Treas. Reg. § 1.508-1(a)(3) (excepting small organizations that are not private foundations from the requirement to apply for recognition of exempt status). See also Treas. Reg. § 1.508-1(a)(3)(ii) (defining gross receipts as not normally more than \$5,000 depending on how long the organization has been in existence).

4 IRC § 6033(j)(1) provides for automatic revocation of exempt status of organizations that fail to file a required return or notice for three consecutive years. IRC § 6033(j)(2) requires organizations whose exempt status was automatically revoked to apply for reinstatement “regardless of whether such organization was originally required to make such an application.”

5 See IRC § 508(c)(1); Brice S. McKeever and Sarah L. Pettijohn, *The Nonprofit Sector in Brief 2014* 16, n3, Urban Institute (Oct. 2014) noting that out of an estimated 345,000 houses of worship in the U.S. approximately 220,000 are registered with the IRS.

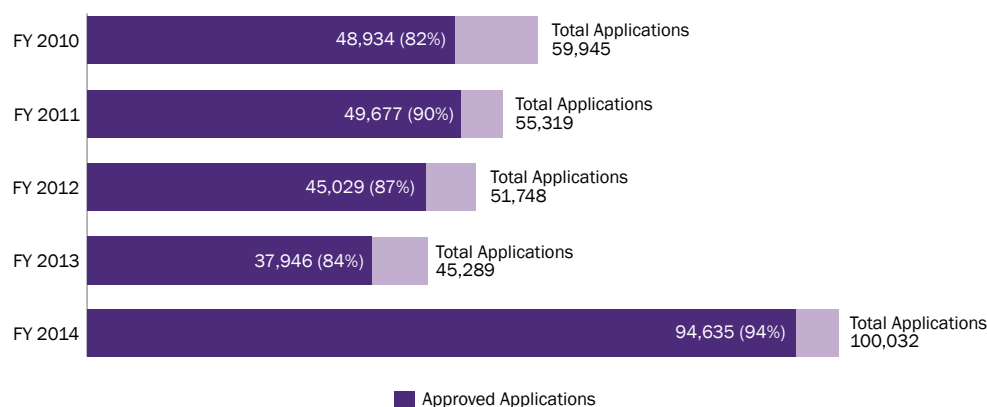
6 Table 24, *Closures of Applications for Tax-Exempt Status, by Organization Type and Internal Revenue Code Section*, IRS Data Books, 2010-2014, showing determinations under IRC § 501(c)(3) of 59,945; 55,319; 51,748; 45,289; and 100,032 for FYs 2010-2014, respectively, for an average of 62,467.

7 See also *Instructions to Form 1023*, 24, estimating that on average it takes nine hours and 39 minutes to prepare the form, involves 89 hours 26 minutes of recordkeeping, and takes five hours 10 minutes to learn about the law or the form. Copying, assembling, and sending the form to the IRS takes on average 48 minutes.

8 TE/GE Fourth Qtr Business Performance Review (BPR) at 4 (Dec. 2015), reporting that 55 percent of all applications for recognition as an IRC § 501(c)(3) organization received in FY 2015 were submitted on Form 1023-EZ.

FIGURE 1.1⁹

**Organizations Seeking IRC § 501(c)(3) Status FYs 2010-2014:
Total Applications, Number Approved, and Approval Rates**



TAS undertook a study of a representative sample of organizations in 20 states that make articles of incorporation viewable online at no cost whose Form 1023-EZ was approved by the IRS. The study was undertaken to determine the extent to which the approved organizations actually met the organizational test, a legal requirement for tax exempt status as an IRC § 501(c)(3) organization, and the extent to which approved organizations (whether or not they met the organizational test) were actually eligible to apply using Form 1023-EZ. Our findings for the population studied are statistically valid at the 95 percent confidence level with a margin of error no greater than +/-5 percent.

BACKGROUND

Form 1023-EZ Drastically Reduced the Amount of Information Required to Apply for Exempt Status As an IRC § 501(c)(3) Organization

For more than 30 years prior to the introduction of Form 1023-EZ, taxpayers seeking exempt status as IRC § 501(c)(3) organizations applied using Form 1023.¹⁰ The IRS estimates it takes more than nine hours on average to complete a full Form 1023, which is 12 pages long (not counting any required schedules or attachments).¹¹ Because the IRS does not need such extensive information to determine whether most small organizations are exempt, the National Taxpayer Advocate recommended that TE/GE

9 Table 24, *Closures of Applications for Tax-Exempt Status, by Organization Type and Internal Revenue Code Section*, IRS Data Books, 2010-2014. As the FY 2014 Data Book notes, the increase from FY 2013 to FY 2014 “is attributable to the introduction of a streamlined application process in FY 2014 for all determination applications and the implementation of the electronic Form 1023-EZ, a streamlined three-page version of the 26-page Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code.”

10 See, e.g., Office of Information and Regulatory Affairs, Office of Management and Budget, Information Collection Request Ref. No. 198104-1545-056, approving a 1981 revision of the form.

11 *Instructions to Form 1023*, 24, estimating that on average it takes nine hours and 39 minutes to prepare the form, involves 89 hours 26 minutes of recordkeeping, and takes five hours 10 minutes to learn about the law or the form. Copying, assembling, and sending the form to the IRS takes on average 48 minutes.

adopt a less burdensome Form 1023-EZ.¹² As discussed below and elsewhere in this report, the IRS has now adopted a Form 1023-EZ that has gone too far in the opposite direction by “eliciting” only a series of checkmarks in boxes and the organization’s attestation, or affirmation, that it meets the legal requirements for exempt status.¹³

Eligibility to request exempt status using Form 1023-EZ requires, among other things, that the organization’s gross receipts have not exceeded \$50,000 in any of the last three years and that its total assets do not exceed \$250,000.¹⁴ Organizations applying for retroactive reinstatement of exempt status following automatic revocation may use Form 1023-EZ if, in addition to meeting the other eligibility requirements, they apply within 15 months from the date of the revocation.¹⁵ Applicants attest (by checking a box) that they have completed the Eligibility Worksheet contained in the instructions to Form 1023-EZ (the worksheet appears as Appendix C), and that they are eligible to apply for exemption using Form 1023-EZ.

Form 1023-EZ differs from Form 1023 in three crucial areas:

- Form 1023-EZ does not require the applicant to submit its organizing documents, such as articles of incorporation;
- Form 1023-EZ does not require the applicant to describe its activities; and
- Form 1023-EZ does not elicit information (beyond yes or no responses) that would signal a potential for inurement or private benefit.¹⁶

TE/GE analyzes, on an ongoing basis, a random sample of organizations that successfully applied for exempt status using Form 1023-EZ.¹⁷ The results of that analysis, discussed earlier in this report, did not reassure the National Taxpayer Advocate that Form 1023-EZ allows the IRS to determine, with an acceptable level of accuracy, whether applicants should be recognized as IRC § 501(c)(3) organizations.¹⁸

By December of 2014, 54 percent of all applications for exempt status as an IRC § 501(c)(3) organization were submitted on Form 1023-EZ; by July 1, 2015, one year after Form 1023-EZ was introduced, the frequency was 58 percent.¹⁹ In the interim, in view of her misgivings about the adequacy of the new form, the National Taxpayer Advocate announced that TAS would independently review a random sample of approved Form 1023-EZ filers.²⁰

12 National Taxpayer Advocate 2011 Annual Report to Congress Status Update: *The IRS Makes Reinstatement of an Organization’s Exempt Status Following Revocation Unnecessarily Burdensome* 437, 448.

13 See Most Serious Problem: *Form 1023-EZ: Recognition as a Tax-Exempt Organization Is Now Virtually Automatic for Most Applicants, Which Invites Noncompliance, Diverts Tax Dollars and Taxpayer Donations, and Harms Organizations Later Determined to be Taxable*, *supra*.

14 Rev. Proc. 2015-5, sec. 2, 2015-1 I.R.B. 186 sets out the eligibility requirements for using Form 1023-EZ. They are reflected in the Eligibility Worksheet, which appears as Appendix C.

15 *Id.* sec. 8.03. Applicants seeking only prospective reinstatement are not subject to the 15-month deadline.

16 See National Taxpayer Advocate FY 2015 Objectives Report to Congress 35 at 62.

17 See Rev. Proc. 2014-40, § 5.03, 2014-30 I.R.B. 229 (providing that “the Service will select a statistically valid random sample of Forms 1023-EZ for pre-determination reviews”); Rev. Proc. 2015-5, § 5.03, 2015-1 I.R.B. 186 (providing the same).

