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What Every Not-for-Profit Needs to Know about State Charitable Solicitation Requirements

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Most not-for-profit organizations engage in fundraising. However, not all not-for-profit organizations are properly registered in the states where contributions are solicited. Compliance with state solicitation regulations is not optional and is not a new requirement. Currently, 45 states have state solicitation laws, 41 states require a registration and 4 states require a disclosure statement. Virginia (VA), for example, requires both registration and a disclosure statement. Requirements differ by state and can change from year to year; therefore, taking proactive measures now can help your organization avoid hefty fines later and keep your non-profit status secure.

The definition of solicitation can vary from state to state. Solicitation may include anything from a direct mail campaign to a grant application to hosting a fundraising event. If your organization is soliciting donations in one state only, there may be a registration requirement in that state regardless of whether any funds are received.

Almost every state requires registration prior to beginning solicitation. Registration fees vary from \$0 to over \$2,000 depending on the state and the amount of donations received. For example, VA requires that first year not-for-profit organizations with no history of donations currently pay a flat fee of \$100. Registration is typically paper-filed along

with required supporting documents, such as by-laws, list of directors, recent Form 990, audited or compiled financial statements, etc. Online filing is required in some states, and other states are converting to online filing systems. Deadlines for registration and renewal differ by state. The registration statement in VA is due on or before the 15th day of the fifth month of the next and each following fiscal year in which the charitable organization is engaged in solicitation activities within the Commonwealth. Extensions may be filed if required information is not available prior to the due date; however, extension requirements vary by state. Most states require annual renewals, while some require a biennial renewal.

Keep in mind that contracts with professional fundraisers can also prompt registration requirements, as could a website with a “Donate now” button. Unless the website explicitly states that the organization only accepts funds from states where it is registered for solicitation, there could be a registration requirement in all states.

Some not-for-profit organizations may be exempt from annual registration (i.e. - hospitals, churches, schools and organizations below specified state thresholds); however, there could still be some filing requirements. Exempt organizations should verify specific registration requirements in all applicable states.

Not-for-profit organizations should also investigate any disclosure requirements in states where contributions are solicited. For example, every charitable organization in VA that is required to be registered must disclose to the potential donor contemporaneously at the point of a written request, or on a written receipt for donations made in response to an oral request, that a financial statement is available from the State Office of Consumer Affairs in the Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218.

In summary, do not wait for a state notice. Investigate the requirements in each jurisdiction where your organization solicits contributions. Penalties for non-compliance can range from \$25/month up to \$25,000 for multiple violations. Further, non-compliance with solicitation requirements could result in the loss of an organization’s tax-exempt status. Some states, including VA, publish notices of delinquency, meaning at the very least your organization could lose credibility. Remember, donors are becoming more educated and could ask for proof of registration before donating, which is all the more reason to ensure your organization is in complete compliance now.

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