

**PBPA Podcast Transcript**  
**What To Do If Your Nonprofit's 501(c)(3) Status Is Revoked**  
**(23:33 minutes)**



Sireesha ([00:00](#)):

Picture this, your nonprofit has been diligently working towards its mission, making a positive impact in your community, and enjoying the benefits of tax exempt status under Section 501(c)(3) of the Internal Revenue Code. But one day you receive a letter from the IRS telling you that your organization's 501(c)(3) status has been revoked. What do you do next? In today's episode of the PBPA Podcast, Robin Miller will speak with me about the steps a nonprofit needs to take if its tax-exempt status is revoked. She'll provide her expert insight and practical advice to help you navigate this challenging situation.

Sireesha ([00:51](#)):

Hello and welcome to the PBPA Podcast. In each episode of the PBPA Podcast, we explore legal questions relevant to Georgia nonprofits. I'm your host Sireesha Ghanta, Counsel and Education Director at the Pro Bono Partnership of Atlanta. PBPA strengthens our community by engaging volunteer attorneys to provide nonprofits with free business legal services. We provide numerous free resources via our website, including articles and webcasts specific to Georgia nonprofits and their business legal concerns. We also provide direct legal services to our clients. For more information on client eligibility requirements, to apply to be a client or to access our vast learning center, visit our website at [pbpatl.org](http://pbpatl.org). Before we jump into this episode's topic, keep in mind that this podcast is general information, not legal counsel, contact your attorney for guidance on your nonprofits' specific situation.

Sireesha ([02:00](#)):

Robin Miller is Senior Corporate and tax counsel with the Pro Bono Partnership of Atlanta. She has extensive experience advising tax exempt entities on their corporate and tax matters. And as a staff attorney with PBPA, she knows well the issues and concerns of small community-based nonprofits. Thanks for being here today, Robin.

Robyn ([02:24](#)):

Thanks for having me.

Sireesha ([02:25](#)):

Let's start our conversation by outlining the reasons a 501(c)(3) might have. Its tax exempt status revoked by the IRS.

Robyn ([02:36](#)):

A 501(c)(3) public charity can have its tax exempt status revoked for many reasons: participating in political activity, too much lobbying for a long period of time, private benefit private inurement, not conducting it, primarily tax exempt purpose activities. And then there's failure to file a form 990 for three consecutive years. There's a few exceptions for organizations, um, to that, that rule of the failure to file most notably churches, synagogues, mosques, and the like.

Sireesha ([03:09](#)):

When a nonprofit gets that piece of mail from the IRS saying that their (c)(3) status has been revoked, what are the first steps the organization should take?

Robyn (03:21):

In all but one of the cases I described above the 501(c)(3) will have already been contacted by the IRS with a questionnaire and or an audit, and it will be a lengthy, detailed process before revocation occurs. The treasury regulations and the Internal Revenue Manual provide the detailed steps for this process. However, for auto revocation, which only happens upon the failure to file a form 990, and that's any version of the Form 990 for three consecutive years, the 501(c)(3) public charity will simply receive a notice by mail. That said, I mean while that's true, each year you fail to file your Form 990 as an organization, you should receive some kind of notice from the IRS that that form is late or delinquent. So over the course of three years, you should be getting notices. So it shouldn't truly be a surprise, um, 'cause it takes three consecutive years of failing to file before auto revocation. But for some reason, a lot of organizations it seems to be a complete surprise.

Sireesha (04:26):

Hmm. Okay. So what is the effect if it gets to that point where an organization loses its tax exempt status and particularly how does it relate to donations?

Robyn (04:39):

Well, so the first thing that they should do when they get that letter is to where they've been auto revoked for failure to file is they should immediately contact their attorney or accountant to discuss options for reinstatement of that 501(c)(3) status. Um, the sooner the better, the sooner you get reinstated, it's all, you really wanna take this very seriously and move very quickly. And the reason for that is because once a nonprofit's 501(c)(3) status, public charity status, is revoked, it cannot receive tax deductible donations or contributions. And it will no longer be listed on the IRS Business Master file as an organization that is eligible for tax deductible donations. In addition, it will be listed as having its tax exempt status revoked on the IRS exempt organizations select check online listings, which is the main IRS website for charities. This is also known as Pub 78 or publication 78.

