

Reinstatement of 501(c)(3) Status for Charitable Organizations

TAX SECTION



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Nonprofit organizations generally must file a Form 1023 with the IRS to obtain federal tax-exempt status under Section 501(c)(3). However, such status may not be eternal. Tax-exempt status is automatically revoked when a charity does not file the required Form 990 series return or notice for three consecutive years. The IRS publishes a list of charities whose tax-exempt status has been revoked. As one can imagine, that can be overwhelming for a charity that needs to assure its donors their donations are eligible for the charitable tax deduction. Luckily, the IRS has established four procedures in Revenue Procedure 2014-11 for the reinstatement of an organization's tax-exempt status.

The first is streamlined retroactive reinstatement. That is available only for organizations that should have filed Form 990-EZ or Form 990-N (ePostcard) for the three years for which returns were not filed. These charities are eligible to file Form 1023 or 1023-EZ and mark the appropriate box to have their exempt status retroactively reinstated. Such charities will be treated as if they never lost their exempt status.

The second procedure is the within 15-month retroactive reinstatement. It allows retroactive reinstatement where the organization applies for reinstatement within 15 months of the later of the date of the organization's revocation letter (CP-120A) or the date the organization appeared on the IRS revocation list on the IRS website. In addition to filing a new Form 1023, these organizations also have to provide evidence of reasonable cause for the non-filing of at least one of the three unfiled returns. Like the streamlined retroactive reinstatement, this reinstatement is retroactive to the loss of charitable status.

The third procedure is the after 15 months retroactive reinstatement. Unlike the second procedure, this one is used where the organization did not file the new Form 1023 within 15 months of their notice of loss of charitable status. In addition to the other requirements, the organization must show evidence of reasonable case for the non-filing of all three unfiled returns. Like the prior two procedures, this reinstatement is retroactive to the loss of charitable status.

The fourth procedure is the post-mark date reinstatement. Unlike the prior three procedures, this reinstatement is not retroactive. As a result, although this procedure results in reinstatement, there is a gap in charitable status for the organization, which will result in a disallowance of charitable deductions for donors who made donations during the period in which the charitable status lapsed. Because of this and other potential problems with a temporary loss of charitable status, this fourth procedure is the least favorable and should be used only if the organization is unable to use one of the first three procedures.

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