

SUPPORTING STATEMENT
OMB# 1545-0056
(Form 1023 and Form 1023-EZ)

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Unless specifically exempted by a provision in the Internal Revenue Code, all organizations and individuals are subject to Federal income tax. Certain organizations may be exempt from Federal income taxes under section 501(a) of the Code if they are described in section 501(c)(3) and meet certain other conditions set out in the Code.

Section 508(a) of the Code requires organizations that are broadly classified as charitable to notify the Internal Revenue Service (authority delegated by the Secretary of the Treasury) that they intend to apply for exempt status under section 501(c)(3). Section 1.501(a)-1(a) of the Income Tax Regulations requires these organizations to apply for exempt status. Section 509(a) of the Code requires them to provide information on their private foundation status or show why they are not private foundations. Form 1023 was developed to serve all these requirements.

The new Form 1023-EZ is being created as a method for tax exempt entities to apply for exemption under IRC 5019(c)(3) in a streamlined two page form if an organization meets specific requirements as first determined by completing the Form 1023-EZ Eligibility Worksheet. This form will ease the process for TEGE in processing tax exempt applications as well as the organizations applying for recognition of exemption

2. USE OF DATA

Forms 1023 and 1023-EZ, provides the IRS with information to determine the applicant's exempt status and private foundation status. This includes:

- (a) The date the organization was created. This date must be known under section 508 to qualify for retroactive exempt status.
- (b) Whether the applicant's organizing documents contain certain provisions relating to Chapter 42 of the Code.
- (c) Whether the applicant is organized and operated for exempt purposes.
- (d) Whether the applicant is privately or publicly supported and controlled. The IRS must know the sources of support for the applicant and who operates the organization to determine its private foundation status.
- (e) Whether the applicant's organizing documents provide for disposition of its assets to one or more approved charitable organizations in the event of dissolution.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

IRS Publication, Regulations, Notices, and Letters are to be electronically enabled on as practicable basis in accordance with the IRS Reform and Restructuring Act of 1998.

Form 1023-EZ applicants will be able to file electronically beginning in 2015.

4. EFFORTS TO IDENTIFY DUPLICATION

We have attempted to eliminate duplication within the agency wherever possible. An eligibility worksheet and checklist are completed by applicants to determine if an organization may qualify to use the Form 1023-EZ.

5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES

The Form 1023-EZ will reduce the burden significantly because applicants will be able to use this three page form rather than the Form 1023, which is a much longer application.

6. CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES

Not applicable.

7. SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.5(d)(2)

Not applicable.

8. CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS

In response to the *Federal Register* Notice dated March 31, 2014 (79 F. R. 18124), we received several comments that were in support to the new form 1023-EZ, while others raised issues and concerns with the proposed form. We have reviewed all the comments that were submitted. Many of the comments requesting clarification on certain items or line numbers have been adopted and will be addressed in the final release of the Instructions for Form 1023-EZ. For those other comments that raise concerns, we offer the responses below.

Some concerns were raised that the new streamlined form doesn't give the IRS all the information it needs. Some examples included concerns relating to fraud or abuse. The goal is to help charities get up and running more quickly and avoid the paperwork that has sometimes delayed approval of their filings for up to a year. A new streamlined process will also allow the IRS to concentrate more on compliance for Section 501(c)(3) organizations during a post-filing compliance process. The Form 1023 EZ provides sufficient information (especially in Part III) for the IRS to ask specific questions of and

organization that filed a Form 1023 EZ and to determine during a compliance check or examination whether the organization is operates as an exempt organization. The IRS can supplement the information provided in Part III with other publicly available information regarding the organization (such as website, internet, etc.) as well as the Annual Information Returns filed by the organization if the organization grows and it is required to file a Forms 990-EZ, 990, 990-T etc. Rather than expending extensive resources on reviewing the applications when the applicant is only telling the IRS what it plans to do, the IRS believes it makes more sense to review the activities once they are operational. IRS will select a statistically valid random sample of applications for pre-determination reviews. Additionally, IRS may contact applicants for additional information, as in the case of an Employer Identification Number that does not match the applicant's name.

