



Jessica Birken, MNM, Esq.
Birken Law Office PLLC
1400 Van Buren St. NE
Suite 200
Minneapolis, MN 55413
www.birkenlaw.com
Office: 612.200.3679

Take Off Those Donor Goggles - Transcript

[Speaker 1]

Welcome to Charity Therapy, the podcast where we explore the ups and downs of the nonprofit sector and answer your burning questions. I'm your host, Jess Birken, owner of Birken Law Office, and I'm excited you're here. Imagine hanging out with me and my super smart, funny nonprofit expert pals.

You get to ask them anything about your nitty gritty nonprofit life and get their wisdom for free. Whether you're a seasoned pro or just strapping on your nonprofit boots, we're here to share stories and remind you, you're not alone on this journey. So get ready to join the conversation and bring me the tough questions.

I ain't scared. Ready to rock? Let's dive in.

Hey, welcome to Charity Therapy. I'm here with Meghan. Hey, how's it going?

You trying to match my level of zany is really funny because it's so not you at all.

[Speaker 2]

Those are the moments.

[Speaker 1]

It is, but it isn't.

[Speaker 2]

Not like that. No. Those are the moments where it's, yeah, our personalities are compatible, but different.

Oh, good gravy. All right. Should we just get right into it?

Yeah. Let's do it. Let's do it.

Today, I want to talk about newer organizations that are going through the startup process. And we've talked about this before. So many people are very hyper focused on the IRS application as the barrier to moving forward.

That's the big thing that they have to get done in the startup process. And it is big and it takes a long time. So I want to talk a little bit about what that process actually looks like.

So once someone prepares their application, whether it's a 1023 easy or full form, the two options for the IRS, how long does it take for the IRS to process that? What happens once you hit submit?

[Speaker 1]

So 1023 easy is a little bit of its own beast because that is a largely automated process, but very strict on who can use that process. So there's a whole worksheet of eligibility requirements. I can't talk.

You can't fill out the 1023 easy if you are a church, a school, sending money internationally, blah, blah, blah, make over a certain amount of money, all these things. There is a very quick and dirty application and it's largely automated and it probably takes up to eight weeks to be processed. But not a lot of groups should be filing that one.

And then you have the full form 1023, which is a very large document that basically contains your whole business plan and all of the attachments and supplemental materials. And that gets sent to the IRS electronically, but it lands on someone's desk. And that IRS agent is going to review that document in detail.

And the whole time they're reviewing it, they're trying to say, you don't deserve tax exemption. So they, as you can imagine, have thousands and thousands of these applications to look at. So the human review is going to take six months, maybe even up to 10 months.

And I have no insight into really what causes something to take six months versus 10 months. I have a suspicion just based on I know humans. And I think if your application is messy and your application is disorganized and your application seems like it's going to be a pain in the butt, I have a feeling an agent opens it and goes, I'll deal with that one later.

And that's when your application takes 10 months. Yeah, the classic procrastination problem. I could be completely wrong, though.

It could totally be to do with like how many butts are in seats at the IRS office at the time. I have no idea. It goes into a black hole and it comes out the other end.

[Speaker 2]

Even from our clients' perspective, some of our clients have had insanely fast turnaround times and some of them have had very slow and there's no discernible difference necessarily between those applications other than we do know that the pandemic really slowed things down for a while there. Things have improved since then. Okay, let's get right into the listener question here.

The person writes in and says, after weeks of scrambling, my board and I finally submitted our 1023 application for C3 status for our new nonprofit. Yay. But after talking to other founders, I'm learning it can take months for the IRS to get back to us.

Are we supposed to just wait around to get started with the nonprofit until it comes back? We've got this forward momentum now and I don't want to lose it.

[Speaker 1]

First of all, congratulations on getting your application off to the IRS. That is a big undertaking and congrats on having feeling like you have forward momentum. Sometimes that's hard to come by.

[Speaker 2]

Absolutely.

[Speaker 1]

So here's the deal. It absolutely is going to take months to hear back from the IRS. No doubt about it.

And they know that. So that's why the IRS backdates your date of exemption. If you apply and now we're going to get into the technicalities.

If you apply within 27 months of incorporating, if you incorporate then within two years, inside of two years, you file for tax exemption, the IRS, assuming they grant your application and don't reject it, they will backdate your tax exemption to the day you first incorporated. Which means that any gifts you received while your application was pending will be considered tax deductible. So you can start raising money, but you can't say that you're a 501c3 until you are a 501c3.

So that's, it sounds like I'm talking out of both sides of my mouth there, but basically legally you could take a donation, but you have to disclose that your application is pending. So does that kind of put a hamper on donations? Probably, but you're probably starting with people who are close to you.

They are people who believe in you and they believe in your mission because they believe in you. And if you talk to people like Steve Boland at Nexton Nonprofits, my friends who do fundraising, they're going to talk about your first donors are going to be people who know and trust you and believe in you to accomplish this thing. And it's going to take a little bit to grow the idea of the nonprofit as an entity that's standing on its own and it's not the belief in you delivering the mission.

So does it potentially slow you down? Maybe, but you just have to be honest with people and you also need to be aware of any state charitable registration requirements because you need to be cautious if your state's attorney general or whatever agency is in charge of that in your state doesn't want you to start fundraising until you've registered with them. So make sure that you get that registration done and then you should be good to go.

And then it's just a waiting game to get that determination letter, to give the IRS like papal blessing to all of your donations that happen between the day of incorporation and the day you get the letter.

[Speaker 2]

All of that makes sense. And I also am picking up on the tone of this question. It sounds like the person thinks that they can't do anything at all until they're done with their startup.