18 Most Serious Problem: *Form 1023-EZ: Recognition as a Tax-Exempt Organization Is Now Virtually Automatic for Most Applicants, Which Invites Noncompliance, Diverts Tax Dollars and Taxpayer Donations, and Harms Organizations Later Determined to be Taxable*, *supra*.

19 TE/GE First Qtr BPR 2015 at 2 (Feb. 2015); TE/GE Third Qtr BPR 2015 at 4 (Oct. 2015). For FY 2015, 55 percent of all applications for recognition as an IRC § 501(c)(3) organization were submitted on Form 1023-EZ. TE/GE Fourth Qtr BPR at 4 (Dec. 2015).

20 See National Taxpayer Advocate FY 2016 Objectives Report to Congress 70 at 76.

The Introduction of Form 1023-EZ Did Not Affect the Legal Requirements for Exempt Status As an IRC § 501(c)(3) Organization

The rules for obtaining recognition of exempt status did not change with the introduction of Form 1023-EZ. An IRC § 501(c)(3) organization, which is generally exempt from income taxation and may receive tax deductible contributions, is one that is “organized and operated exclusively” for one or more of the following eight purposes:²¹

- Religious;
- Charitable;
- Scientific;
- Testing for public safety;
- Literary;
- Educational;
- To foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment); or
- For the prevention of cruelty to children or animals.²²

Whether an organization applies using Form 1023 or Form 1023-EZ, if it fails either the organizational test or the operational test, discussed below, it is not an organization described in IRC § 501(c)(3).²³ It is subject to taxation on its income.

IRC § 501(c)(3) Organizations Must Satisfy an Organizational Test

To meet the “organizational test,” an organization, which may be a corporation, an unincorporated association, or a trust, must have “articles of organization” that:

- Limit the organization’s purposes to one or more exempt purposes;
- Do not expressly empower the organization to engage, other than as an insubstantial part of its activities, in activities which themselves are not in furtherance of one or more exempt purposes; and
- Permanently dedicate the organization’s assets to IRC § 501(c)(3) purposes on dissolution.²⁴

Thus, the organization’s articles must generally contain an acceptable purpose clause and a sufficient dissolution clause. In some states, a nonprofit corporation’s articles need not include a specific dissolution provision because by operation of state law the organization’s assets would be distributed upon dissolution

21 Organizations exempt from tax under IRC § 501(c)(3) are generally not required to pay tax on their related income, and may receive tax deductible contributions. See IRC §§ 501 and 170(c)(2). An organization determined to not have been tax exempt would be treated as a taxable entity required to report and pay tax on income (whether related to the erstwhile exempt purpose or not).

22 See IRC §§ 501 and 170(c)(2). Unrelated business income may be subject to tax. See IRC § 511 *et seq.* Further, in order to qualify as an IRC § 501(c)(3) organization, no part of the organization’s net earnings can inure to the benefit of any private shareholder or individual (IRC § 501(c)(3); Treas. Reg. § 1.501(c)(3)-1(c)(2)); the organization cannot devote more than an insubstantial part of its activities to attempting to influence legislation by propaganda or otherwise attempting to influence legislation (IRC § 501(c)(3); Treas. Reg. § 1.501(c)(3)-1(b)(3)(i)); and the organization cannot participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office (IRC § 501(c)(3)).

23 Treas. Reg. § 1.501(c)(3)-1(a)(1).

24 Treas. Reg. §§ 1.501(c)(3)-1(b)(1)(i)(a), (b); 1.501(c)(3)-1(b)(4). “Articles of organization” includes “the trust instrument, the corporate charter, the articles of association, or any other written instrument by which an organization is created.” Treas. Reg. § 1.501(c)(3)-1(b)(2).

for one or more exempt purposes, or to the federal government, or to a state or local government, for a public purpose.²⁵ The nine states with such laws, sometimes referred to as *cy pres* states, are Arkansas, California, Louisiana, Massachusetts, Minnesota, Missouri, Ohio, Oklahoma, and Texas.²⁶ In general, a determination as to whether a corporation satisfies the organizational test can be made after reviewing its articles of incorporation.

This study is limited to Form 1023-EZ filers that were corporations (we did not consider applications submitted by unincorporated associations or trusts).²⁷ The first part of the data collection instrument, discussed below, focuses on whether the corporation met the organizational test.

IRC § 501(c)(3) Organizations Must Satisfy an Operational Test

An organization meets the “operational test” if:

- It engages primarily in activities which accomplish one or more of the eight exempt purposes specified in IRC § 501(c)(3);²⁸
- No more than an insubstantial part of its activities is not in furtherance of an exempt purpose;²⁹ and
- It is operated to further public rather than private interests.³⁰

Because the terms “exclusively,” “primarily” and “insubstantial” are undefined in IRC § 501(c)(3) and the regulations, whether an organization meets the operational test may depend on the facts and circumstances.³¹ This research project did not involve reviewing the approved Form 1023-EZ, contacting any organization, or otherwise attempting to develop a conclusion about whether an organization met the operational test. However, the second part of the data collection instrument, discussed below, allowed us to gather some descriptive information that could be relevant to such a determination.

25 See Treas. Reg. § 1.501(c)(3)-1(b)(4).

26 Rev. Proc. 82-2, 1982-1 C.B. 367, Tex. Bus. Orgs. Code Ann. § 22.304(a)(2) (2012). *Cy pres* is “[t]he equitable doctrine under which a court reforms a written instrument with a gift to charity as closely to the donor’s intention as possible, so that the gift does not fail.” BLACK’S LAW DICTIONARY (9th ed. 2009). State law or court action of the type described in Rev. Proc. 82-2 satisfies the requirement for a dissolution provision where there is no provision in the creating document. However, if the creating document contains a dissolution provision that is defective, state law or court action would not cure the defect. See Elizabeth Ardoin, 2004 EO CPE Text *Organizational Test – IRC 501(c)(3)* 12, Q.11, available at <https://www.irs.gov/pub/irs-tege/eotopicd04.pdf>.

27 Most Form 1023-EZ applicants are corporations. For example, of the 29,067 approved Form 1023-EZ applications from July 1, 2014–Mar. 27, 2015, 26,076 of the applicants were corporations, 2,752 were unincorporated associations other than a trust, and 239 were trusts. TE/GE response to TAS information request (June 11, 2015).

28 See Treas. Reg. § 1.501(c)(3)-1(c)(1), providing that “[a]n organization will be regarded as operated exclusively for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3).”

29 See Treas. Reg. § 1.501(c)(3)-1(c)(1), providing that “[a]n organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.”

30 Treas. Reg. § 1.501(c)(3)-1(d)(1)(ii).

31 An exception is IRC § 501(h), an elective “safe harbor” that allows for a determination, based solely on the electing IRC § 501(c)(3) organization’s expenditures, of whether its lobbying activities are within permissible limits.

RESEARCH QUESTIONS

Our study examines a representative sample of corporations:

- That were organized in states with a free, publicly accessible electronic database of legible copies of corporations' articles of incorporation;³² and
- Whose Forms 1023-EZ were approved between July 1, 2014 and March 27, 2015.

For the 408 organizations in the representative sample, we inquired into three areas:

1. *Whether the Organization Satisfied the Organizational Test*
 - ☐ Whether its articles of incorporation contained an acceptable purpose clause;
 - ☐ Whether its articles contained an adequate dissolution clause;³³ and
 - ☐ How long it takes to retrieve and review articles of incorporation from state websites.
2. *Whether the Organization was Eligible to Apply for Exempt Status Using Form 1023-EZ*
 - ☐ The number ineligible because their application for retroactive reinstatement was apparently submitted more than 15 months after the organization's exempt status was automatically revoked; and
 - ☐ The number ineligible for other reasons.³⁴
3. *Whether Information on the Organization's Website, if Any, Provided Transparency*
 - ☐ The number of organizations that had websites; and
 - ☐ The number of websites that identified directors or identified a contact person.

METHODOLOGY

TE/GE provided TAS Research a data file with the names, Employer Identification Numbers (EINs), state of incorporation, ruling date, and addresses of all corporations whose Form 1023-EZ applications were approved from July 1, 2014, when Form 1023-EZ was introduced, through March 27, 2015.³⁵ There were 26,064 separate organizations in the data file.³⁶ Of these organizations, 11,000 (about 40 percent), were incorporated in states in which the Secretary of State maintains a website that permitted TAS to view legible copies of corporations' articles of incorporation at no charge (20 states).³⁷ The IRS has sought

32 There are 20 such states, enumerated below.

33 As noted above, not all states require a dissolution clause, but even in those states a defective dissolution clause is not cured by the operation of the *cy pres* doctrine. Thus, all dissolution clauses required review.

