

In Case You Missed it, All 501(c)(3) Applications Now Submitted Electronically

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Practices

Nonprofit and Exempt Organizations

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As of January 31, 2020, organizations are required to submit Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code, electronically through the online platform Pay.gov. The Internal Revenue Service (IRS) provided a 90-day transition period during which applicants could continue to submit paper Form 1023 applications. The transition period expired April 30, 2020.

Pay.gov is not a new platform for all 501(c)(3) applications. The National Taxpayer Advocate recommended that the IRS develop a simplified method, particularly for small nonprofits, in 2011. July 2014, the IRS introduced Form 1023-EZ, the streamlined version of Form 1023, an application that is online only, and has a lower filing fee. However, only organizations who meet the criteria as outlined in the Form 1023-EZ Eligibility Worksheet are eligible to file Form 1023-EZ. Eligibility criteria includes annual gross receipts of \$50,000 or less in any of the 3 years after formation, or the 3 years preceding application submission for existing organizations; and fair market value of total assets not to exceed \$250,000. Organizations not eligible must apply on Form 1023, which, until recently, was a paper application.

What can you expect with the new Form 1023 online application? It is substantially similar to the paper version with a few substantive changes, which are outlined below.

- Registration: To submit Form 1023, you must register for an account on Pay.gov.
- Length/Attachments: The online form is 40 pages including the schedules and requires several attachments to be submitted as one pdf file, as opposed to the 26-page paper version.
- NTEE Classification: Applicants must now include a National Taxonomy of Exempt Entities (NTEE) code that best describes the organization. The list of NTEE codes is provided in Appendix D to the newly revised Instructions for Form 1023.

- OFAC Compliance: Additional information is requested related to compliance with the Office of Foreign Assets Control (OFAC) of the U.S. Department of Treasury.
- 501(h) Election: Form 5768, Election/Revocation of Election by an Eligible Section 501(c)(3) Organization To Make Expenditures to Influence Legislation, is no longer submitted with Form 1023 and instead must be separately mailed to the IRS.
- User Fee: The user fee remains at \$600.00 for 2020 with applicants paying it through Pay.gov when submitting the form.
- Signature: To satisfy the electronic signature requirement, the applicant may include a copy of the handwritten signature of the officer, director, trustee, or authorized official whose name is typed into Part X of the Form 1023 in the pdf file it uploads as part of its application. To sign in this way, the signer should sign above their typewritten name on a copy of Part X of the completed application or on a separate sheet of paper that includes the same information as in Part X (name of signer, title or authority of signer, date, and penalties of perjury statement as set out in Part X).

In addition to the changes above, the online Form 1023 will not permit applicants to move to the next page until they have completed all of the questions on the current page, including entering required descriptions and explanations, or completing schedules. It is expected that the online Form 1023 will help to assure fully completed forms, reduce errors, and improve processing times in the same way that Form 1023-EZ did for smaller nonprofits. You can find a preview of the electronic form [here](#). For more detailed information and guidance please reach out to Yolanda N. Davis and your Nexsen Pruet Nonprofit and Exempt Organizations Team.

Prior to joining Nexsen Pruet, Yolanda spent more than a decade as a nonprofit and accounting consultant, advising a diverse group of nonprofits in 501(c)(3) nonprofit administration and management. Her clients included sports philanthropists, human service organizations, private foundations, churches and other religious organizations, schools, financial counselling and money management organizations, and start-up charities.

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