Form 1023-EZ is a simple version of Form 1023. This new form was created to be taxpayer friendly. Form 1023-EZ is 3 pages in length as opposed to the long version of Form 1023 is 31 pages in length. Taxpayers eligible to use the 1023-EZ will experience a significant savings in response time. The IRS will also be able to save time and resources when reviewing the new EZ form, therefore streamlining the approval process. We believe that any benefit realized by delaying the release of this form so that taxpayers can better understand the use would be greatly outweighed by allowing taxpayers to begin using the form as quickly as possible. Form 1023 has been in use for many years and will continue to be available to all organizations seeking tax exemption under section 501(c)(3). The Form 1023-EZ is a simpler alternative version available to smaller organizations seeking such exemption. TEGE has a backlog of cases that is growing larger by the day. The sooner we get this out to the public the sooner the backlog of cases will subside for TEGE.

First, Form 1023-EZ was created to lessen the burden on the applicant and the Service. We currently have an inventory that is unmanageable causing extreme wait times for § 501(c)(3) applicants. Substantial time is currently expended corresponding with applicants to perfect applications. In many cases, a narrative description is not dispositive. We considered the relative efficiencies and risks. The 1023-EZ will be used only by small (less than \$200,000 in revenue and \$500,000 in assets) and historically compliant types of organizations, limiting our risk of accepting attestations that the applicants' purposes and activities meet § 501(c)(3) requirements. Also, we have included more educational material in the F. 1023-EZ instructions to better educate the taxpayer on the requirements.

The Gross Receipts limitation was reduced from \$200,000 to \$50,000 per agreement with Treasury to limit the use of the form to 990-N filers, in other words, limiting its use to only those TP's who qualify to file the 990-N (smaller orgs), excluding those that file the 990-EZ or 990 for example. The estimate that only 17% of respondents would use the 1023-EZ was in error. We are forecasting that it will be closer to 60-70% of 501(c)(3) filers will be eligible to use the Form 1023-EZ. TEGE ran a pilot on open Form 1023 applications and they determined that 60-70% of those cases would have been eligible to file Form 1023-EZ.

Secondly, similar to an activity description, requiring the submission of organizing documents would cause us to follow the same processes that are currently in place for the

full Form 1023. In many cases, articles are not dispositive, and as a practical matter, may be boilerplate. Requiring the submission of organizing documents would defeat the purpose of having a fully electronic submission process. Processing more paper documents would utilize more resources, funding, and slow down the process for the other applicants in the pipeline. Additionally, Form 1023-EZ asks for state of incorporation so that taxpayers have avenue for access to articles if taxpayer does not post on Web.

IRC § 6104 requires the application and any supporting documents along with any letter or other document issued by the Service with respect to such application be open to public inspection. It does not state that such application must contain an activity narrative or organizing documents. The Form 1023-EZ and any letters or other documents issued by the Service will be open to public inspection, thus meeting the requirements of IRC 6104. Form 990 would continue to be publicly accessible.

Educational information regarding the rules for tax exemption are contained in the 1023-EZ instructions and other documents such as Publication 557, referenced in the 1023-EZ instructions. These documents clearly explain the requirements the applicant is attesting it meets under the penalties of perjury. The IRS is still upholding its responsibility of reviewing applications and determining, based on representations, that the applicant meets § 501(c)(3) requirements. Congress enacted the Form 1023 requirement in § 508 not for an educational purposes but because it “believe[d] that the Internal Revenue Service has been handicapped in evaluating and administering existing laws by the lack of information with respect to many existing organizations.” State Representative 91-552, 91st Cong. 1st Session. 1969 USCCAN 2027, 2081.

The instructions have been through many revisions in order to make them clear and concise. After receiving comments both internally and externally revisions were made that cleared up any confusing or unclear parts. The instructions were written by Exempt Organizations Tax Law Specialists in consultation with Chief Counsel attorneys. Every measure was taken to ensure that they were written in a taxpayer friendly, clear and concise manner.

The reasons for not requiring the submission of organizing documents or narrative descriptions of activities are explained above.

Additionally, we would like to point out that current method of soliciting narratives of proposed activities on Form 1023 can be very time-consuming, and as a result increase wait times for other applicants. Many applicants are unsure of their proposed activities, and it takes multiple development letters to clarify the planned activities they expect to conduct. Generally, the current process does not yield valuable information.

Allowing applicants to attest to basic operating requirements will reduce the burden of the current application process, allowing them to commence their activities more quickly. Then, if we review their activities in the future, we will have actual activities to evaluate, as opposed to planned activities that could easily change.