34 Organizations with total assets in excess of \$250,000 and those expecting annual gross receipts to exceed \$50,000 are not eligible to use Form 1023-EZ. Because we did not review the applications themselves, we did not determine whether any such organizations were included in our sample. However, as discussed below, we were able to ascertain whether organizations in our sample ran afoul of other eligibility requirements. For example, organizations formed as limited liability companies, churches, schools, colleges, and universities, hospitals, credit counselling organizations, and medical research organizations, among others, are all ineligible to use Form 1023-EZ. See Rev. Proc. 2014-40, § 2.01, 2014-30 I.R.B. 229.

35 Because the TE/GE database used to process the applications did not initially reflect the state of incorporation, there were 2,792 organizations in the data file for which the state of incorporation was not shown. TE/GE response to TAS information request (May 26, 2015). TAS adjusted the data collection instrument (DCI) to address the possibility that an organization's mailing address differed from its state of incorporation. See DCI Question 8, *infra*.

36 Twelve duplicate organizations were found and we kept the duplicate with the latest date.

37 These states are: Alaska, Colorado, Florida, Idaho, Indiana, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Hampshire, North Carolina, Ohio, Oregon, Rhode Island, South Dakota, and Texas. Of these, Massachusetts, Missouri, Ohio, and Texas are *cy pres* states.

access to these records for states that do not currently make them available to the public.³⁸ Out of these 11,000 organizations, TAS Research identified a representative, random sample of 420 organizations for further analysis. Articles of incorporation for 11 organizations could not be located on the official site for the state in which, according to TE/GE, the organization was formed.³⁹ Further, one organization's articles of incorporation were viewable on the appropriate state website, but portions were not legible. We excluded these twelve organizations from our sample, resulting in a sample size of 408. Our findings for the study population are statistically valid at the 95 percent confidence level with a margin of error no greater than +/-5 percent, which allows study findings to be projected to the population of 11,000 organizations from states in our study. Some findings are for smaller portions of the sample and will have a larger margin of error. The TAS team, led by a Technical Liaison with more than 15 years of experience as an EO determinations specialist, included a second Technical Liaison, two Revenue Agent Technical Advisors (RATAs), a Research Analyst, a Supervisory Research Analyst, and a Senior Attorney Advisor.⁴⁰

DATA COLLECTION

The team lead, using training material developed by TE/GE, trained the RATAs on the legal requirements for exempt status as an IRC § 501(c)(3) organization.⁴¹ The project team then developed a DCI, which appears in Appendix A, to capture information about each organization. The Technical Liaisons and RATAs completed the DCI for each organization in the sample. Some DCI questions required a review of the organization's publicly available articles of incorporation. Other DCI questions required a review of the IRS's publicly accessible Select Check database.⁴² Still other DCI questions required a review of the organization's website (if any). To minimize bias, case reviewers were thoroughly and consistently briefed on the purpose of the data collection and provided instructions on proper completion of the DCI. The project lead reviewed ten completed DCIs from each team member for accuracy, and the team discussed ten additional DCIs as a group. In addition, the DCI includes the question "is your review complete?" and one possible response is "needs additional review." If that option was selected, the team lead reviewed the DCI for that organization. TAS Research collected additional data from return

38 In its third quarter, BPR, TE/GE reported that "24 states publicly post articles of incorporation, 22 states do not have electronic versions publicly available, and the remaining four states charge fees or have a lengthy application process to get access to the articles." TE/GE is exploring the possibility of gaining access to any Secretary of State offices that have internal systems with electronic articles of incorporation, or to such electronic versions maintained by state Attorneys General. TE/GE Third Qtr BPR 2015 at 5 (Oct. 2015). No mention of these efforts appears in TE/GE's Fourth Qtr BPR.

39 If an organization with the name shown in the data file TE/GE provided did not appear on the state database for the state shown in the TE/GE data file for that organization, we attempted to determine whether the organization appeared on that state database under a name that, due to a typographical error, differed from the name in the TE/GE data file. If we were able to confirm that it was the same organization (e.g., by comparing the organization's EIN in the TE/GE data file with an EIN shown on the state database), we included the organization in the sample.

40 Internal Revenue Agent Technical Liaisons in TAS provide technical advice to the Executive Director of Systemic Advocacy on systemic problems that affect taxpayers; plan, organize, and carry through to completion analytical studies involving significant IRS policies; and provide guidance on issue resolutions, among other things. See IRS Standard Position Description No. 97730. Internal RATAs in TAS provide expert advice on tax examination issues; research technical issues and apply tax law to facts; and access and analyze taxpayer returns and related documents, among other things. See IRS Standard Position Description No. 92548.

41 See *Exempt Organizations Determinations Training*, Unit 1a Student Guide (Rev. 2009), available at <http://www.taxanalysts.com/www/features.nsf/Features/230B8FFB8A9A85A685257C63004AFA5B>. The training focused on Lesson 8 - *Introduction to 501(c)(3) and Organizational Test*, Lesson 9 - *501(c)(3) Operational Test*, Lesson 10 Section A, *Charitable Organizations Purposes and Types*, and Lesson 10 Section B, *Other Activities Considered Charitable*. Additional training material was Elizabeth Ardoin, *2004 EO CPE Text Organizational Test - IRC 501(c)(3)*, available at <https://www.irs.gov/pub/irs-tege/eotopicd04.pdf>.

42 EO Select Check is an online search tool, available at <http://apps.irs.gov/app/eos/>, that allows users to search for organizations eligible to receive tax deductible contributions, organizations whose tax exemption has been automatically revoked for not filing a Form 990-series return or notice for three consecutive years, and organizations that have filed a Form 990-N (also called an e-Postcard), an annual notice required to be filed by small exempt organizations.

databases, such as whether the organization filed Forms 1120, 990, or 990-N in any of the last four tax years (*i.e.*, 2012–2015).

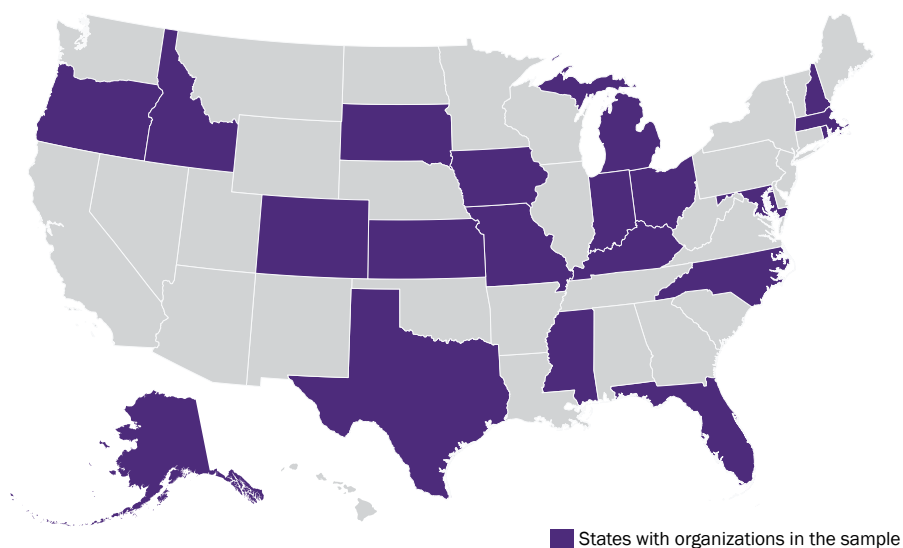
FINDINGS

General Characteristics of the Organizations in the Sample

The organizations in the sample are geographically distributed among states in the United States as shown by Figure 1.2.

FIGURE 1.2

Geographical Distribution of Organizations in the Sample



The exempt status of 69 (16 percent) of organizations in the sample had been automatically revoked, from which we inferred that they filed Form 1023-EZ seeking reinstatement of their exempt status.

Thirty-Seven Percent of Organizations Failed the Organizational Test Because Their Articles Lacked an Adequate Purpose Clause, Dissolution Clause, or Both

As described above, in order to qualify for exempt status as an IRC § 501(c)(3) organization, the articles of incorporation for all the organizations in our sample are required to contain an *acceptable purpose clause*. Of the 408 organizations in the sample, 284 (70 percent) organizations meet this requirement and 124 (30 percent) do not.

