



TAX-EXEMPT ORGANIZATIONS ALERT

D.C., MARYLAND AND VIRGINIA CHARITABLE SOLICITATION REGISTRATION REQUIREMENTS

I. Overview

A nonprofit organization relies on the generosity of many people in order to carry out its mission. However, potential donors are understandably wary of unscrupulous solicitors who try to take advantage of the public support of charitable institutions.

In order to protect the public from unethical fundraising, most states, as well as the District of Columbia, have laws regulating the solicitation of charitable funds. Typically, these statutes require a nonprofit organization to register with the state government before soliciting funds from the state's residents, unless the organization qualifies for certain well-defined exemptions.

Individual state laws define what constitutes a "solicitation" somewhat differently, but generally a solicitation means any request for a contribution. Requests can come in many different forms, including:

- Verbal or written requests;
- Mailings, postings, print advertisements and pamphlets;
- Announcements to the press, over the radio or on television;

- Contact by telephone;
- Sale of tickets to fundraising events, such as gala dinners or charitable auctions; and
- Merchandise or subscriptions where any statement is made that the proceeds will be donated toward a charitable purpose.

Your organization should carefully examine its donor list to determine where your contributors are located. If the organization is sending mail or making telephone calls to even one resident of a state, the organization or its legal counsel should examine whether it is required to register there.

The registration requirements differ from jurisdiction to jurisdiction, but as a general rule they require information regarding:

- The organization's purpose and mission,
- The date and place of incorporation,
- The organization's articles of incorporation and by-laws,
- Addresses and contact information for the directors and officers of the organization, as well as those who will be directly soliciting funds,

- A copy of the organization's Form 990, and
- The methods used in conducting the solicitations.

Organizations are expected to update their registration on a yearly or biennial basis.

Certain organizations are exempt from states' registration requirements. The exemptions vary, but often solicitations by educational institutions and religious organizations are exempted from registration, as well as organizations whose total collections do not exceed a specified dollar threshold.

This alert provides an overview of the charitable solicitation requirements of the District of Columbia, Virginia, and Maryland. It identifies the documents an organization will need to submit, the thresholds for qualifying for exemptions, and outlines the renewal processes. Organizations that solicit contributions from donors residing in the entire metro area must determine if they are required to register in all three jurisdictions.

II. D.C. Requirements

The District of Columbia government requires all entities doing business in D.C., including nonprofit organizations, to obtain a basic business license. In addition, charitable organizations must obtain a license to solicit charitable contributions.

To assist charitable organizations, the D.C. government has incorporated the application for a charitable solicitation license into the basic business license

application. Some organizations, including those that receive less than \$25,000 in contributions annually (see below), are exempt from these registration requirements.

Registration Requirements: To get a basic business license, a nonprofit must first ensure it is registered to do business in D.C. with the Department of Consumer and Regulatory Affairs' (DCRA) Corporation Division. Organizations incorporated in another state, but doing business in the District, must register as foreign corporations. For purposes of the rules, "doing business" includes having an office, conducting programs, hiring employees, or soliciting contributions within the District.

In order to register your nonprofit corporation, you must submit the following to DCRA:

- The organization's articles of incorporation, and
- The name of the organization's registered agent.

The organization's registered agent is the person that receives legal notices on behalf of your organization. The agent must have a presence in D.C. and have a physical D.C. address, but need not be an individual; a corporation may serve as a registered agent.¹ If your business uses a trade name, you will need to register that name with DCRA as well.

As a next step, your organization must register with the Office of Tax & Revenue by filing Form FR-164 and Form FR-500, so that the organization can pay payroll and sales taxes, if necessary. If your organization is based

¹ For a small fee, certain companies will serve as registered agents for out-of-state corporations.

in the District, you will also need to obtain either a certificate of occupancy or a home occupancy permit for your office space.

Once you have taken these steps, your organization can now complete the application for a basic business license. To file an application, applicants first must complete the [Basic Business License EZ Form](#), and should submit the following along with the form:

- A [Clean Hands Self-Certification](#);
- The tax I.D. number from the D.C. Office of Tax and Revenue;
- A [Certificate of Occupancy](#) for the premises your organization occupies;
- A copy of your organization's IRS determination letter;
- A [Certified Resolution](#) from the board authorizing the registration; and
- A list of any individuals who will be soliciting on the organization's behalf, along with their addresses.²

Solicitor Information Cards: In the District of Columbia, any individual who solicits and receives custody of charitable contributions from the public must register with the District government and obtain a solicitor information card. This requirement includes those individuals who are working for an organization that has registered.

