

January 2014

**Legal Alert: IRS Updates Procedures for Reinstatement of Tax Exempt Status for
Automatically Revoked Organizations**

The Internal Revenue Service (IRS) recently released Revenue Procedure 2014-11, which updates the procedures for organizations seeking to have their tax exempt status reinstated after an automatic revocation by the IRS¹.

Overview and Effective Date for Revenue Procedure 2014-11

Prior to this update, the IRS generally reinstated an organization's tax exempt status upon application, with the effective date of the reinstatement being the postmark date of the reinstatement application. In certain circumstances, if an organization could show reasonable cause for its failure to file its annual returns, the IRS would grant retroactive reinstatement back to the effective date of the automatic revocation. The new procedures set forth in Revenue Procedure 2014-11 creates a streamlined process for small organizations seeking retroactive reinstatement within 15 months of automatic revocation without a showing of reasonable cause, provides an incentive for organizations to apply for reinstatement within 15 months of automatic revocation by allowing a reasonable cause showing for failure to file during one of the three consecutive years, and provides additional guidance on factors that would show reasonable cause when it is required.

These new IRS reinstatement procedures, described below in detail, are effective for reinstatement applications that are already received and pending, and for reinstatement applications submitted after January 2, 2014. For small organizations that have previously had tax exempt status reinstated back to the postmark date, but would have been eligible for retroactive reinstatement under the new streamlined procedures, these organizations will automatically receive the benefit of retroactive reinstatement. For large organizations that have previously had tax exempt status reinstated back to the postmark date, but may be eligible for retroactive reinstatement under the new procedures, these organizations may submit an application (without the fee) pursuant to the new procedures on or before May 2, 2014.

The IRS will send a determination letter granting or denying the reinstatement of tax exemption that indicates the effective date. If the tax exemption reinstatement is granted, beginning with the taxable year in which the IRS approves the application for reinstatement, the tax exempt status may be revoked again by the IRS if the organization fails to file for another consecutive three year period.

¹ Any tax exempt organization that is required to file an annual return and fails to do so for three consecutive years will have its tax exempt status automatically revoked by the IRS pursuant to Section 6033(j) of the Internal Revenue Code. Revocation is effective as of the due date of the third annual return.

Updated Procedures for Reinstatement of Tax Exempt Status

The appropriate procedures for an automatically revoked organization applying for reinstatement of tax exempt status will depend on whether the organization is seeking retroactive reinstatement, whether the organization will submit its reinstatement within 15 months of its notice of revocation², and whether the organization is considered to be a small organization by the IRS.

Retroactive Reinstatement Procedures

Small Organizations within 15 Months of Revocation

An organization may apply for streamlined retroactive reinstatement if the organization (i) was eligible to file Form 990-EZ or Form 990-N for each of the three consecutive years that the organization failed to file; (ii) has not previously had its tax exempt status automatically revoked; and (iii) applies for reinstatement within 15 months after the later of the date of the IRS revocation letter or the date of IRS posting on its online Auto-Revocation List.

In order to apply, organizations should complete and submit the applicable application (along with the appropriate fee) within 15 months after the later of the date of the IRS revocation letter or the date of IRS posting on its online Auto-Revocation List. To facilitate processing, organizations should write “Revenue Procedure 2014-11, Streamlined Retroactive Reinstatement” at the top of the application. The organization need not show reasonable cause for its failure to file the applicable Form 990 for three consecutive years, the organization will be deemed to have reasonable cause. If during any of the three years the organization should have filed a Form 990-EZ, the organization must complete, execute and file a paper Form 990-EZ for those years.

Large Organizations within 15 Months of Revocation

An organization may apply for retroactive reinstatement within 15 months of revocation if the organization applies for reinstatement within 15 months after the later of the date of the IRS revocation letter or the date of IRS posting on its online Auto-Revocation List.

In order to apply, organizations should complete and submit the applicable application (along with the appropriate fee) within 15 months after the later of the date of the IRS revocation letter or the date of IRS posting on its online Auto-Revocation List. To facilitate processing, the organizations should write “Revenue Procedure 2014-11, Retroactive Reinstatement” at the top of the application. The organization must also include a Reasonable Cause Statement with the application, which includes a reasonable claim for failing to file the applicable annual return for

² The IRS publishes a list of all automatically revoked organizations on its website, available at www.irs.gov/autorevocationlist. The list is updated monthly and includes the name, address, employer identification number (EIN), the effective date of revocation and the date the organization’s name was added to the Auto-Revocation List. Additionally, the IRS will send a revocation letter to each automatically revoked organization at its last known address in order to notify the organization of the revocation.

at least one of the three consecutive years.³ The organization must also complete, execute and file paper Form 990 annual returns for all taxable years in the consecutive three-year period for which the organization was required, but failed to file the annual returns. The organization should write “Retroactive Reinstatement” on the annual returns.

All Organizations more than 15 Months after Revocation

Any organization may apply for retroactive reinstatement more than 15 months after revocation. In order to apply, organizations must complete and submit the applicable application (along with the appropriate fee). To facilitate processing, the organizations should write “Revenue Procedure 2014-11, Retroactive Reinstatement” at the top of the application. The organization must also include a Reasonable Cause Statement with the application, similar to the Reasonable Cause Statement required by large organizations filing within 15 months of revocation, but with one distinction - organizations that apply for reinstatement after 15 months of revocation must include a reasonable claim for failing to file the applicable annual return for all three consecutive years. The organization must also complete, execute and file paper Form 990 annual returns for all taxable years in the consecutive three-year period for which the organization was required, but failed to file the annual returns. The organization should write “Retroactive Reinstatement” on the annual returns.

Reinstatement Procedures from Postmark Date

An organization that does not meet the criteria to apply for retroactive reinstatement may apply for reinstatement of tax exempt status from the postmark date. In order to apply, organizations must complete and submit the applicable application (along with the appropriate fee). To facilitate processing, the organizations should write “Revenue Procedure 2014-11, Reinstatement Post-Mark Date” at the top of the application.

Revenue Procedure 2014-11 is available online at <http://www.irs.gov/pub/irs-drop/rp-14-11.pdf>.

This alert is meant to provide general information only, not legal advice. Please call Staff Attorney Nicole Cuttino at Lawyers Alliance at (212) 219-1800 ext. 228 or visit our website www.lawyersalliance.org for further information.

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³ The reasonable cause statement must provide facts and circumstances that led to the failure, the discovery of the failure and the steps taken to avoid or mitigate future failures. The reasonable clause statement must also include a signed declaration by an officer, trustee, director or other official authorized to sign on behalf of the organization as set forth in Section 10(06) of Revenue Procedure 2014-11.