In addition, the articles of incorporation must contain an *adequate dissolution clause*, unless, under the doctrine of *cy pres*, a dissolution clause is not required.⁴³ Out of the 408 organizations in the sample there are 313 whose assets upon dissolution would be distributed as the law requires, a rate of 77 percent. The articles of 95 organizations, or 23 percent, do not meet this requirement. Figures 1.3 and 1.4 show the number of organizations in the sample that meet the organizational test and those that do not, further characterized by whether the organization is in a *cy pres* state. For those organizations that do not meet the organizational test, the reason for not meeting the test (inadequate purpose clause, inadequate dissolution clause, or both) is also shown.

FIGURE 1.3, Number and Percent of Organizations With Approved Form 1023-EZ Applications in TAS Sample, Shown by Whether They Meet the IRC § 501(c)(3) Organizational Test

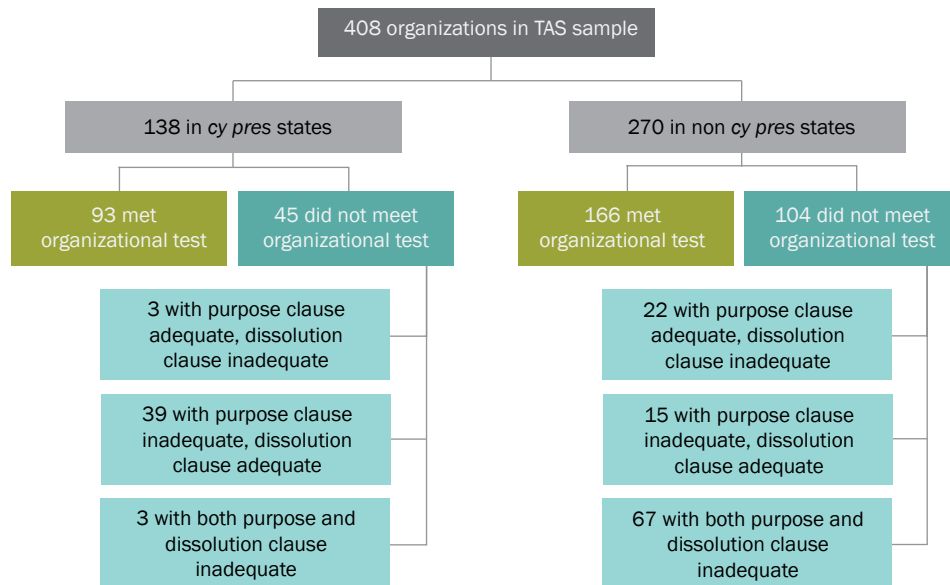
Purpose and Dissolution Clauses	Total	Cy Pres	Non Cy Pres	Total	Cy Pres	Non Cy Pres
Both Inadequate	70	3	67	17%	2%	25%
Inadequate Purpose Adequate Dissolution	54	39	15	13%	28%	6%
Adequate Purpose Inadequate Dissolution	25	3	22	6%	2%	8%
Both Adequate	259	93	166	63%	67%	61%
Total	408	138	270	100%	100%	100%

Source: TAS Representative Sample of Organizations in 20 States Where Articles of Incorporation Are Available Online at No Cost

⁴³ Of the 408 organizations in the sample, 138 organizations are in *cy pres* states and 270 organizations are not. Of the 138 organizations in *cy pres* states, six contained a dissolution clause (although no clause is required) and the clause was inadequate. Because, as noted above, state law or court action would not cure a defective dissolution provision contained in articles of incorporation, we counted these six organizations among those that did not have an adequate dissolution clause. Sixty-eight of the organizations in *cy pres* states were organized in Texas, 30 in Ohio, 23 in Massachusetts, and 17 in Missouri.

FIGURE 1.4

**Number of Organizations With Approved Form 1023-EZ Applications in TAS Sample,
Shown by Whether They Meet the IRC § 501(c)(3) Organizational Test**

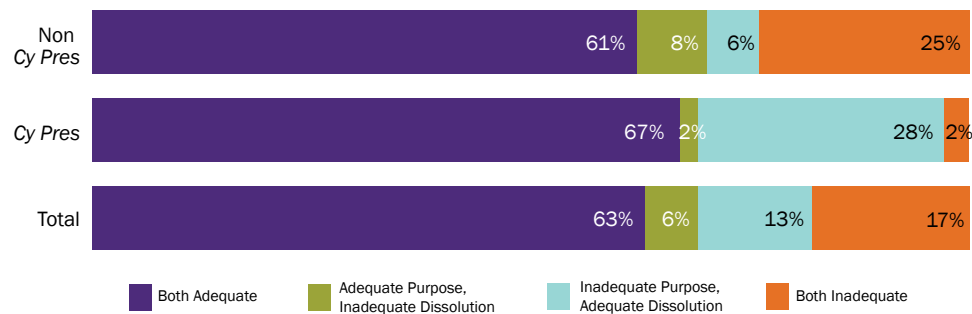


Source: TAS Representative Sample of Organizations in 20 States Where Articles of Incorporation Are Available Online at No Cost

Overall, as Figure 1.5 shows, of 408 organizations in the sample, 259 (63 percent) meet the organizational test and 149 (37 percent) do not.

FIGURE 1.5

**Proportion of Organizations With Approved Form 1023-EZ Applications in TAS Sample,
Shown by Whether They Meet the IRC § 501(c)(3) Organizational Test**



Numbers may not add to 100% due to rounding.

Source: TAS Representative Sample of Organizations in 20 States Where Articles of Incorporation Are Available Online at No Cost

The overall rate of compliance for organizations in *cy pres* states and non *cy pres* states is similar (67 percent compared to 61 percent). Unsurprisingly, for organizations in *cy pres* states, the failure to meet the organizational test was usually (in 42 out of 45 such cases) due to the lack of an adequate purpose clause. For organizations in non *cy pres* states that did not meet the organizational test, however, formulating an adequate purpose clause was also an obstacle. For these organizations, the lack of a dissolution clause was not the predominant reason for the noncompliance. Rather, these organizations usually (in 67 out of 104 such cases) lacked *both* an adequate purpose clause and an adequate dissolution clause. Thus, *cy pres* doctrines assist organizations to meet the requirements for exempt status, but the difficulty of crafting an acceptable purpose clause appears to result in comparable compliance levels, for purposes of the organizational test, of organizations in *cy pres* states and those in non *cy pres* states.

For the 259 organizations in the sample that meet the organizational test, we were usually able to identify more than one exempt purpose; only 60 appear to have a single exempt purpose.⁴⁴ Common combinations of purposes are religious, charitable, scientific, and educational (72 organizations) and charitable and educational (51 organizations).

It Takes Only a Few Minutes to Review Articles of Incorporation, and Inadequacies Appear to Be Easily Correctable

It took the reviewers about three minutes on average to review an organization's articles and determine whether there were acceptable purpose and dissolution clauses.⁴⁵ The longest it took to search for and review articles was 15 minutes (in four cases). In over 90 percent of the cases, it took five minutes or less.

The articles of incorporation for the organizations in our sample contain a wide variety in wording or word choice. Each organization's articles required attentive review because, as IRS training materials note, "[t]he difference between the right word and the almost right word is the difference between lightning and the lightning bug."⁴⁶ Articles that are "almost right" cannot, as a matter of law, satisfy the requirements for IRC § 501(c)(3) status. For example, an organization's purpose clause might consist of a mission statement suggesting an exempt purpose, but no limitation imposing exclusivity with respect to that exempt purpose or purposes as required by IRC § 501(c)(3).⁴⁷ Similarly, an organization's articles might provide that its assets on dissolution will be distributed to a named organization that is described in IRC § 501(c)(3), but make no provision ensuring that the assets will be dedicated to a charitable purpose in the event the named organization is unwilling to accept the assets, is no longer described in IRC § 501(c)(3), or is no longer in existence.⁴⁸ In either situation, the organization does not meet the requirements of IRC § 501(c)(3). However, if the organization were made aware of the deficiency and would be willing to adjust its articles (and its operations, if necessary), cases such as these could be easily

44 Of these 60 organizations, 39 have only a charitable purpose, 12 have only an educational purpose, four have prevention of cruelty to children or animals as the only purpose, two have only the purpose of fostering amateur sports competition, and three have only a religious purpose. None of the organizations that meet the organizational test have only scientific, literary, or testing for public safety purposes.

45 The average number of minutes was 2.7.

46 Elizabeth Ardoin, quoting Mark Twain, *2004 EO CPE Text Organizational Test – IRC 501(c)(3) 1*, available at <https://www.irs.gov/pub/irs-tege/eotopicd04.pdf>.

47 The instructions to Form 1023 on page 7 provide this example of an acceptable dissolution clause: "The organization is organized exclusively for charitable, religious, educational, and scientific purposes, under section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future federal tax code."