Solicitors are exempt from the registration requirements if the following conditions are met:

- The solicitor does not receive in hand more than \$25,000 in contributions during a calendar year;
- The solicitor is unpaid for his or her services; and
- No part of the contributions the solicitor collects are paid to any officer, member or solicitor or used for their benefit.

If the individual your organization hired to solicit does not have a card, they may obtain one when your organization registers.

The filing fee for BBL-EZ is \$412.50 for a two-year license, or \$720.50 for a 4-year license. Once the organization has registered, it must display its certificate of registration in a prominent place, and [renew](#) its registration every two years. Renewal is due 30 days prior to the expiration date of the previous license.

Exemptions: Not all organizations are required to comply with the registration process in order to solicit funds within the District. The D.C. Code exempts four types of organizations that solicit funds from registration:

- Small organizations that do not raise more than \$25,000 per year from D.C. residents;
- Organizations that solicit donations only from their members or members' families;
- Organizations that only engage in workplace giving campaigns; and
- Religious organizations that solicit for educational or religious purposes.

To qualify for the small solicitation exemption, the individuals doing the

² In addition, each professional fund raiser and professional solicitor must provide a copy of any

contract made by or on behalf of the applicant with the professional fund raiser or solicitor.

fundraising may not be paid for their services and no part of the contributions may be paid to any officer, member, or solicitor, or used for their benefit.

The membership exemption applies if the governing body of the organization approves the solicitation. The organization may solicit from any member or the family of any member, however, an individual cannot be considered a member simply because the person previously donated to the organization.

If an organization wants to claim a workforce exemption, the solicitation must be approved by the employer and the solicitation must be carried out under the supervision of the employer and only at the workplace.

Finally, religious organizations may also be exempt from registration. In order to qualify for this exemption, the organization must:

- Submit a certified copy of its IRS determination letter declaring their organization to be exempt under Section 501 of the Internal Revenue Code; and
- An affidavit stating that the tax-exemption is still in effect as of the date of submission.

Organizations seeking the religious exemption may not solicit contributions until after their application for exemption has been approved.

III. Virginia Requirements

In the Commonwealth of Virginia, organizations are required to register with the Virginia Department of Agriculture and Consumer Services before soliciting

contributions from the Commonwealth's residents. Nonresident organizations are subject to the same registration requirements as organizations incorporated in Virginia.

To register, applicants must submit the [Virginia Registration Statement for a Charitable Organization](#) with the following attachments:

- A copy of the organization's articles of incorporation and by-laws;
- A copy of the organization's IRS determination letter;
- The organization's Form 990 from the prior fiscal year or certified audited financial statements for the prior fiscal year;
 - If the organization files Form 990-N, it may file a copy of a balance sheet and income and expense statement verified under oath or affirmation by the treasurer of the organization in lieu of a Form 990. If the organization has no financial history, it should include its board- approved budget for the current fiscal year.
- The names, addresses and titles of the organization's officers, directors and other executive staff;
- A list of each professional fundraiser or solicitor, other than employees, who will be working for the organization and a copy of any contracts made with professional fundraisers;
- A statement detailing the percentage of the organization's income spent on fundraising; and
- A statement describing the general purposes for which the solicited contributions shall be used.

Organizations are required to re-submit the Virginia Registration Statement for a Charitable Organization each year to inform the Commonwealth about their activities. The deadline for this submission is the fifteenth day of the fifth calendar month following the end of the organization's fiscal year. Thus, an organization using the calendar year as its fiscal year would need to file by May 15th. Organizations are not required to resubmit their charter, by-laws, IRS determination letter or contracts, unless they have been altered.

If an organization has prior financial history when it first attempts to register, it must pay the \$100 registration fee and an annual fee, which is determined based on the total contributions the organization received in the previous year. An organization without financial history is only required to pay the \$100 registration fee.