They say, are we supposed to just wait until we can get started with the nonprofit until it comes back? Even if you don't want to do a ton of fundraising in the meantime, there's a lot you can do while you are waiting for your IRS application. If you are coordinating volunteers to go clean up a river bank or something and you don't need a ton of funds to do that, no one is stopping you from doing your mission work in the meantime.

You don't have to wait until you're quote unquote done with your startup in order to do work through the nonprofit or do work that has to do with your nonprofit. I think people want to be a little completionist of, I've got all my paperwork done and I'm done and this exists. And you don't have to wait for that moment that you open the mailbox from the IRS in order to start doing other stuff beyond just having your asterisk on your funding.

There's a lot of other stuff you can do in the meantime, too. Yes, I love that you bring that up.

[Speaker 1]

The other thing with this is that analysis paralysis that's super common with a startup. Oh, I can't until whatever. Can't until it's perfect.

Lawyers suffer from this too. I can't do this until it's perfect. No, just get in there and start doing stuff.

Start creating your systems. Start planning. Start doing what you can do.

And obviously, if you are primarily the main funder, the main donor right now, that's fine. You'll be able to take that tax deduction if that applies to you when you file your taxes. But you don't need to wait.

There's not like some feel like this is also getting at the idea that everything will be good when. Yes. Like money will rain from the sky when people will want to donate to us when and for a nonprofit, a lot of that is when we have our 501c3 status like it's some magical solution that like you get 501c3 status and everyone puts on.

You've heard of beer goggles. These are like donor goggles and you just look so attractive as a charity to give to. That is not how it works.

You can absolutely start cultivating those relationships and start getting things lined up because it's not going to be magical when the letter comes. It's just going to be another day.

[Speaker 2]

I think it's the money piece of it, but it's also that in a lot of people's minds, I think it's easy to be like before the C3 status, we're just people doing stuff after the C3 status. We are a nonprofit and everything that has to mean and I people will take me seriously and this is important and all of that kind of stuff. And I think people are waiting for some sort of permission to take themselves seriously, to take the mission seriously, to believe that this could

work, to put themselves on the line, whether it's asking for a donation or setting up their bank account or calling a bookkeeper or whatever it is to get things moving forward.

[Speaker 1]

Here's what I'll say about that. You should be taking yourself seriously the second you incorporated. The second that you started a nonprofit corporation, you should be taking yourself seriously.

[Speaker 2]

And ideally before then, you're not starting it unless you think it's a good idea.

[Speaker 1]

Yes. And C3 status is a tax status. It is not a papal blessing.

It's not that the IRS believes in your mission. It's that you qualified to not pay income tax. You still have to take yourself seriously regardless if you ever get C3 status because the people of your state are counting on you serving that community.

So the IRS status is just like icing on the cake. You've already started a nonprofit corporation. You're already committed to being serious.

It's just a matter of whether you got to pay income tax on the revenue that comes in.

[Speaker 2]

And I feel like that could sound overwhelming to some people. But I also think that could be really empowering, right? To be like, you're not waiting for anything.

You're already doing it. Go do the thing. No one has to slow you down and wait for the IRS.

[Speaker 1]

And if it's overwhelming, yeah, it's overwhelming because this is a big ordeal. It's a big undertaking. It is serious.

You should surround yourself with people who can help. People like me, good accountants, good advisors, good fundraising consultants. It's okay to be a little overwhelmed.

Take it seriously. It's not a joke. It's not a lemonade stand.

[Speaker 2]

Yep, totally. Okay, I have some takeaways for us from this episode. The first is that the IRS takes forever.

The quick and dirty version is eight weeks. We're talking two months for the quick version with the IRS. When you're applying for your C-3 status or something else with the IRS, expect it to take a long time.

It's not an overnight thing once you hit submit on your 5-1-C-3 application. That being said, another takeaway is that you do not have to wait for the IRS to give you tax exemption on a new nonprofit in order to do anything. You can start your fundraising efforts.

You can start making connections in your community. You can start your programming if you have the funds to do that. So you don't have to be just sitting like twiddling your thumbs waiting for that IRS letter in the mail.

And then finally, the IRS status is not your nonprofit. It is not everything. The serious part comes from your decision to start a nonprofit, the obligations you have as soon as you incorporate that entity, whether or not you ever get IRS status or not.

And that is something that starts day one or ideally before day one of when you get that nonprofit incorporated, the first round of paperwork filed, the one that takes two seconds with your state probably. Yeah, it's a big deal and you're already in it. So go do it.

[Speaker 1]

Yeah. The only thing I'll add on there is don't forget about your state compliance. Yes.

A lot of people forget that they have charitable registration that they are supposed to do before they raise a dollar. So if you're waiting for the IRS, you can go apply for charitable solicitation if your state requires that. Yes, absolutely.

Good reminder. All right, folks, if you enjoyed this episode, do me a huge favor, share it with a friend, rate, review, subscribe, press all the buttons on the thing in the place. That really helps people find us.

And you know, there are lots of people who need this information. If you've got a story or a question, please get at us online. We'd love to hear from you and thanks for listening. Bye.

About the Author



Hi, I'm Jess Birken.

I'm the owner of Birken Law Office, I help nonprofits solve problems so they can quit worrying and get back to what matters most – The Mission. I'm not like most attorneys, I actually have an outgoing personality, and – like you – I like to think outside the box. Most of my clients are passionate and have an entrepreneurial spirit. I'm like that too. My goal is to help you crush it. Getting bogged down in the minutia sucks the joy out of the important stuff. My clients want to do the work – not the paperwork.

Let's connect!

jess@birkenlaw.com | [612.200.3679](tel:612.200.3679) | [@JessBirken](https://www.instagram.com/JessBirken)
www.linkedin.com/in/jessbirken
www.facebook.com/birkenlaw