



Do You Need to Register before Raising Funds?

Be sure you understand the rules for soliciting gifts.

By Eric Peterson

By and large, charities promote the public good. On occasion, however, the disreputable take advantage of those making charitable gifts. For this reason, 38 states and the District of Columbia have registration requirements to reduce fraud and help ensure that charitable solicitations are legitimate. The price of such protection includes a burden on charities to follow a variety of registration requirements.

Rules Vary by State.

Most states require a charity to register before raising funds. Depending on your state, you need

Each state has its own unique filing requirements.

to register with either your attorney general or secretary of state. If you actively solicit funds in other states, you need to register there, too.

An organization that merely advises you about solicitation strategies may be required to register as “fundraising counsel.”

Despite some standardization, each jurisdiction retains its own unique filing requirements. For example, although 35 states accept the Uniform Registration Statement (an attempt at nationwide standardization), many of the same states also require nonprofits to file state-specific documents. More-

over, you must submit supporting materials, such as your Form 990 and audited financial statements, depending on the amount of contributions your organization received in the prior fiscal year.

Requirements in some states are quite detailed. You may need to supply bank account numbers, employment histories for the people in charge of donated funds, and examples of your brochures and other materials. In some jurisdictions, you must also qualify to do business in the state before seeking permission to solicit. This may require designating a registered agent in that state.

What If You Hire a Fundraiser?

If you use a professional fundraiser, even greater reporting requirements apply. You may need to supply identifying information

Failure to register could have serious consequences.

regarding the fundraiser, amounts paid for such services, and copies of any contracts between the parties. In many states, the professional fundraiser must also register under provisions specific to professional fundraisers. In some states, an organization that merely advises you about solicitation strategies may be required to register as “fundraising counsel” even if it conducts no actual solicitation.



What If You Collect Donations Online?

If you use the Internet to solicit funds only within the state in which your place of business exists, then you need only register in that state. But if you raise funds online from other states, you must register in each of those states if any of the following conditions exist:

- You receive contributions from that state on a repeated and substantial basis through your Web site.
- You target donors specifically in that state.
- You seek contributions through a site that invites offline contribu-

You're well-advised to comply, not only to avoid civil and criminal sanctions but to preserve your key asset—your good name.

tions or otherwise establishes contacts in that state.

Consequently, you're well-advised to review your Internet solicitations, whether interactive (people can donate online) or passive (you ask people to call your organization to make a donation) to ensure that you're complying with requirements in all states in which you raise funds.

How Do You Keep Your Registration Up-to-Date?

Once you've completed your initial registration, you must file annual renewals. Such filings are subject to the same variation by state as initial registrations. If your organization's fiscal year differs from the calendar year, additional complications can arise for annual renewals.

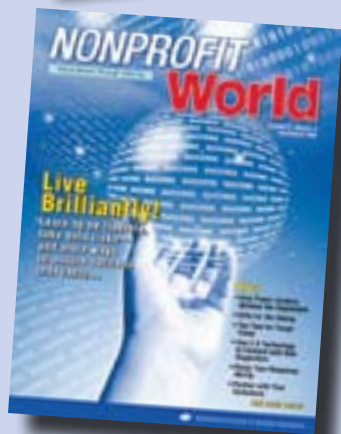
Penalties for Non-Compliance Can Be Harsh.

Failure to register before soliciting can result in administrative actions, civil fines, and even criminal charges against your organization

and its leaders. States have great discretion about whether to invoke sanctions against charities. If your failure to register is clearly just an oversight, your promise to comply in the future may be all that's required. But a knowing failure to register could have serious consequences, particularly if regulators seek to make an example of you as a warning to others.

An even graver risk is damage to your reputation. The negative publicity resulting from failure to follow the law can sully your image and decimate donations. Therefore, despite the cost of registering, you're well-advised to comply, not only to avoid civil and criminal sanctions but to preserve your key asset—your good name. ■

Eric M. Peterson, an associate in Dorsey's Health Group (peterson.eric@dorsey.com, 612-492-6968) practices general health law, focusing primarily on transactional and regulatory issues.



Enjoy Reading **NONPROFIT WORLD?**

Here are more benefits of membership in the Society for Nonprofit Organizations

- **12 issues of *Nonprofit World Funding Alert***, providing monthly updates on grant and funding opportunities
- **Membership in GrantStation**, with instant access to over 5,500 grantmakers via the Find-a-Funder searchable database
- **Complete access to over 700 printer-ready management articles**, searchable by author, key word, or subject
- **Discounts on products and services**, including books, audiotapes, videotapes and Webinars presented by experts in the field
- **Reduced enrollment fees** from the Learning Institute for the Society's **Certificate of Excellence in Nonprofit Leadership and Management**
- **Free job postings** on our NonprofitCareers.org job site

For more information, visit:

www.snpo.org