

New York State Attorney General Charities Bureau

Registration and Reporting Requirements



BOARD GOVERNANCE :
Effectively Managing Your Not-for-Profit
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Overview

- Role of the Attorney General
- Setting up a non-profit
- Registration and filing requirements for charities
- Registration and filing requirements for fund raising professionals
- How can we help
- Exciting things to come

Role of the Attorney General

□ Mission

- Supervise non-profits and their fund raising professionals that conduct activity or solicit contributions in New York
- Protect the interests of donors, charitable beneficiaries and non-profits
- Promote accountability of the non-profit sector

Role of the Attorney General

- Areas of oversight
 - Prevent fraudulent solicitation of contributions
 - Monitor fiduciary duties of directors & officers
 - Self-dealing
 - Excessive compensation
 - Monitor adherence to donor restrictions
 - Review fundamental corporate changes
 - Registration

Setting Up a Non-Profit

□ Formation

- NYS Dep't of State – www.dos.state.ny.us
 - Choice of entity (usually NFP corporation)
 - Choice of state (usually NY or Delaware)

□ Tax Exemption

- IRS – www.irs.gov/charities/index.html
 - 501(c) exemption from federal income tax
- NYS Dep't of Taxation & Finance – www.tax.state.ny.us
 - Exemption from NYS income and sales tax

□ Registration with the Charities Bureau

Registration and Filing Requirements for Charitable Organizations

- Why is registration important?
- Which organizations must register?
- Which organizations are exempt?
- How does an organization register?
- How does an organization claim an exemption from registration?
- What must be filed annually?

Importance of Registration

- Financial information and other disclosure available to regulators and the public

Which Organizations Must Register?

- Estates, Powers and Trusts Law (EPTL)
 - Organizations that conduct charitable activity in New York
- Executive Law, Article 7-A (Article 7-A)
 - Organizations that solicit charitable contributions from New York
- Dual registrants
 - Organizations that must register and file under both the EPTL and Article 7-A

EPTL Registration

- Charitable organizations that are incorporated, are formed or otherwise conduct charitable activity in New York
- Charitable is broadly defined
 - Generally includes 501(c)(3) organizations and type B NY NFP corporations
 - Charitable, educational, religious, scientific, literary, cultural, prevention of cruelty to children/animals
 - May include other organizations with a public purpose

EPTL Registration Exemptions

- Exemption Categories:
 - Governmental entity
 - Reports to US Congress or NYS Legislature
 - Religious
 - Educational/historical
 - Hospital
 - Organized for benefit of members, not public
 - Volunteer firefighters/ambulance
 - Cemetery
 - PTA
 - Insurance corporation

Article 7-A Registration

- Organizations that solicit charitable contributions from New York State
- Charitable is broadly defined
 - Includes organizations that are charitable under EPTL
 - Also includes benevolent, philanthropic, patriotic and law enforcement support organizations
- Solicitation is broadly defined
 - Not just telemarketers or mass mailers
 - Grant application constitutes solicitation, including state agency grant
 - EPTL §8-1.4(s) - An organization “shall not be qualified to make application for funds or grants or to receive such funds from any department or agency of the state without certifying compliance with” all applicable registration and filing requirements

Article 7-A Registration Exemptions

□ Exemption Categories:

- Some similar to EPTL – governmental, religious, PTA
- Some differences
 - No exemption for hospitals or cemeteries
 - Contributions threshold (<\$25K from NY & no FRPs)
 - Confined solicitation targets
 - Educational institution confining solicitation to students, alumni, faculty, etc.
 - Membership organizations confining solicitation to members
 - Confined solicitation agents
 - Veterans or volunteer firefighters/ambulance organization that does not use fundraising pros
 - Receives allocation from federated fund, United Way, etc. and does not receive >\$25K in other contributions
 - Already reporting to government
 - Receives most contributions from **single** government agency to which it reports annually and does not receive >\$25K in other contributions
 - Educational institution that reports annually to Regents/NYS Ed. Dep't

Registering with the Charities Bureau

- Registration timing
- Registration documents and fees

When to Register

- EPTL
 - Within 6 months of conducting charitable activity in New York
- Article 7-A
 - Prior to solicitation
- Dual
 - Whichever is earlier of the above two

What to Submit to Register

- CHAR410
- Attachments
 - Certificate of incorporation or other organizing document
 - Bylaws or other organizational rules
 - IRS Form 1023/1024 tax exempt application
 - IRS tax exemption determination letter
- Fee
 - EPTL – \$0
 - Article 7-A or Dual – \$25
- Once registered, organization will receive a Charities Bureau registration # and written confirmation of its registration

How to Claim an Exemption

- ❑ Organizations exempt from registration are not required to claim an exemption, but can
- ❑ Submit completed CHAR410 with all attachments, plus completed Schedule E with any additional attachments
- ❑ If determined to be exempt, organization will receive a Charities Bureau ID# and written confirmation of its exemption

What to File Annually

- Filing timing
- Filing documents and fees

When to File

- EPTL
 - Within 6 months of end of fiscal year
- Article 7-A or Dual
 - Within 4½ months of end of fiscal year

What to Submit Annually

- CHAR500
 - New form – replaces CHAR497, CHAR010 & CHAR006
 - Eliminated CHAR003 Securities Schedule
 - Filed by all non-profit organization registrants regardless of registration statute
- Article 7-A schedules
 - Use of fund raising professionals
 - Receipt of government grants
- Attachments
 - IRS Form 990, 990-EZ or 990-PF with all schedules
 - Additional Article 7-A document attachment requirement
 - Independent accountant's audit or review, based on total support & revenue
- Fee
 - EPTL – from \$25 to \$1,500, based on net worth
 - Article 7-A – either \$10 or \$25, based on total support & revenue
 - Dual – sum of EPTL and Article 7-A fees

Required Solicitation Disclosures

- Any solicitation used by or on behalf of a charitable organization must:
 - include the name of the charity exactly as it is registered with the Charities Bureau and should accurately describe the organization, its activities and the purposes for which contributions are being solicited
 - advise potential contributors that a copy of the charity's most recently filed annual financial report is available from the organization itself or the Charities Bureau

How Can We Help?

- Forms, Instructions, Info for Donors, Guides & Legal Info
 - www.oag.state.ny.us/charities/charities.html
- Charities Bureau Registry Search
 - <http://www.oag.state.ny.us/charities/search.html>
- General Registration Questions
 - Charities.Bureau@oag.state.ny.us
 - (212) 416-8401
- Questions about Fund Raising Professionals
 - Charities.Fundraising@oag.state.ny.us
 - (518) 486-9797

How Can We Help?

□ Complaints about Charities

- Complaint form –

www.oag.state.ny.us/charities/char030.pdf

□ FOIL

- FOIL form –

www.oag.state.ny.us/charities/char007.pdf

- Charities.FOIL@oag.state.ny.us

(212) 416-8390

- www.guidestar.org

- www.eri-nonprofit-salaries.com

Exciting Things to Come

- E-Filing
- Scanning and imaging - Downloading documents from the Charities Bureau website
- Automated correspondence