48 The instructions to Form 1023 on page 7 provide this example of an acceptable purpose clause: "Upon the dissolution of this organization, assets shall be distributed for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future federal tax code, or shall be distributed to the federal government, or to a state or local government, for a public purpose."

resolved during the application process and before granting IRC § 501(c)(3) status. TE/GE's practice, when it reviews articles of incorporation as part of its pre-determination review of a random sample of Form 1023-EZ applicants, is to advise organizations of any deficiencies in their organizing documents.⁴⁹ However, TE/GE does not actually require affected organizations to *demonstrate* they adjusted their articles, but only to *attest* they have done so. The applicable paragraph from the letter TE/GE uses for this purpose appears as Appendix D.

Some Organizations in the Sample Were Not Eligible to Use Form 1023-EZ

As described above, eligibility to file Form 1023-EZ is restricted to organizations that meet certain characteristics in terms of size and organizational attributes. Specifically, organizations responding affirmatively to any of the questions on the Eligibility Worksheet are not eligible to apply using Form 1023-EZ. Organizations that do not meet these eligibility requirements may qualify as IRC § 501(c)(3) organizations, but they must apply for recognition using a full Form 1023. In the representative sample of 408 organizations, the articles of incorporation of 18, or four percent, showed they were not eligible to apply using Form 1023-EZ.⁵⁰

Information on Organizations' Websites May Provide Additional Information, But Only About 60 Percent of the Organizations Had Websites, Including Facebook

Organizations eligible to apply for recognition as IRC § 501(c)(3) organizations using Form 1023-EZ may generally meet their annual reporting requirements by submitting Form 990-N, or e-Postcard, which contains eight pieces of information:

- the organization's EIN;
- the tax year;
- the organization's legal name and mailing address;
- any other names the organization uses;
- the name and address of a principal officer;
- the website address if the organization has one;
- confirmation that the organization's annual gross receipts are \$50,000 or less: and, if applicable,
- a statement that the organization has terminated or is terminating (going out of business).

Because these eight pieces of information convey very little about the organization, the best public source of information may be the organization's website. There is no requirement that an exempt organization maintain a website, and out of the 408 organizations in the sample, fewer than half (191 organizations, or 47 percent) had websites other than Facebook.⁵¹

49 For a description of TE/GE's predetermination review of a representative sample of Form 1023-EZ applicants, see Most Serious Problem: *Form 1023-EZ: Recognition as a Tax-Exempt Organization is Now Virtually Automatic for Most Applicants, Which Invites Noncompliance, Diverts Tax Dollars and Taxpayer Donations, and Harms Organizations Later Determined to be Taxable*, *supra*.

50 Nine organizations are schools, colleges, or universities or supporting organizations, four are churches, two are organized as limited liability companies (LLCs), two are credit counseling organizations, and one is a medical research organization. In addition, one organization appears to have filed Form 1023-EZ to obtain retroactive reinstatement of its exempt status, even though it filed Form 1023-EZ more than 15 months after its automatic revocation. See Form 1023-EZ Instructions at 10.

51 Of the 408 organizations in the sample, 217 did not have websites; in seven cases we could not determine whether there was a website. Of the 217 organizations in the sample that did not have websites, 54 had Facebook pages. Internal Revenue Manual (IRM) Exhibit 10.8.27-1 (Sept. 29, 2014) prohibits employees from "using social media (e.g., Google Groups, Wikipedia, MySpace, Facebook, YouTube, Second Life, Flickr, Twitter) in an official capacity, or during their duty time, and such use shall be separate from their job."

As noted above, of the 408 organizations in the sample, 124 either had an inadequate purpose clause or no clause at all in their articles of incorporation. Of these 124 organizations, 61 had websites we could access to obtain additional information.⁵² From viewing those 61 websites, we were able to ascertain the organization's purpose in 42 cases, but the purpose of the remaining 19 remains obscure. Only 11 of the 61 websites identified a contact person (with or without a separate email address or phone number for that person) and only 19 out of the 61 websites identified the organization's directors.

The website of one organization whose articles of incorporation have acceptable purpose and dissolution clauses (*i.e.*, the organization met the organizational test) raises concern about whether the organization serves a private, as opposed to public, interest. The website notes:

[T]he [X, a named individual] Memorial Fund Was created, not only to carry out [X]'s legacy, but to also establish a college fund for his two children [Y and Z]. [X] was a beloved stand-up comedian and country music artist known by many for his original songs and comedy performances. By donating to this fund you are not only aiding in keeping [X]'s legacy alive, but also aiding in the future and education of a child. The [X] Memorial Fund is a voice for his fans in this time of mourning. Please take a moment to donate and reflect on the life of the beloved [X].

This description raises serious doubts about whether the organization intends to serve a public, as opposed to a private, interest. The website of a different organization, which also met the organizational test, reveals that it is actually a for-profit business.⁵³ Eight organizations in our sample filed Form 1120, *U.S. Corporation Income Tax Return* for at least one tax period prior to obtaining recognition of exempt status, which raises the question of whether the organizations merely continued to operate a for-profit entity in the guise of an exempt organization.

FOLLOW-UP STEPS IN LIGHT OF STUDY FINDINGS

As discussed above, our study showed that a significant number of Form 1023-EZ applicants were recognized as IRC § 501(c)(3) organizations despite failing to meet the legal requirements for such status. Those that intended to organize and operate exclusively for an exempt purpose but simply drafted their articles of incorporation inartfully did not receive from the IRS the minimal amount of service needed to identify the deficiency and notify the organization of the need to correct it. Organizations that misrepresented their qualifications as exempt organizations, intentionally or not, were aided by the IRS in misleading the public. Taxpayers' *right to quality service* and their *right to be informed* were thereby undermined.⁵⁴ To the extent organizations received amounts that should have been treated as taxable receipts they were improperly subsidized by other taxpayers. To the extent organizations not qualified as IRC § 501(c)(3) organizations received contributions deducted by the donor, tax dollars were inappropriately diverted. In any case, the IRS missed a valuable opportunity to avert noncompliance as the organizations commenced or continued their operations. In order to allow the IRS to work with organizations in our sample identified as not meeting the requirements of exempt status as IRC § 501(c)(3) organizations, we provided their EINs to TE/GE. We recommended that TE/GE advise the organizations of the deficiencies in their articles and require the organizations to demonstrate (not simply attest) that they amended their articles

52 Sixty-two of the 124 organizations without an adequate purpose clause in their articles of incorporation also did not have websites. Of the 62 that did not have websites, 16 had Facebook pages.

53 Two other organizations' websites raise concerns that the organization serves a private benefit. They did not satisfy the organizational test because their articles lack an acceptable purpose clause.

54 See Taxpayer Bill of Rights, available at www.TaxpayerAdvocate.irs.gov/taxpayer-rights.

to comply with the requirements for qualification as IRC § 501(c)(3) organizations. We will ask TE/GE which organizations it contacted, and TAS will determine how many amended their articles of incorporation to comport with the requirements for exempt status as IRC § 501(c)(3) organizations.

CONCLUSION

A significant number of organizations recognized as exempt under IRC § 501(c)(3) do not meet the legal requirements for that status. It takes only a few minutes to ascertain whether an organization's articles of incorporation contain adequate purpose and dissolution clauses, and some inadequacies in the articles appear to be easily correctable. Moreover, because Form 1023-EZ does not require narrative responses or substantiating documents and Form 990-N provides only minimal information, together with the probability that a Form 1023-EZ applicant does not maintain a website, there is a disturbing lack of information about organizations whose Form 1023-EZ was approved.

RECOMMENDATIONS

The National Taxpayer Advocate recommends that the IRS adjust Form 1023-EZ to require organizations to submit their organizing documents, unless they are available online at no cost, and require a narrative statement of the organization's activities and its financial information. The IRS should make a determination only after reviewing these materials, and to the extent a deficiency can be corrected by amending the organizing document, the IRS should require the applicant to submit an amendment that corrects the deficiency and has been approved by the state. The IRS should also continue its efforts to gain electronic access to articles of incorporation of corporations organized in states that do not presently make these records publicly available online.

APPENDIX A: Data Collection Instrument

 TAXPAYER ADVOCATE SERVICE YOUR VOICE AT THE IRS	Form 1023-EZ Data Collection Instrument  Submit
---	---

A. Who is the reviewer?

B. EIN:

C. Organization Name:

D. State:

Does an organization with this name appear on the Secretary of State's database as an organization incorporated in that state?

If not, what is the correct name?

Ruling Month: Ruling Year:

1.a. Are the articles of incorporation posted and viewable on the State charitable organization website?

1. b. Filing Date

1. c. Were articles amended after ruling date?

