

Charitable Registration: Resolve to Comply



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Charities soliciting charitable contributions to further their mission can be tripped up significantly if they don't pay attention to the requirements for charitable solicitation registration.

Thirty-nine states and the District of Columbia require charities, unless exempt or excluded, to register before asking residents of their jurisdictions for contributions. The requirement applies not only to the home state of the charity, but also to any other such jurisdiction in which the charity is seeking contributions.

State regulators have the power to impose fines of many thousands of dollars and even issue injunctions against solicitation if the organization is not properly registered.

Charities that solicit funds on their own websites with a "donate now" type button often wonder whether they have to register in all of the jurisdictions because their website is accessible from anywhere in the world. The National Association of State Charity Officials (www.nasconet.org) has issued the "Charleston Principles" under which they recommend that charities not be required to register merely for hosting a "passive" website. By that they mean one where the charity does not drive traffic from the other state to the website by direct mail, telephone, emails, advertising, or other targeted activity. The issue arises, however, when the charity receives a contribution from the other state, thanks the donor, and then (almost inevitably) asks for more. At that point, there is a direct solicitation in the other state and the registration requirement will apply.

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Once registered, the charity must be sure to renew as required each year or face additional risks of fines and penalties. One state recently sought to impose a fine of \$10,000 on an organization that had raised \$85 from a donor within the state during the period it was out of compliance because its renewal was late.

In meeting the registration requirements charities are required to submit copies of their Form 990 or Form 990-EZ federal tax information return (if filed by the organization). The regulators normally look closely to see whether fundraising costs appear to be recorded properly, and check whether those listed as providing "professional fundraising services" on Schedule G are properly registered in the state as fundraising counsel or

professional solicitors. Registrations can be delayed or denied if not all of the listed parties are themselves registered where required. Intentional filing of false or misleading tax returns can be prosecuted.

Because most states are significantly strapped for funds these days, the imposition of fines for failure to comply with the rules can be a relatively easy money-maker, especially where the organization has no real defense. Charities that depend on contributions will be well served by being sure that they comply with any applicable charitable solicitation registration rules.

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