Finally, Employment tax responsibilities are not exclusive to exempt organizations. All

entities with employees are required to file Form 941. Numerous IRS documents and publications describe these responsibilities (including publication 557 referenced several times in the 1023-EZ instructions). It is the taxpayers' responsibility to understand and comply with these requirements. It is not a specific requirement for exemption and is not needed on the Form 1023-EZ to make a determination.

9. EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS

Not applicable.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Generally, tax returns and tax return information are confidential as required by 26 USC 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

A privacy impact assessment (PIA) has been conducted for information collected under this request as part of the "Exempt Organization (EO) and Government Entity (GE) Audit System (DEXP)" and a Privacy Act System of Records notice (SORN) has been issued for these systems under IRS 24.046 - CADE Business Master File; IRS 34.037 - IRS Audit Trail and Security Records System; IRS 42.008 - Audit Information Management System; IRS 50.222 - Tax Exempt/Government Entities. (TE/GE) Case Management Records. The Department of Treasury PIAs can be found at <http://www.treasury.gov/privacy/PIAs/Pages/default.aspx>.

Title 26 USC 6109 requires inclusion of identifying numbers in returns, statements, or other documents for securing proper identification of persons required to make such returns, statements, or documents and is the authority for social security numbers (SSNs) in IRS systems.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

Form 1023 and Schedules estimated annual number of responses 23,660, with an estimated total burden of 3,693,800 hours.

Form 1023-EZ estimated annual number of responses 56,340 with an estimated total burden of 1,065,390 hours.

Total burden requested: 80,000 responses; 4,759,190 total burden hours.

Estimates of the annualized cost to respondents for the hour burdens shown are not available.

The following regulations impose no additional burden. Please continue to assign OMB number 1545-0056 to these regulations.

1.501(a)-1	301.6104(a)-5
1.501(c)(3)-1	301.6104(a)-6
1.508-1	

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

As suggested by OMB, our *Federal Register* notice dated March 31, 2014 (79 FR 18124), requested public comments on estimates of cost burden that are not captured in the estimates of burden hours, i.e., estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

However, we did not receive any response from taxpayers on this subject. As a result, estimates of the cost burdens for forms 1023 and 1023-EZ are not available at this time.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

After consultation with various functions within the Service, we have determined that the cost of developing, printing, processing, distribution, and overhead for Form 1023 is \$258,938.

Form 1023-EZ estimates of the annual cost to the government are not available at this time. However, we anticipate that the primary cost to the government will consist of setting up computer programs to process the new information.

15. REASONS FOR CHANGE IN BURDEN

The Internal Revenue Service is introducing an “EZ” version of the Form 1023 as an alternative in applying for recognition of exemption from federal income tax under section 501(c)(3). The Form 1023-EZ is a shorter, less burdensome version Form 1023, which may be used if an organization meets specific criteria. It is estimated that approximately 60-70 percent of the 80,000 respondents will apply using Form 1023-EZ, which will take 19 hours to complete (compared to 156 hours for the Form 1023). There is an overall increase in the annual number of responses and burden as a result of the increased filing potential of the 1023-EZ.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

Not applicable.

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

See attachment.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT ON OMB FORM 83-I

Not applicable.

Note: The following paragraph applies to all of the collections of information in this submission:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

OMB EXPIRATION DATE

We believe the public interest will be better served by not printing an expiration date on the form(s) in this package.

Printing the expiration date on the form will result in increased costs because of the need to replace inventories that become obsolete by passage of the expiration date each time OMB approval is renewed. Without printing the expiration date, supplies of the form could continue to be used.

The time period during which the current edition of the form(s) in this package will continue to be usable cannot be predicted. It could easily span several cycles of review and OMB clearance renewal. In addition, usage fluctuates unpredictably. This makes it necessary to maintain a substantial inventory of forms in the supply line at all times. This includes supplies owned by both the Government and the public. Reprinting of the form cannot be reliably scheduled to coincide with an OMB approval expiration date. This form may be privately printed by users at their own expense. Some businesses print complex and expensive marginally punched continuous versions, their expense, for use in their computers. The form may be printed by commercial printers and stocked for sale. In such cases, printing the expiration date on the form could result in extra costs to the users.

Not printing the expiration date on the form(s) will also avoid confusion among taxpayers who may have identical forms with different expiration dates in their possession.

For the above reasons we request authorization to omit printing the expiration date on the form(s) in this package.