First Amendment Date, MM/DD/YYYY, (if applicable):

Second Amendment Date, MM/DD/YYYY, (if applicable):

Third Amendment Date, MM/DD/YYYY, (if applicable):

Please specify additional amendment dates, if more than 3:

1. d. Do the organization's articles of incorporation state that it is a mutual benefit corporation?

2. Is there an acceptable dissolution clause?

3. Is there an acceptable purpose clause?

Select the purpose(s):

4. How long did it take you to retrieve the articles of incorporation and answer questions 1-3 (IN MINUTES)?

5. Do the articles of incorporation indicate the organization is any of the following:

6. Do the articles of incorporation indicate the organization is any of the following:

(note that credit counseling organization Indicates where the organization's activities involve the education of the consumer on budgeting, personal finance, financial literacy, mortgage foreclosure assistance, or other consumer credit areas)

7. As of the ruling date, does the organization appear to have been in good standing?

8. Does the organization have a website?

Does the website show the organization in a state different than the state shown in box D. above?

If so, what State is on the site?

Insert the hyperlink here:

Attach a screenshot here:

[Click here to insert a hyperlink](#)

9. The organization's website clearly show that the organization participates in or intervenes in a political campaign on behalf of or in opposition to a candidate for public office.

10. The organization's website clearly shows that private individuals will receive financial gain because of their position within the organization.

11. According to the website, what are the organization's activities?

14. Does Select Check show the organization's exempt status was automatically revoked?

What was the Revocation Date?

15. Can you determine, from the website, who the directors are?

16. Are there financial statements on the website?

17. Is there a contact person listed on the website?

18. Please provide any other comments

19. Is your review complete?

Submit

APPENDIX B: Form 1023-EZ, Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code

Form 1023-EZ (June 2014) Department of the Treasury Internal Revenue Service	Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code ▶ Do not enter social security numbers on this form as it may be made public. ▶ Information about Form 1023-EZ and its separate instructions is at www.irs.gov/form1023.	OMB No. 1545-0056 Note: If exempt status is approved, this application will be open for public inspection.
☐ Check this box to attest that you have completed the Form 1023-EZ Eligibility Worksheet in the current instructions, are eligible to apply for exemption using Form 1023-EZ, and have read and understand the requirements to be exempt under section 501(c)(3).		
Part I Identification of Applicant		
1a Full Name of Organization		
b Address (number, street, and room/suite). If a P.O. box, see instructions.		c City
		d State e Zip Code + 4
2 Employer Identification Number	3 Month Tax Year Ends (MM)	4 Person to Contact if More Information is Needed
5 Contact Telephone Number		6 Fax Number (optional)
7 User Fee Submitted		
8 List the names, titles, and mailing addresses of your officers, directors, and/or trustees. (If you have more than five, see instructions.)		
First Name:	Last Name:	Title:
Street Address:	City:	State:
		Zip Code + 4:
First Name:	Last Name:	Title:
Street Address:	City:	State:
		Zip Code + 4:
First Name:	Last Name:	Title:
Street Address:	City:	State:
		Zip Code + 4:
First Name:	Last Name:	Title:
Street Address:	City:	State:
		Zip Code + 4:
First Name:	Last Name:	Title:
Street Address:	City:	State:
		Zip Code + 4:
9 a Organization's Website (if available):		
b Organization's Email (optional):		
Part II Organizational Structure		
1 To file this form, you must be a corporation, an unincorporated association, or a trust. Check the box for the type of organization. ☐ Corporation ☐ Unincorporated association ☐ Trust		
2 ☐ Check this box to attest that you have the organizing document necessary for the organizational structure indicated above. (See the instructions for an explanation of necessary organizing documents .)		
3 Date incorporated if a corporation, or formed if other than a corporation (MMDDYYYY):		
4 State of incorporation or other formation:		
5 Section 501(c)(3) requires that your organizing document must limit your purposes to one or more exempt purposes within section 501(c)(3). ☐ Check this box to attest that your organizing document contains this limitation.		
6 Section 501(c)(3) requires that your organizing document must not expressly empower you to engage, otherwise than as an insubstantial part of your activities, in activities that in themselves are not in furtherance of one or more exempt purposes. ☐ Check this box to attest that your organizing document does not expressly empower you to engage, otherwise than as an insubstantial part of your activities, in activities that in themselves are not in furtherance of one or more exempt purposes.		
7 Section 501(c)(3) requires that your organizing document must provide that upon dissolution, your remaining assets be used exclusively for section 501(c)(3) exempt purposes. Depending on your entity type and the state in which you are formed, this requirement may be satisfied by operation of state law. ☐ Check this box to attest that your organizing document contains the dissolution provision required under section 501(c)(3) or that you do not need an express dissolution provision in your organizing document because you rely on the operation of state law in the state in which you are formed for your dissolution provision.		
For Paperwork Reduction Act Notice, see the instructions.		
Catalog No. 66267N		Form 1023-EZ (6-2014)

Form 1023-EZ (6-2014)

Page **2****Part III Your Specific Activities**

- 1 Enter the appropriate 3-character NTEE Code that best describes your activities (See the instructions): _____
- 2 To qualify for exemption as a section 501(c)(3) organization, you must be organized and operated exclusively to further one or more of the following purposes. By checking the box or boxes below, you attest that you are organized and operated exclusively to further the purposes indicated. **Check all that apply.**
- | | | |
|---|------------------------------------|---|
| ☐ Charitable | ☐ Religious | ☐ Educational |
| ☐ Scientific | ☐ Literary | ☐ Testing for public safety |
| ☐ To foster national or international amateur sports competition | | ☐ Prevention of cruelty to children or animals |
- 3 To qualify for exemption as a section 501(c)(3) organization, you must:
- Refrain from supporting or opposing candidates in political campaigns in any way.
 - Ensure that your net earnings do not inure in whole or in part to the benefit of private shareholders or individuals (that is, board members, officers, key management employees, or other insiders).
 - Not further non-exempt purposes (such as purposes that benefit private interests) more than insubstantially.
 - Not be organized or operated for the primary purpose of conducting a trade or business that is not related to your exempt purpose(s).
 - Not devote more than an insubstantial part of your activities attempting to influence legislation or, if you made a section 501(h) election, not normally make expenditures in excess of expenditure limitations outlined in section 501(h).
 - Not provide commercial-type insurance as a substantial part of your activities.
- ☐ **Check this box** to attest that you have not conducted and will not conduct activities that violate these prohibitions and restrictions.
- 4 Do you or will you attempt to influence legislation? ☐ Yes ☐ No
(If yes, consider filing Form 5768. See the instructions for more details.)
- 5 Do you or will you pay compensation to any of your officers, directors, or trustees? ☐ Yes ☐ No
(Refer to the instructions for a definition of **compensation**.)
- 6 Do you or will you donate funds to or pay expenses for individual(s)? ☐ Yes ☐ No
- 7 Do you or will you conduct activities or provide grants or other assistance to individual(s) or organization(s) outside the United States? ☐ Yes ☐ No
- 8 Do you or will you engage in financial transactions (for example, loans, payments, rents, etc.) with any of your officers, directors, or trustees, or any entities they own or control? ☐ Yes ☐ No
- 9 Do you or will you have unrelated business gross income of \$1,000 or more during a tax year? ☐ Yes ☐ No
- 10 Do you or will you operate bingo or other gaming activities? ☐ Yes ☐ No
- 11 Do you or will you provide disaster relief? ☐ Yes ☐ No

Part IV Foundation Classification

Part IV is designed to classify you as an organization that is either a private foundation or a public charity. Public charity status is a more favorable tax status than private foundation status.

- 1 If you qualify for public charity status, check the appropriate box (1a – 1c below) and skip to **Part V** below.
- a ☐ **Check this box** to attest that you normally receive at least one-third of your support from public sources or you normally receive at least 10 percent of your support from public sources and you have other characteristics of a publicly supported organization. **Sections 509(a)(1) and 170(b)(1)(A)(vi).**
- b ☐ **Check this box** to attest that you normally receive more than one-third of your support from a combination of gifts, grants, contributions, membership fees, and gross receipts (from permitted sources) from activities related to your exempt functions and normally receive not more than one-third of your support from investment income and unrelated business taxable income. **Section 509(a)(2).**
- c ☐ **Check this box** to attest that you are operated for the benefit of a college or university that is owned or operated by a governmental unit. **Sections 509(a)(1) and 170(b)(1)(A)(iv).**
- 2 If you are not described in items 1a – 1c above, you are a private foundation. As a private foundation, you are required by section 508(e) to have specific provisions in your organizing document, unless you rely on the operation of state law in the state in which you were formed to meet these requirements. These specific provisions require that you operate to avoid liability for private foundation excise taxes under sections 4941-4945.
- ☐ **Check this box** to attest that your organizing document contains the provisions required by section 508(e) or that your organizing document does not need to include the provisions required by section 508(e) because you rely on the operation of state law in your particular state to meet the requirements of section 508(e). (See the instructions for explanation of the section 508(e) requirements.)