Robyn (05:38):

If a donor gives what it considers to be a tax deductible contribution to an organization, 'cause it's unaware of your auto, of the auto revocation, um, once the IRS has publishes, published that notice of auto revocation on Pub 78, that deduction will not be available even if they're not aware of it. If an organization receives grants from other 501(c)(3) or from a governmental source, they must notify the grantors and the government departments of the loss of tax exempt status. 'Cause those other 501(c)(3)s may no longer be able to give them money. Um, and governments may have restrictions on who they can give money to in certain circumstances as well.

Robyn (06:19):

The organization will also no longer qualify for charitable contributions in most states, um, that have charitable solicitation laws and that it could be all states. In Georgia, the organization would not qualify to solicit charitable contributions any longer. In addition, in Georgia, if the organization had property tax exemption due to its 501(c)(3) status, that tax exemption would end. In addition even further, if the organization had a special exemption for sales tax based on its 501(c)(3) status, that would also end. So

it's really critical, like I said before, to get reinstated as soon as possible so that you can begin those tax deductible contributions again.

Sireesha ([07:04](#)):

Is there any sort of grace period where if the organization immediately contacts an attorney and reaches out to the IRS and tries to resolve this where they can kind of wait to notify their grantees? Or should they notify them immediately?

Robyn ([07:21](#)):

No, it's a done deal by then. You know, that's why I said like, it's not like this should be a surprise because each year you, they, should be getting a notice that they're delinquent with each year's filing. So by the, by the time they get that auto revocation notice, they've been told many times by the IRS and that they're late and it's, it's already done. You know, and they no longer have that C3 status. So it is their obligation to, to contact anybody that would be continuing to send them money or money that they have in, uh, in place that they would use and are continuing to use for, you know, some kind of grant. Um, they do need to alert those folks to that circumstance. Um, they can tell them, look, we're refileing, we hope to get it reinstated. The IRS has gotten much quicker at reinstatements than they were during sort of that covid period. Um, and so things are moving more quickly now so that, you know, and, and if you're really small organization, it's not that hard to get the, uh, filing submitted within a few days, hopefully. If you have to file a 999, 990EZs or 990's, as in addition, which I'll talk about later, it will take a little longer to pull that all together.

Sireesha ([08:41](#)):

Yeah. Let's, let's talk about that now. How does one file for the reinstatement of its 501(c)(3) status after the auto revocation?

Robyn ([08:50](#)):

So I have to point out that my comments today are focused really on 501(c)(3) public charities because there's a little different process if you're a private foundation and if you're, um, fall under one of the other 501C categories. Um, so this is, my comments today are specifically focused on 501(c)(3) public charities.

Robyn ([09:12](#)):

So there's different kinds of reinstatement, there's simple reinstatement and then there's retroactive reinstatement. Simple reinstatement is just, okay, we're gonna get a new exemption. We're not gonna try and fill that gap from when we were revoked to when we get our new exemption, we're gonna file a form 1023 application or a form 1023EZ depending on which one they fall into, um, and pay the user fee and, and just reapply. Essentially apply anew. Some organizations that might not have been required to file those forms to get tax exempt status once they're auto revoked, they must do that. So if they fell under a group exemption, for instance, and they were auto revoked, they now have to actually file the 1023 or 1023 EZ. If they're approved, the IRS will issue them an a determination letter and the date of their exemption will be the date of the filing of that 1023 application or 1023 EZ application. So it doesn't become retroactive. They'll also then be added to Pub 78 and the business master file as exempt as of the date of filing that 1023 or 1023EZ.

Robyn ([10:31](#)):

Most organizations want retroactive reinstatement because then there's no gap, right? Then it's like they just pick up right where they left off. It's much better with for their grants and for any, um, government funding. So, um, and also anybody that gives them a donation in that interim time, if it happens within the same tax year, then they don't have to reach out. That money becomes deductible. Um, those donations become deductible if that money happens to come in. So again, that's why you want really wanna do it quickly. So most want retroactive reinstatement.

