Massachusetts Charitable Solicitation Registration: A General Overview for Nonprofits

Description

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Charitable solicitation registration is an often-overlooked aspect of nonprofit compliance. While organizations typically focus on maintaining their tax-exempt status, corporate governance, and fundraising initiatives, they should also understand the charitable solicitation laws of each state in which they seek donations. Because these laws are governed primarily at the state level, registration requirements, exemptions, filing obligations, and enforcement mechanisms vary by jurisdiction.

This alert provides a general overview of charitable solicitation registration using Massachusetts as an illustrative example. Organizations fundraising across multiple states should evaluate the laws of each jurisdiction in which they solicit contributions to ensure ongoing compliance.

Why it Matters

Although charitable solicitation registration is often viewed as an administrative filing requirement, it serves an important regulatory function by promoting transparency, protecting donors, and fostering public confidence in charitable organizations. From a practical standpoint, organizations that fail to understand or comply with applicable registration requirements may face regulatory inquiries, administrative penalties, disruptions to fundraising activities, and reputational risk. Taking a proactive approach to compliance can help organizations avoid these issues while maintaining focus on their charitable missions.

What Counts as a Charitable Solicitation?

Although the precise definition varies by state, charitable solicitation laws generally define “solicitation” broadly to include requests for charitable contributions made through virtually any medium. This may include direct mail campaigns, telephone solicitations, fundraising events, email campaigns, websites, social media, crowdfunding platforms, text messaging campaigns, and other requests for charitable support.

As fundraising increasingly occurs online, organizations should not assume that internet-based fundraising falls outside state registration requirements. For example, a nonprofit that launches an online giving campaign or accepts donations through its website may trigger charitable solicitation registration obligations in states where it actively solicits or receives contributions. Likewise, businesses partnering with charities for restaurant “give-back” nights, point-of-sale donation campaigns, or other cause-marketing promotions should evaluate whether additional compliance obligations apply before launching a campaign.

Registration Is Only the Beginning

For many organizations, charitable solicitation registration is not a one-time filing. States commonly require annual renewals, financial reporting, updated organizational information, and filing fees to maintain compliance.

Massachusetts provides one example of this framework. Organizations that solicit charitable contributions from the public in Massachusetts generally must register with the Attorney General’s Non-Profit Organizations/Public Charities Division before engaging in fundraising activities unless a statutory exemption applies.[1] Registered public charities generally maintain compliance through annual Form PC filings together with any required financial reports and applicable filing fees. [2]

Organizations should also remain aware of evolving reporting requirements. For example, Massachusetts recently increased the revenue thresholds that determine when charities must submit reviewed or audited financial statements with their annual filings.

A Common Misconception

Federal tax-exempt recognition under Section 501(c)(3) does not eliminate state charitable solicitation requirements. An organization recognized as tax-exempt by the Internal Revenue Service may still be required to register before soliciting charitable contributions within a particular state.[3]

Similarly, organizations often assume that registration is required only in the state where they are incorporated or headquartered. In reality, nonprofits conducting fundraising activities across state lines should evaluate the registration requirements of each jurisdiction in which they solicit contributions.

Don't Overlook Third-Party Fundraising

Many nonprofits engage professional fundraisers, fundraising counsel, commercial co-venturers, or other third parties to assist with fundraising efforts. These relationships frequently carry separate registration, contract filing, disclosure, or reporting requirements under applicable state law.

Before launching a fundraising campaign involving third-party assistance, organizations should confirm that all parties understand and satisfy their respective compliance obligations.

Practical Considerations

Organizations should periodically review their fundraising activities to:

- Determine where they solicit charitable contributions.
- Evaluate whether planned fundraising activities require charitable solicitation registration or qualify for an available exemption.
- Maintain required annual registrations and reporting obligations.
- Review agreements with professional fundraisers, fundraising counsel, and commercial co-venturers.
- Monitor changes in financial reporting thresholds and filing requirements.
- Reassess compliance as fundraising methods, online giving platforms, and geographic reach evolve.

Although charitable solicitation laws differ from state to state, organizations that periodically review their fundraising activities and registration obligations are better positioned to avoid compliance issues, preserve donor confidence, and remain focused on advancing their charitable missions.

For more information regarding Massachusetts charitable solicitation registration requirements, assistance reviewing your organization's fundraising compliance practices, or general Nonprofit & Tax-Exempt guidance, please contact Elizabeth Manchester.

[1] Mass. Gen. Laws ch. 68, §§ 18–20.

[2] Mass. Gen. Laws ch. 12, § 8F.

[3] Mass. Gen. Laws ch. 68, § 19.

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