Thereafter, an organization is required to pay the appropriate annual fee when it resubmits its registration statement.

| Level of Charitable Contributions | Annual Fee |
|-----------------------------------|------------|
| Less than \$25,000 | \$30 |
| \$25,000 but < \$50,000 | \$50 |
| \$50,000 but < \$100,000 | \$100 |
| \$100,000 but < \$500,000 | \$200 |
| \$500,000 but < \$1 million | \$250 |
| \$1 million and above | \$325 |

Exemptions: Virginia exempts a number of types of organizations from its registration requirements. The most common used exemptions available to charitable groups are:

- Educational institutions accredited by the Board of Education or by a recognized national or regional accrediting institution;

- Persons requesting contributions solely for the relief of a specified, named individual, where the gross amount is turned over to that individual;
- Charitable organizations that do not intend for the total amount of the contributions it receives from both Virginia residents and nonresidents to exceed \$5,000.
 - If the organization has a financial history, the total amount of the actual contributions it received from the public each year, for the last three years, must be less than \$5,000. These funds must also be solicited by unpaid individuals;
- Organizations that only solicit from their members. To qualify as a member, the organization must confer some benefit to the individual and the individual must have the right to vote for and hold office in the organization;
- Organizations that do not have a physical office in Virginia, but solicit from outside the state, and also have a chapter, branch or affiliate within Virginia that has already registered;
- Certain tax-exempt healthcare institutions;
- Any church or association of churches that is primarily operated for non-secular purposes, where no part of the net income of which directly benefits any individual;
- Tax-exempt nonprofit organizations that only solicit contributions through grant proposals submitted to for-profit corporations, tax-exempt nonprofit organizations and private foundations.

Organizations that qualify for the church exemption are not required to submit any documents to the Department of

Agriculture and Consumer Services. In order to qualify for any other exemption, an organization must file the [Virginia Exemption Application for a Charitable or Civic Organization](#) and submit a onetime fee of \$10, along with required documents listed on the form. Once granted, the exemption remains in effect so long as the organization solicits in accordance with its claim for exemption.

Disclosure Requirements: Nonexempt organizations are required to include a disclosure statement on all written solicitations and receipts. The statement should inform contributors that a financial statement for the organization is available from the Department of Agriculture and Consumer Services upon request.

IV. Maryland Requirements

In Maryland, all organizations are required to register with the Charitable Organizations Division of the Office of the Secretary of State before soliciting within Maryland. Organizations must submit Maryland's [Registration Statement](#) (Form COR-92). Applicants will also need to submit:

- A copy of the organization's articles of incorporation and bylaws;
- A copy of the organization's IRS tax determination letter;
- A signed copy of the latest IRS Form 990;
- The names and addresses of the board of directors;
- A copy of all contracts with professional solicitors or fundraising counsel, other than employees located in the State of Maryland;
- A statement describing the purpose for which the organization was organized; and

- A statement detailing how the contributions to be solicited will be used.

If an organization's contributions are at least \$300,000, but less than \$750,000 per year, the group must submit a financial review performed by an independent certified public accountant. If an organization's contributions are at least \$750,000 per year, it must submit a formal audit performed by an independent certified public accountant.

Organizations must pay an initial registration fee and, thereafter, an annual fee each year. Both of these fees are based on the gross level of charitable contributions the organization received from any source.

| Level of Charitable Contributions | Annual Fee |
|-----------------------------------|------------|
| Less than \$25,000 | \$0 |
| \$25,000 but ≤ \$50,000 | \$50 |
| \$50,001 but ≤ \$75,000 | \$75 |
| \$75,001 but ≤ \$100,000 | \$100 |
| \$100,001 but ≤ \$500,000 | \$200 |
| \$500,001 and above | \$300 |

Organizations must update their registration within six months of the end of the fiscal year. They should submit:

- The [Annual Update of the Registration Form](#);
- The annual filing fee;
- The most recent Form 990 (or, if your organization files the 990-N or is not required to file the 990, the Form COF-85);
- A list of the current board members;
- Any new fundraising contracts; and
- A financial review or audit if the organization's contributions exceed \$300,000 and \$750,000 respectively.

Exemptions: Maryland exempts organizations that engage in certain types of soliciting from its registration requirements. In order to qualify for any exemption, an organization must not employ a professional solicitor. In addition, to be exempt from registration in Maryland, an organization must:

- Be a tax-exempt religious organization, parent organization of a religious organization or school affiliated with a religious organization;
- Solicit contributions only from its members. To qualify as a member, the organization must confer some benefit to the individual and the individual must have the right to vote for and hold office in the organization;
- Solicit contributions for a specific, named individual, where the gross amount is delivered to that individual;
- Receive less than \$25,000 in annual contributions from Maryland residents and nonresidents; or
- Only receive contributions from for-profit corporations and private foundations.