Robyn ([11:06](#)):

There's two different kinds of retroactive reinstatement. There's streamlined retroactive reinstatement and then there's just general retroactive reinstatement.. And it all depends on the size of the organization. So streamline retroactive reinstatement is geared towards those organizations that should have filed a Form 990EZ or a Form 990N and who have not previously had their tax exempt status revoked. Um, and that's important <laugh>, um, 'cause you can't keep doing this. It's what the IRS's point is. Um, so you kind of get one free pass, um, and then it changes.

Robyn ([11:46](#)):

So for the streamlined, um, so to explain, 990EZ filers are organizations with less, less than \$200,000 in gross receipts and total assets of less than \$500,000. Form 990 filers are those who have gross receipts of less than \$50,000. So for those organizations though that were required to file the full form 990, they have to fall under the general retroactive reinstatement process. Um, and, and they don't fall under the, um, streamlined application retroactive reinstatement.

Sireesha ([12:21](#)):

Okay. So it seems like for most organizations that typically, um, are clients with PBPA or are small community-based nonprofits, they might be interested in the streamlined retroactive reinstatement and eligible for that. So can you tell me more about that one?

Robyn ([12:39](#)):

Sure. So organizations that have filed that 990 EZ or 990N um, and haven't previously had their exemption revoke can take advantage of that streamline retroactive reinstatement process. What they need to do is complete a new form 1023 or Form 1023EZ, pay the appropriate user fee. Be sure to do that within 15 months after the revocation letter and frankly, as soon as possible, don't wait the 15 months. Um, and then, um, and that, and it's the date, 15 months when you're talking about that 15 month deadline, that's the date of the revocation letter or the date they appeared on the revocation list on the IRS website. There's some organizations that for some reason find out by looking at the IRS website or someone else has done that and they don't have the letter in hand. And, and I have some suggestions for making sure that that doesn't happen in general.

Robyn ([13:36](#)):

Um, the organization also needs to make sure that when it, that it checks the appropriate box on the 1023 Schedule E or the form 1023EZ that it's filing is for reinstatement. It's really important to make sure you're checking that box for reinstatement. So you're completing the form, you're paying the user fee and you're checking that box on the form. The IRS will not impose penalties, which is important, um, for failure to file those annual returns for the last three years that caused the revocation, IF the organization is retroactively reinstated under this procedure. And if they file 990 EZs, they have to properly complete the past three years that they didn't file that cause auto revocation. So they have to

complete those 990 EZs for those three years on paper. At the top of each one of those forms, they have to write retroactive reinstatement. And honestly do it in red ink, um, on each one of those forms. And they have to be mailed in. Now we're at a crossroads here because now all form 990s are required to be filed electronically. So the IRS needs to catch up and figure out how these forms are gonna be filed. They're still requiring paper forms, but I imagine that in the near future that's gonna change and that we're gonna get new information about how to file those 990s. But organizations should be working with an accountant to get those 990s prepared, 990 EZs prepared. And the accountant should be able to keep up with and know what the way, how to file those 990 EZs. And I imagine at some point it will become electronic.

Robyn ([15:28](#)):

If the organization filed 990N, it doesn't have to do anything else. It just files it 1023EZ and it files, you know, and, and makes sure it checks the box that it's reinstatement, um, and pays the user fee. And that's it.

Sireesha ([15:43](#)):

That streamlined retroactive reinstatement process doesn't sound too bad, especially once it becomes, um, all available electronically. But what about for those organizations that aren't eligible for the streamlined reinstatement?

Robyn ([16:00](#)):

So there's two different options and it's really just a slight differential, but it's an important differential between the options for just retroactive reinstatement. So we've talked about simple reinstatement where you just start a new, get a new date for exemption. We've talked about retroactive reinstatement that's streamlined, which is for the little guys. Um, and that it's gonna make sure there's no gap in exemption. And now we're talking about sort of the bigger nonprofit corporation. So ones that are filing 990s and they're still going for the retroactive reinstatement at this point, which is removing that gap. And there's, there's a difference. I highly recommend you file within the 15 month period. If you file after the 15 month period, there's much more likelihood that you'll have to pay penalties for not having filed those 990.

