

November 2009

**Legal Alert: IRS Increases Exempt Organization Application Fees for Filings Postmarked After January 3, 2010**

The IRS recently announced that it will be raising the fees charged for applications for tax exemption (Forms 1023, 1024, and 1028) postmarked after January 3, 2010.

- The fee for organizations whose gross receipts are \$10,000 or less annually over a 4-year period will be raised from \$300 to \$400.
- The fee for organizations whose gross receipts exceed \$10,000 annually over a 4-year period will be raised from \$750 to \$850.
- The fee for group exemption letters will be raised from \$900 to \$3,000.

Although the IRS has not yet disclosed the amount of increases to other exempt organization related fees – such as accounting method changes, accounting period changes and letter rulings – it has stated that such fees are expected to increase in 2010. The final determination of such increases will be published in January 2010.

In light of the current economic downturn and corresponding reductions in funding, many charitable organizations are questioning the IRS's timing of this fee increase. The IRS has justified these increases by relying on a mandate from the Office of Management and Budget that requires federal agencies to charge user fees reflecting the full cost of goods and services. The IRS calculated the revised user fees by multiplying the average hours per case by the average cost per staff hour; specifically citing inflation, increased wages, postage and overhead costs as determining factors. The IRS is required to review and adjust its application fees at least once every two years. Exempt organization fees were last adjusted in 2006.

**New Online Filing for Form 1023 – *Cyber Assistant***

The IRS has also announced the adoption of *Cyber Assistant*, a Web-based software program designed to help 501(c)(3) applicants prepare a complete and accurate Form 1023 application. Originally intended for introduction in 2009, the program is currently being tested with an anticipated introduction sometime in 2010.

This program will only be available for use filing a Form 1023, not the other exempt organization filings referenced above. Coinciding with the introduction of *Cyber Assistant*, the IRS will again revise the filing fee for Form 1023 as follows:

- The fee for organizations filing a Form 1023 with *Cyber Assistant* will be reduced from \$850 to \$200.
- The fee for organizations filing a Form 1023 *not* using *Cyber Assistant* will be \$850; *regardless of the annual gross receipts of the organization.*

Cyber Assistant will provide a number of benefits in addition to the cost savings mentioned above. The program will provide education about the duties and responsibilities that go along with tax-exempt status, alert the user to errors, and prompt the user for missing information. Additionally, Form 1023s generated using Cyber Assistant will incorporate barcodes containing the organization's information and responses, which should increase the accuracy and efficiency of the IRS review process. Announcement of the availability of Cyber Assistant will be made in the Internal Revenue Bulletin, on the IRS website and in the EO Update.

For more information about the changes to the Exempt Organization fee structure and Cyber Assistant, please visit the IRS website at <http://www.irs.gov/charities/>.

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