Form **1023-EZ** (6-2014)

Form 1023-EZ (6-2014)

Page **3****Part V** Reinstatement After Automatic Revocation

Complete this section only if you are applying for reinstatement of exemption after being automatically revoked for failure to file required annual returns or notices for three consecutive years, and you are applying for reinstatement under section 4 or 7 of Revenue Procedure 2014-11. (Check only one box.)

- 1 ☐ Check this box if you are seeking retroactive reinstatement under section 4 of Revenue Procedure 2014-11. By checking this box, you attest that you meet the specified requirements of section 4, that your failure to file was not intentional, and that you have put in place procedures to file required returns or notices in the future. (See the instructions for requirements.)
- 2 ☐ Check this box if you are seeking reinstatement under section 7 of Revenue Procedure 2014-11, effective the date you are filing this application.

Part VI Signature

- ☐ I declare under the penalties of perjury that I am authorized to sign this application on behalf of the above organization and that I have examined this application, and to the best of my knowledge it is true, correct, and complete.

PLEASE
SIGN
HERE

(Type name of signer)

(Type title or authority of signer)

(Signature of Officer, Director, Trustee, or other authorized official)

(Date)

Form **1023-EZ** (6-2014)

Printed on recycled paper

APPENDIX C: Form 1023-EZ Eligibility Worksheet

Form 1023-EZ Eligibility Worksheet
(Must be completed prior to completing Form 1023-EZ)

If you answer “Yes” to any of the worksheet questions, you are not eligible to apply for exemption under section 501(c)(3) using Form 1023-EZ. You must apply on Form 1023. If you answer “No” to all of the worksheet questions, you may apply using Form 1023-EZ.

1. Do you project that your annual gross receipts will exceed \$50,000 in any of the next 3 years? Gross receipts are the total amounts the organization received from all sources during its annual accounting period, without subtracting any costs or expenses. You should consider this year and the next two years.	☐ Yes	☐ No
2. Have your annual gross receipts exceeded \$50,000 in any of the past 3 years?	☐ Yes	☐ No
3. Do you have total assets the fair market value of which is in excess of \$250,000? Total assets includes cash, accounts receivable, inventories, bonds and notes receivable, corporate stocks, loans receivable, other investments, depreciable and depletable assets, land, buildings, equipment, and any other assets.	☐ Yes	☐ No
4. Were you formed under the laws of a foreign country (United States territories and possessions are not considered foreign countries)? You are formed under the laws of a foreign country if you are not formed under the laws of (1) the United States, its states, territories, or possessions; (2) federally recognized Indian tribal or Alaskan native governments; or (3) the District of Columbia.	☐ Yes	☐ No
5. Is your mailing address in a foreign country (United States territories and possessions are not considered foreign countries)? Your mailing address is the address where all correspondence will be sent.	☐ Yes	☐ No
6. Are you a successor to, or controlled by, an entity suspended under section 501(p) (suspension of tax-exempt status of terrorist organizations)? Section 501(p)(1) suspends the exemption from tax under section 501(a) of any organization described in section 501(p)(2). An organization is described in section 501(p)(2) if the organization is designated or otherwise individually identified (1) under certain provisions of the Immigration and Nationality Act as a terrorist organization or foreign terrorist organization; (2) in or pursuant to an Executive Order which is related to terrorism and issued under the authority of the International Emergency Economic Powers Act or section 5 of the United Nations Participation Act of 1945 for the purpose of imposing on such organization an economic or other sanction; or (3) in or pursuant to an Executive Order issued under the authority of any federal law, if the organization is designated or otherwise individually identified in or pursuant to the Executive Order as supporting or engaging in terrorist activity (as defined in the Immigration and Nationality Act) or supporting terrorism (as defined in the Foreign Relations Authorization Act) and the Executive Order refers to section 501(p)(2). Under section 501(p)(3) of the Code, suspension of an organization's tax exemption begins on the date of the first publication of a designation or identification with respect to the organization, as described above, or the date on which section 501(p) was enacted, whichever is later. This suspension continues until all designations and identifications of the organization are rescinded under the law or Executive Order under which such designation or identification was made.	☐ Yes	☐ No

7.	Are you organized as an entity other than a corporation, unincorporated association, or trust? Answer "Yes" if you are organized as an LLC under the laws of the state in which you were formed.	☐ Yes	☐ No
8.	Are you a successor to a for-profit entity? You are a successor if you have: 1. Substantially taken over all of the assets or activities of a for-profit entity; 2. Been converted or merged from a for-profit entity; or 3. Installed the same officers, directors, or trustees as a for-profit entity that no longer exists.	☐ Yes	☐ No
9.	Were you previously revoked or are you a successor to a previously revoked organization (other than an organization the tax-exempt status of which was automatically revoked for failure to file a Form 990-series return for three consecutive years)? Do not check "Yes" if your previous revocation, or your predecessor's revocation, was an automatic revocation (pursuant to section 6033(j)) for failing to satisfy Form 990-series filing requirements for three consecutive years.	☐ Yes	☐ No
10.	Are you a church or a convention or association of churches described in section 170(b)(1)(A)(i)? There is no single definition of the word "church" for tax purposes; however, the characteristics generally attributed to churches include: • A distinct legal existence, • A recognized creed and form of worship, • A definite and distinct ecclesiastical government, • A formal code of doctrine and discipline, • A distinct religious history, • A membership not associated with any other church or denomination, • Ordained ministers ministering to the congregation, • Ordained ministers selected after completing prescribed courses of study, • A literature of its own, • Established places of worship, • Regular congregations, • Regular religious services, • Sunday schools for the religious instruction of the young, and • Schools for the preparation of ministers. Although it is not necessary that each of the above characteristics be present, a congregation or other religious membership group that meets regularly for religious worship is generally required. A church includes mosques, temples, synagogues, and other forms of religious organizations. For more information, see Publication 1828.	☐ Yes	☐ No

11.	Are you a school, college, or university described in section 170(b)(1)(A)(ii)? An organization is a school if it: 1. Presents formal instruction as its primary function, 2. Has a regularly scheduled curriculum, 3. Has a regular faculty of qualified teachers, 4. Has a regularly enrolled student body, and 5. Has a place where educational activities are regularly carried on. The term "school" includes primary, secondary, preparatory, high schools, colleges, and universities. It does not include organizations engaged in both educational and non-educational activities, unless the latter are merely incidental to the educational activities.	☐ Yes	☐ No
12.	Are you a hospital or medical research organization described in section 170(b)(1)(A)(iii) or a hospital organization described in section 501(r)(2)(A)(i)? An organization is a hospital described in section 170(b)(1)(A)(iii) if its principal purpose or function is providing medical or hospital care, or medical education or research. Medical care includes treatment of any physical or mental disability or condition, on an inpatient or outpatient basis. Thus, if an organization is a rehabilitation institution, outpatient clinic, or community mental health or drug treatment center, it is a hospital if its principal function is providing treatment services as described above. A hospital does not include convalescent homes, homes for children or the aged, or institutions whose principal purpose or function is to train handicapped individuals to pursue a vocation. An organization is a medical research organization described in section 170(b)(1)(A)(iii) if its principal purpose or function is the direct, continuous, and active conduct of medical research in conjunction with a hospital. The hospital with which the organization is affiliated must be described in section 501(c)(3), a federal hospital, or an instrumentality of a governmental unit, such as a municipal hospital. An organization is a hospital organization described in section 501(r)(2)(A)(i) if the organization operates a facility which is required by a state to be licensed, registered, or similarly recognized as a hospital.	☐ Yes	☐ No

13. Are you applying for exemption as a cooperative hospital service organization under section 501(e)? A cooperative hospital service organization described in section 501(e) is organized and operated on a cooperative basis to provide its section 501(c)(3) hospital members one or more of the following activities. • Data processing. • Purchasing (including purchasing insurance on a group basis). • Warehousing. • Billing and collection (including purchasing patron accounts receivable on a recourse basis). • Food. • Clinical. • Industrial engineering. • Laboratory. • Printing. • Communications. • Record center. • Personnel (including selecting, testing, training, and educating personnel) services. A cooperative hospital service organization must also meet certain other requirements specified in section 501(e).		☐ Yes	☐ No
14. Are you applying for exemption as a cooperative service organization of operating educational organizations under section 501(f)? An organization is a cooperative service organization of operating educational organizations if it is organized and operated solely to provide investment services to its members. Those members must be organizations described in section 170(b)(1)(A)(ii) or (iv) that are tax exempt under section 501(a) or whose income is excluded from taxation under section 115.		☐ Yes	☐ No

