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Can a Religious Nonprofit Apply for Status with the IRS 1023-EZ Short Form? – Transcript

Jess Birken 00:00:02 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. Hello and welcome to this episode of Charity therapy. I am here with my intrepid co-host Meghan, and she and I have been watching the Ohio season of Love Is Blind, and it's kind of a hot mess.

Meghan 00:00:59 It truly is. I'm like, why are we recording this podcast and not getting caught up because we're behind everyone on the internet and I have to keep dodging spoilers, literally.

Jess Birken 00:01:08 Also, full disclosure before we started recording, I was proposing that we ditch work and get a hotel room and snacks. But just like that sounds creepy, but I just want to lay on somebody else's bed that I don't have to be like, this is my room and it has to be clean and whatever. And then Megan and I can just have like a runway of, like, junk food, snacks between us and then binge watch. Love is blind. That seems like a way better day than working.

Meghan 00:01:41 Why is that not our reality? All of the time? Like, I just feel like that's what everyone wants. Oh, 100%. But I'm just like, this is what we all aspire to, and we just need to figure out ways to achieve it, because that sounds lovely.

Jess Birken 00:01:56 Somebody needs to make, like, legitimately like a coffee house.

Meghan 00:02:00 Where.

Jess Birken 00:02:01 It's just, like pristine, like a pristine bread, like at a hotel, and you can just flop down and have your snack, eat your croissant, get crumbs all some all over somebody else's bed, and then you leave.

Meghan 00:02:17 You just you don't.

Jess Birken 00:02:18 Have to deal with it.

Meghan 00:02:19 And I don't want to hear any of the reasons of why that business idea isn't going to be working and is going to get complicated. I just want it for this particular purpose is watching love is Blind with your friends and not having to do it in your own house.

Jess Birken 00:02:34 I feel like it would go wrong in a lot of ways, and it would be. It's a terrible idea. It's even if.

Meghan 00:02:41 There's a reason why it's about it.

Jess Birken 00:02:43 For half a second I'm like, this would never work. It would be so awful.

Meghan 00:02:47 But and that's why it's our imaginary thing that we can want and never get.

Jess Birken 00:02:54 Keep your minds out of the gutter, people, okay? Truly, I just want to be slothful. That's it.

Meghan 00:03:01 Yes. Give us one of these deadly sins, please. Sloth and I even.

Jess Birken 00:03:04 Take a chaise lounge. Okay.

Meghan 00:03:06 Yeah. Amazing.

Jess Birken 00:03:07 Chaise lounge. Great. I don't want to sit in a chair.

Meghan 00:03:11 No, I want it to be comfy.

Meghan 00:03:13 And I want there to be blankets. Yes.

Jess Birken 00:03:15 This is. And understand me.

Meghan 00:03:17 Absolutely.

Jess Birken 00:03:18 You understand me?

Meghan 00:03:19 Okay? Absolutely.

Jess Birken 00:03:20 What are we supposed to be talking about?

Meghan 00:03:22 Okay, well, we're not in that reality right now, so let's actually do the thing we're here for. And that is to talk about nonprofits and specifically religious nonprofits today. So before we get started with our listener question, Jess, question for you, what are the ways that churches or other religious entities are different than your typical 501 C3?

Jess Birken 00:03:46 Oh, where to begin? Okay, so well, churches and worship. Well, let's start there. Churches have sincerely held beliefs, quote unquote, and regular worship services. So church is the white Christian version, but it could also be temple mosque. You know, whatever those sorts of organizations have to demonstrate to the IRS that they have sincerely held beliefs and they have regular worship services. And when they get their 501 C3 status, first of all, they don't have to apply.

Jess Birken 00:04:28 They can just be like, we church now, you don't get a copy of a determination letter, but you get to say we church and people just believe you. And then we church, we church.

Meghan 00:04:39 We.

Jess Birken 00:04:39 Church. And then also they don't have to file an annual form 990, which we could do a whole episode about. My feelings on that and how that leads to like an insane amount of corruption. And I'm sure we could find some links to the, like, giant, pastor mansions with cross-shaped pools and the people getting rich off churches. But I'm gonna stop there.

Meghan 00:05:05 Watch Righteous Gemstones. And that basically sums up the vibe there.

Jess Birken 00:05:10 I have not.

Meghan 00:05:10 Seen.

Jess Birken 00:05:11 This righteous gemstones.

Meghan 00:05:13 Yeah, you need to watch it.

Jess Birken 00:05:14 I'm like a Netflix series.

Meghan 00:05:16 It's on HBO, I think. but yes. Hilarious. Incredible about a megachurch.

Jess Birken 00:05:22 Okay.

Meghan 00:05:22 Yes.

Jess Birken 00:05:23 Classic, right?

Meghan 00:05:24 Yes.

Jess Birken 00:05:24 So don't have to file 990. Don't have to apply for income tax exemption. Still, theoretically, all the rules apply to you.

Jess Birken 00:05:34 Depending on what state you're from, you might even form under a different chapter. Sometimes churches have their own statute or religious organization. It could be like it could be a youth ministry. It could be a faith based program that kind of looks like any other public charity, but it's got a religious aspect to it. And so since those are not churches, they do not have regular worship services. They do need to apply for income tax exemption, and they need to file a 990. That's kind of fundamentally the core difference.

Meghan 00:06:10 Yeah. So we're talking about the literal difference between like a mosque and a after school program that is like run with the tenets of, you know, Islamic belief. And it's like those are two different things and would be treated differently by the IRS. Okay. And I'm assuming that's just like classic separation of church and state is the reason why we have those rules. Yeah yeah yeah. Okay. Anyways, so launching into our listener question today, the listener says the IRS rejected our form 1023 easy because they think we are a church which would have to use the form.

