

Make Your Charity Great Again; Double-Check Your Compliance With State Registration Laws

Earlier this month, the New York Attorney General's office ordered Donald Trump's foundation to immediately stop soliciting charitable donations in the state. The attorney general also demanded that the Trump Foundation provide years of financial records and other information; if it has been in violation of New York registration law, the Foundation could even be required to return money raised during those years.

(Please note: we take no position on the validity of these allegations, and the Trump Foundation indicated that it intended to cooperate fully with the investigation.)

The Clinton Foundation also allegedly failed to comply with the state's charitable registration laws. In fact, failure to properly register and report under state law happens often, and is easy to do in light of all of the rules, regulations, and restrictions imposed on charities.

The New York investigation is a reminder that nearly all states – including Rhode Island and Massachusetts – require charitable organizations to register and file annual reports. These state law requirements are in addition to all of the other requirements imposed on nonprofits, such as the IRS Form 990 and annual corporate reports.

In Rhode Island, all charitable trusts must register, and any non-exempt charities must register if they raise over \$25,000 from individuals or if they use professional fundraisers. In Massachusetts, nearly all public charities must register, and non-exempt charities generally must obtain an additional certificate of solicitation unless they raise or receive less than \$5,000 from the public or receive contributions from ten or fewer persons in a calendar year, and are entirely operated by volunteers.

While the Trump Foundation apparently failed to register in its home state, it's also important to note that cross-border state registration requirements may apply. For example, organizations that solicit money from residents of another state, or that benefit from charitable co-branding relationships across state lines, may be required to register in those other states as well.

The New York notice of violation to the Trump Foundation stated that a failure to comply would be deemed a fraud upon the people of New York. Thus, the impact of even inadvertent violations of state charitable registration laws – both on fundraising and reputation – can be “huge”.

Date Created

October 17, 2016