15.	Are you applying for exemption as a qualified charitable risk pool under section 501(n)? A qualified charitable risk pool is treated as organized and operated exclusively for charitable purposes. Check the appropriate box to indicate whether you are a charitable risk pool. A qualified charitable risk pool is an organization that: 1. Is organized and operated only to pool insurable risks of its members (not including risks related to medical malpractice) and to provide information to its members about loss control and risk management, 2. Consists only of members that are section 501(c)(3) organizations exempt from tax under section 501(a), 3. Is organized under state law authorizing this type of risk pooling, 4. Is exempt from state income tax (or will be after qualifying as a section 501(c)(3) organization), 5. Has obtained at least \$1,000,000 in startup capital from nonmember charitable organizations, 6. Is controlled by a board of directors elected by its members, and 7. Is organized under documents requiring that: a. Each member be a section 501(c)(3) organization exempt from tax under section 501(a), b. Each member that receives a final determination that it no longer qualifies under section 501(c)(3) notify the pool immediately, and c. Each insurance policy issued by the pool provide that it will not cover events occurring after a final determination described in (b).	☐ Yes	☐ No
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16. Are you requesting classification as a supporting organization under section 509(a)(3)? A supporting organization (as defined in section 509(a)(3)) differs from the other types of public charities described in section 509. Instead of describing an organization that conducts a particular kind of activity or that receives financial support from the general public, section 509(a)(3) describes organizations that have established certain relationships in support of public charities described in section 509(a)(1) or 509(a)(2). Thus, an organization can qualify as a supporting organization (and not be classified as a private foundation) even though it may be funded by a single donor, family, or corporation. This kind of funding ordinarily would indicate private foundation status, but a section 509(a)(3) organization has limited purposes and activities, and gives up a significant degree of independence. A supporting organization is an organization that: 1. Is organized and operated exclusively for the benefit of, to perform the functions of, or to carry out the purposes of one or more specified organizations as described in section 509(a)(1) or 509(a)(2). These section 509(a)(1) and 509(a)(2) organizations are commonly called publicly supported organizations. 2. Has one of three types of relationships with one or more organizations described in section 509(a)(1) or 509(a)(2). It must be: a. Operated, supervised, or controlled by one or more section 509(a)(1) or 509(a)(2) organizations (Type I supporting organization); b. Supervised or controlled in connection with one or more section 509(a)(1) or 509(a)(2) organizations (Type II supporting organization); or c. Operated in connection with one or more section 509(a)(1) or 509(a)(2) organizations (Type III supporting organization). 3. Is not controlled directly or indirectly by disqualified persons (as defined in section 4946) other than foundation managers and other than one or more organizations described in section 509(a)(1) or 509(a)(2). See Publication 557 for more information.	☐ Yes	☐ No
17. Is a substantial purpose of your activities to provide assistance to individuals through credit counseling activities such as budgeting, personal finance, financial literacy, mortgage foreclosure assistance, or other consumer credit areas? These activities involve the education of the consumer on budgeting, personal finance, financial literacy, mortgage foreclosure assistance, or other consumer credit areas. It may also involve assisting the consumer in consolidating debt and negotiating between debtors and creditors to lower interest rates and waive late and over-limit fees.	☐ Yes	☐ No
18. Do you or will you invest 5% or more of your total assets in securities or funds that are not publicly traded?	☐ Yes	☐ No
19. Do you participate, or intend to participate, in partnerships (including entities or arrangements treated as partnerships for federal tax purposes) in which you share losses with partners other than section 501(c)(3) organizations?	☐ Yes	☐ No
20. Do you sell, or intend to sell carbon credits or carbon offsets?	☐ Yes	☐ No
21. Are you a Health Maintenance Organization (HMO)?	☐ Yes	☐ No

22.	Are you an Accountable Care Organization (ACO), or an organization that engages in, or intends to engage in, ACO activities (such as participation in the Medicare Shared Savings Program (MSSP) or in activities unrelated to the MSSP described in Notice 2011-20, 2011-16 I.R.B. 652)? ACOs are entities formed by groups of physicians, hospitals, and other health care service providers and suppliers to manage and coordinate the care provided to patients. For a discussion of tax law issues relating to ACOs, see Notice 2011-20 and FS-2011-11, available at www.irs.gov/uac/Tax-Exempt-Organizations-Participating-in-the-Medicare-Shared-Savings-Program-through-Accountable-Care-Organizations.	☐ Yes	☐ No
23.	Do you maintain or intend to maintain one or more donor advised funds? In general, a donor advised fund is a fund or account that is owned and controlled by the organization but that is separately identified by reference to contributions of a donor or donors and with respect to which a donor (or any person appointed or designated by the donor) has or expects to have advisory privileges concerning the distribution or investment of amounts held in the fund or account by reason of the donor's status as a donor. For additional information, see Publication 557. Check "No" if you are a governmental unit referred to in section 170(c)(1) or a private foundation referred to in section 509(a).	☐ Yes	☐ No
24.	Are you organized and operated exclusively for testing for public safety and requesting a foundation classification under section 509(a)(4)? Generally, these organizations test consumer products to determine their acceptability for use by the general public.	☐ Yes	☐ No
25.	Are you requesting classification as a private operating foundation? Private foundations lack general public support. What distinguishes a private operating foundation from other private foundations is that it engages directly in the active conduct of charitable, religious, educational, and similar activities (as opposed to indirectly carrying out these activities by providing grants to individuals or other organizations). Private operating foundations are subject to more favorable rules than other private foundations in terms of charitable contribution deductions and attracting grants from private foundations. However, to be classified as a private operating foundation, an organization must meet certain tests. Additional information about private operating foundations is available at www.irs.gov/Charities-&-Non-Profits/Private-Foundations/Private-Operating-Foundations.	☐ Yes	☐ No
26.	Are you applying for retroactive reinstatement of exemption under section 5 or 6 of Rev. Proc. 2014-11, after being automatically revoked? Only organizations applying for reinstatement under section 4 or 7 of Rev. Proc. 2014-11 may use Form 1023-EZ. If you are applying for retroactive reinstatement under section 5 or 6 of Rev. Proc. 2014-11, you must submit the full Form 1023 along with the appropriate reasonable cause statement and a statement confirming you have filed the required annual returns as described in the revenue procedure.	☐ Yes	☐ No

APPENDIX D: Contents of Letter EO Uses to Advise Form 1023-EZ Filers their Articles of Incorporation Do Not Meet the Organizational Test, in Pertinent Part

Penalties of Perjury Declaration

Include the following declaration with your response, signed and dated by an officer, director, trustee, or other governing body member (not an authorized representative). You can sign and date the statement below or reproduce it in the body of your signed response. The declaration must accompany responses per Revenue Procedure [20XX-4].

Under penalties of perjury, I declare that I have examined this information, including accompanying documents, and, to the best of my knowledge and belief, the information contains all the relevant facts relating to the request for the information, and such facts are true, correct, and complete.

SIGN HERE

Date

Your organizing document does not meet the organizational test of IRC Section 501(c)(3). To meet these requirements, you must amend your organizing document to include [an] adequate [purpose/dissolution/ purpose and dissolution] clause[s] then sign below to verify you completed the amendment. The following is an example of an acceptable purpose [and dissolution] clause:

[Said organization is organized exclusively for charitable, religious, educational, and scientific purposes, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations described under Section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future federal tax code.] [Upon the dissolution of the organization, assets shall be distributed for one or more exempt purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future federal tax code, or shall be distributed to the federal government, or to a state or local government, for a public purpose. Any such assets not disposed of shall be disposed of by a court of competent jurisdiction in the county in which the principal office of the organization is then located, exclusively for such purposes or to such organization or organizations, as said Court shall determine, which are organized and operated exclusively for such purposes.]

See page 7 of the *Instructions for Form 1023* at www.irs.gov for more details and examples of specific language that meets the requirements. [A corporation must file an amendment with the appropriate state agency.][An unincorporated association's amendment must have two signatures and show the date it was adopted.][A trust amendment must be signed and dated by a trustee.]

Note: You don't need to submit a copy of your amendment.

We amended our organizing document as indicated to include the above provision[s] or other substantially similar wording that meet[s] the requirements of Section 501(c)(3).

X _____ SIGN HERE

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