Meghan 00:06:50 1023. I understand that, but we are not actually a church. We are a religious organization. Now, how do I fix the application to get them to accept our form? 1023 easy.

Jess Birken 00:07:02 Okay. So this this question is actually diabolical. Like this is one where like the IRS is telling you something that if you think about it too hard, it actually doesn't make any sense. Because the first time I read this question, I was like, wait, what? I need to look at the instructions again because we just covered this. The churches don't have to. They are self-declared. They don't have to apply for income tax exemption. So why on earth would they not accept a 1023 EZ, which is way simpler to fill out than a 1023 full form, which is the arm and a leg of information and a pain in the butt, and has to be processed by a human being at the IRS. I, I don't understand like, bona fide confused face on me right now because they don't have to apply unless you just want a copy of your 501 C3 determination letter if you want the paper that says your tax exempt, then you have to.

Jess Birken 00:08:18 As a church, you have to apply in order to get the paper. So why not just let them do the 1023 easy? And then all of that is moot if this isn't a church. So they're saying they're not a church, but the IRS thinks they're a church. So then I'm like, what'd you say? Because we don't know.

Meghan 00:08:41 Because if you're not familiar with the 1023 easy, which I would imagine most listeners are.

Jess Birken 00:08:47 Probably not a lot of people just filling that out for funsies.

Meghan 00:08:50 No, there's not a ton of opportunity to, like, add a bunch of detail that would make the IRS think one thing or another. Like, maybe you just answer the questions in a weird way, but like, it's not like the full form where you have like

potentially pages and pages of supplemental material for an IRS agent to pick through and be like, I think this about you. You know, it's like it's a very standardized document.

Jess Birken 00:09:13 Yeah. We don't. So we don't have a copy of what they submitted.

Jess Birken 00:09:17 I have a couple of guesses. One is that they ask on the 1023 easy. They ask a bunch of questions that if you answer any of these things, yes, you're kicked out. So I'm wondering if they have a question on the application that sort of sounded right. Like they were like, yeah, we're religious. And they said, yeah. And the IRS was like, get out your church. Yeah, that is feels very possible because the 1023 easy if you don't really know what the buttons mean, because it is very simplified. You I see a lot of mistakes, like a lot of mistakes on the 1023. Easy because it's just easy to click the button. Wrong. The other thing is, they could have stated their mission in a way that made it sound like they have regular services. Now, if you say We have religious services. And what you mean is we have a youth ministry. We have this fee for service. We have this closed closet. We have a food shelf.

Jess Birken 00:10:29 And you said faith based religious services. Maybe the IRS, like, flagged those keywords and was like, you're out because a human being did not reject this application is my my thought. The computer read the answer either the words that they put in in the very small space allocated for that, or the yes no answers and just said you church, get out. So the way to to fix this for this listener because that's really what they're asking is how do I fix the application. I mean, first of all, if you want to buy my DIY 1023 easy course, we can put a link in the show notes. I will walk you through every button to press. So Megan, add that to the show notes. Maybe it's going to be there. I promise, of course.

Meghan 00:11:17 Yep.

Jess Birken 00:11:18 My thought is you go back in your application and when they ask you the 10,000 questions and it's like, will your gross receipts be over 50,000? Will you

do this much money? Will you do this with this much money? Are you operating in a foreign country? Are you? It's like there's ten questions in a row, and one of them is like, are you a church? If you answered that question wrong, that's why.

Jess Birken 00:11:49 Right. And then take a look at the words you put in for your purpose, and make sure it doesn't sound like you're offering religious worship services in any way. That's the best I can do without actually seeing the application. But that's my guess, is there's just some checkbox that's checked wrong. Or you said something in a way that their computer just read it wrong.

Meghan 00:12:13 Yep. This makes sense to me because we hear from people all the time who have submitted a 1023 Easy and either got rejected or were misclassified in some way, shape or form because of one incorrect answer where it's like you just clicked yes instead of no, and it's like, who knows if you even just miss clicked it. Like maybe you meant to click no. And so there's a lot of small errors can make some really big effects for your application with the easy. So yeah. Okay. I have a couple of takeaways for us on this one. First is that churches are where other, you know, religious worship based organizations like mosques, temples, etc. synagogues are treated differently from the IRS.

Meghan 00:13:03 They do not have to apply for tax exempt status. They can self declare it and they don't have to file their annual filings. That being said, going into number two, some churches do choose to file because they can get certain benefits from, like, you know, a discount at Office Depot or whatever, all these other places that want to see their IRS status in order to give them that nonprofit discount. And when they do, they have to file a 1023 full form instead of the shorter easy, which, as just noted, doesn't make all the sense in the world. But since when does the IRS make all the sense in the world? And finally, religious organizations, meaning just charities who have some sort of religious bent to them, don't actually offer worship services and things like that are not churches in the IRS view, and do not have the same benefits or extra rules that the churches do, so they can file a 1023. Easy. They do have to file their nine 90s. And so you want to be clear about how you are presenting this nonprofit to the IRS so that you get into the right bucket for church versus religious organization.

Meghan 00:14:15 Yeah. Is that everything, Jess?

Jess Birken 00:14:17 Yeah. I think I would just add that, like, obviously churches can have other programming besides regular worship services, and so can be a little confusing, but this listener is saying we are not a church. So we're going with that. But yes, your church can also have all the other programming that is faith based and still be considered a church. So just to just in case anyone was confused by that, folks, if you enjoyed this episode, if you know someone who's struggling with their 1023 easy and clicking the right buttons, share this with them. Give us a rating review, subscribe. It really does help people find the show. And if you have a question or a story to share, I'd love to hear from you. Get at us at Charity Therapy show. And as always, thanks for listening.

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!

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