To qualify for a religious exemption, the organization must submit to the Charitable Organizations Division:

- A copy of the IRS determination letter designating the organization as tax exempt;
- The organization's articles of incorporation; and
- A document explaining the mission of the organization.

An organization seeking a membership exemption must submit:

- A copy of the organization's bylaws showing members' rights; and
- A statement of who will be solicited.

An organization seeking an exemption on the grounds that it only receives contributions from for-profit corporations and private foundations should submit its latest Form 990 and financial documents to establish its income sources.

If an organization received less than \$25,000 in total contributions from Maryland residents and nonresidents in the most recent completed fiscal year, or if it is seeking exemption on the grounds of fundraising for a named individual, it must submit the [Exempt Organization Fund-Raising Notice](#). This notice must be resubmitted annually.

In any year that an organization receives more than \$25,000 or hires a professional solicitor, it will need to register by submitting an Annual Update of the Registration Form.

Disclosure Requirements: Nonexempt organizations are required to include a disclosure statement on all written solicitations and receipts. Each disclosure statement should include:

- A statement that a copy of the current financial statement of the charitable organization is available on request;
- The name of the charitable organization and the address and telephone number where requests for a copy of the financial statement should be directed; and
- A statement that, for the cost of copies and postage, documents and information submitted in compliance with the Maryland Solicitations Act

are available from the Secretary of State.

V. Unified Registration Statement

It can be burdensome and inefficient for organizations soliciting contributions in more than one state to fill out a different form for each state. Recognizing this, charity officials from several state governments created the [Unified Registration Statement](#). The Unified Registration Statement is now accepted by a majority of the 40 jurisdictions that require organizations to register in order to solicit, including Maryland, Virginia and the District of Columbia.

Typically, the Unified Registration Statement can be used in lieu of the state-specific form, and thus is most useful when an organization will be soliciting regionally or nationally. For example, Maryland and Virginia allow organizations to use the Unified Registration Statement rather than the state-specific forms.

However, some jurisdictions have more stringent registration requirements than others and therefore may require supplemental forms in addition to the Uniform Registration Statement. For example, D.C. requires applicants to complete a basic business license application in addition to the Unified Registration Statement.

To use the Unified Registration Statement, simply fill out the Unified Registration Statement, attach the state-specific attachments and submit.

VI. Online Solicitations

Generally, electronic solicitations are subject to the same rules that apply to in-

person and solicitations sent through the U.S. mail. Therefore, an organization must register in all applicable states to which it sends email solicitations.

However, different rules apply to “passive” solicitations, such as when an organization features a “donate” button on its website. In many cases, an organization will accept donations from donors in states where it is not registered, but does not actively reach into that state to solicit donations.

To address this situation, the National Association of State Charity Officials have adopted a set of non-binding principles (known as the [Charleston Principles](#)), which provide that if a charitable organization has a passive donation link on its website – meaning that the donor must come to the website in order to donate – the organization will not be considered to be soliciting donations in the donor’s state of residence.

However, the organization cannot use other means of communications to individuals in the state to induce them to visit the website in order to donate. Additionally, the registration requirement will be triggered if the amount of donations an organization receives from a particular state are “repeated and ongoing” or “substantial.” The Principles define “repeated and ongoing” or “substantial” as meaning that the organization received contributions within the fiscal year that are of sufficient volume to establish that the donations are regular or significant, as opposed to rare, isolated, or insubstantial.

The organization will also trigger the registration requirement if it subsequently re-solicits a donor who

contributed via its website, unless the organization is otherwise exempt from registration.

In some, but not all, states, if the organization uses an intermediary such as Network for Good to accept and process online donations, the organization may not be required to register, as long as the intermediary is registered. In other states, the fact that contributions are being made on the organization's behalf is sufficient to require registration.

However, the Charleston Principles suggest that "states should consider whether, as a matter of prosecutorial discretion, public policy, and the prioritized use of limited resources, it would take action to enforce registration requirements as to charities who do not independently" solicit funds.

VII. Additional Resources

You may find the following helpful:

- D.C. Bar Pro Bono Center, [Webinar: Soliciting Charitable Contributions in DC, Maryland, and Virginia](#)
- [The Multistate Filing Project](#)
- [DC government website](#)
- [Virginia government website](#)
- [Maryland government website](#)

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