Robyn ([16:53](#)):

So the process is pretty much the same as streamlined. But so they have to file the full form. They, they complete the 1023 application. They have to make sure they file that scheduled, um, schedule E and check the appropriate box, um, to make sure that they point out that they were, that they're looking for retroactive reinstatement and then they have to file the 990s that they didn't file for three years. But in addition to doing that, they also have to, um, establish on their 1023 application reasonable cause. And it's reasonable cause as to why they failed to file. They're a big organization, they're filing a full 990. They have to show reasonable cause as to why they didn't file. And, and in the case, if you file within 15 months, then you only have to show reasonable cause for one of those three years and that will remove all the penalties. But if you file after the 15 months, you have to show reasonable cause for all three years.

Robyn ([18:04](#)):

So for retroactive reinstatement for large organizations, they need to complete that 1023, they need to check the proper box and schedule E and they need to pay the appropriate user fee. And then they need

to include on that 1023 application that reasonable cause argument. Um, in addition, they then have to complete the three form 990s that they didn't complete before. And those are in paper form right now and they have to put at the top again and I recommend red, red ink, um, you know, large writing retroactive reinstatement on all three of those forms and mail them in. Again, this is probably gonna change, but it hasn't yet and will probably be some kind of electronic form eventually or format for submitting these special 990s, um, in some way. But they haven't figured that out yet. So the IRS will not impose penalties if they can do all of that and they have a good reasonable cause argument.

Robyn ([19:07](#)):

So what is a reasonable cause argument or statement? It establishes that the organization exercised ordinary business care and prudence in determining and attempting to comply with its annual reporting requirement. The statement should have a detailed description of all the facts and circumstances about why the organization failed to file, how it discovered the failure, and really importantly, the steps it will take to avoid or mitigate future failures. It's really helpful to have a lawyer or an accountant help draft that reasonable cause statement. If it's more than 15 months, then they have to have that reasonable cause statement for all three years for failure to file once the organization's tax exempt status is reinstated. Like I said, if through this retroactive reinstatement process be no gap in their exemption and hopefully they won't have any penalties because their reasonable cause argument will be accepted.

Sireesha ([20:08](#)):

In order to avoid all of this <laugh>, hopefully our, uh, nonprofits are filing their 990s every year. And if they get a letter from the IRS regarding revocation, they should respond within 15 months as you, um, have said. But what are some best practices, otherwise, a 501(c)(3) can take away from this situation?

Robyn ([20:32](#)):

Yeah, definitely work with an accountant or an attorney on the retroactive reinstatement process. Try and find accountants that have that do a lot of work with nonprofits as your accountant, um, because they are very familiar with the rules, they're very familiar with the forms. They know all the special issues that apply to nonprofit 501(c)(3)s. Um, always keep the IRS up-to-date on the organization's mailing and physical addresses, both of those addresses. And there's a simple form to submit for that information. Um, and you can always do it on your form 990 as well. Um, make sure that your mailing address, if it's different from your physical address, like a PO box is checked regularly, and I mean every week, if not more than once a week and by someone who's gonna promptly deal with important information. You also wanna make sure that anyone who receives and sorts the mail at your organization's physical address is aware of the need to promptly deal with important information such as any IRS letters or notices and other important legal type documents from the Secretary of State's office, Department of Labor, Georgia Department of Revenue, subpoenas, or other court documents. Those cannot languish and need to be addressed as soon as possible. Um, so they really need to get to the right people.

Robyn ([21:56](#)):

And above all, make sure your organization files its form 990, whether it's the full form, the easy or the end version each and every year. Also, make sure the IRS has received it. Um, and you can do that by checking the IRS website, um, their exempt organization select check page. They are now posting all 990 on their website. Now, it'll probably not post for at least 90 days, and it may take 150 days or 60 days,

but keep checking to make sure that it's actually up there so that you know it, they considered it complete and they accepted it.

Sireesha ([22:34](#)):

Wow. This has all been such great and helpful information. Robin, thank you for sharing your time and expertise with us. And for our nonprofits, we hope that you found this episode of the PBPA Podcast to be informative and helpful. We add new episodes every month with short conversations about general, yet important legal information for Georgia nonprofits. Remember that this is not legal counsel. Talk to your attorney about your organization's specific concerns. Thanks for tuning into the PBPA Podcast. And to all nonprofits listening out there, thank you for all the good work you continue to do in our community.