



**DEPARTMENT OF THE ATTORNEY GENERAL
TAX & CHARITIES DIVISION
ANSWERS TO FREQUENTLY ASKED QUESTIONS ABOUT HAWAII'S CHARITY
REGISTRATION REQUIREMENTS**

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1. Who is required to register?

A charitable organization that solicits contributions in Hawaii, or for which any contributions are solicited by others in Hawaii, must register unless it satisfies one of the exemptions in the registration law.

2. What is a “charitable organization” for purposes of the registration law?

A “**charitable organization**” is any organization that solicits funds in Hawaii that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code. A **charitable organization** also includes any person who is or holds itself out to be established for any benevolent, educational, philanthropic, humane, scientific, patriotic, social welfare or advocacy, public health, environmental conservation, civic, or other eleemosynary purpose, or any person who in any manner employs a charitable appeal as the basis of any solicitation or an appeal that has a tendency to suggest there is a charitable purpose to the solicitation.

3. What does "solicit" mean?

The terms **solicit or solicitation** is very broadly defined in the current law to include any request for money or anything of value for a charitable purpose:

"**solicit**" and "**solicitation**" mean a request directly or indirectly for money, credit, property, financial assistance, or thing of value on the plea or representation that the money, credit, property, financial assistance, or thing of value, or any portion thereof, will be used for a charitable purpose or to benefit a charitable organization. These terms shall include the following:

- (1) Any oral or written request.
- (2) The making of any announcement to any organization for the purpose of further dissemination, including announcements to the press, over the radio or television, or by telephone, telegraph, or facsimile, concerning an appeal or campaign by or for any charitable organization or purpose.
- (3) The distribution, circulation, posting, or publishing of any handbill, written advertisement, or other publication that directly or by implication seeks to obtain public support.
- (4) Where the sale or offer or attempted sale, of any advertisement, advertising space, book, card, tag, coupon, device, magazine, membership, merchandise, subscription, flower, ticket, candy, cookies, or other tangible item in connection with which any appeal is made for any charitable organization or purpose; or where the name of any charitable organization is used or referred to in any appeal as an inducement or reason for making any sale; or where in connection with any sale, any statement is made that the whole or any part of the proceeds from any sale will be used for any charitable purpose or to benefit any charitable organization.
- (5) A request made through the use of receptacles for contributions such as honor boxes, vending machines, wishing wells, contribution boxes, and novelty

machines, where a charitable appeal is used or referred to or implied as an inducement or reason to contribute.

A solicitation occurs whether or not the person making the solicitation receives any contribution. However, the term shall not include the submission of a grant or subsidy proposal or application to a governmental authority or any organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code.

A solicitation does not necessarily occur when an organization that does not solicit contributions receives a charitable contribution.

4. What is a "contribution" and does it include grants from government agencies, foundation grants, and dues from members?

The term "**contribution**" is defined as follows:

“the promise or grant of any money or property of any kind or value, including the promise to pay, except payments by members of a charitable organization for membership fees, dues, fines, or assessments, or for services rendered to individual members, if membership in the charitable organization confers a bona fide right, privilege, professional standing, honor, or other direct benefit, other than the right to vote, elect officers, or hold offices, and except money or property received from any governmental authority, or a grant or subsidy from any organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code.”

Thus, a grant received from the government or another 501(c)(3) charitable, educational, or religious organization is not a “contribution.” Membership dues and assessments are also not considered contributions.

5. How does an organization register with the Attorney General?

Hawaii uses an internet-based registration system for organizations to complete and submit their unified registration statement (URS) and to file annual financial reports. The link to the Hawaii registration site is <http://efile.form990.org/states/hawaii>.

Users will need to obtain a login and password from this site and then return to complete and submit the registration data. The registration site will also allow professional advisors, like law firms or accountants, to complete the registration statement and other forms for that organization. The registration statement has 22 questions and requires 2 officers to electronically sign.

There is no fee to submit a registration with the Hawaii Attorney General.

We highly recommend that you review the online guide before starting the registration process—it will answer many questions and simplify your registration process:

<http://ag.hawaii.gov/tax/files/2012/12/Hawaii-Charity-Registration-Guide-updated-Sept-20142.pdf>

6. Does an organization have to annually renew its registration? Is there an annual report?

In Hawaii, organizations do not renew their registration statement (URS), but they must submit annual financial reports to the Attorney General. An organization's first annual report should be for the year immediately after the year on which the URS is based. For example, if an organization registers with the Attorney General in January 2016 based on the most recent tax year 2014 information, the organization must submit its first annual report for tax year 2015 when the 2015 annual report is due, and thereafter.

The law also requires submission of an audit report if the organization receives over \$500,000 in **contributions** or if the organization obtains an audit report pursuant to a requirement by a governmental authority or third party. **Contributions do not include grants from governmental authorities or 501(c)(3) organizations.** Contributions include those received from any jurisdiction, not just Hawaii.

7. When is the deadline for a registered organization to submit its annual report to the Attorney General?

For organizations that file an IRS Form 990 or 990EZ, the annual report is due within ten business days of the date that the organization files the form with the Internal Revenue Service.

For organizations that file a Form 990-N or organizations that are not required to file a Form 990 or 990-EZ, a special Hawaii transmittal must be submitted to the Department no later than the fifteenth day of the fifth month following the close of its fiscal year.

Organizations that have filed a unified registration statement (URS) for Hawaii should receive a courtesy filing reminder email from the efile.form990.org website the day after the organization's fiscal year end and the day after the initial due date of the Form 990, without extensions.

8. Does a registered organization have to notify the Attorney General that it obtained an extension of time to file its IRS Form 990/990EZ?

No. However, if the Attorney General requests to see a copy of the organization's extension to file Form 990 or 990EZ granted by the IRS, the organization must provide a copy to the Attorney General within 20 days after the request.

9. What are the filing requirements when an organization changes its accounting period?

The procedures for filing a Hawaii annual report when there is a change in accounting period depend on whether the change in accounting period will result in having to file two IRS forms for the same tax year. We illustrate the procedures for two examples: the first example is when the change in accounting period does not result in having to file two Form 990 filings for the

same tax year, and the second example is when the change in accounting period results in having to file two Form 990 filings for the same tax year.

In either of these cases, please send an email to ATG.Charities@hawaii.gov to let us know the name of the organization, its FEIN, and its new year end so that we can update our system.

Example 1: Fiscal year end to a calendar year end (the change in accounting period does not result in having to file two Form 990 filings for the same tax year)

In this situation, the organization files the Hawaii annual report for each of its tax years separately, including the short year. For example, if an organization switches from a 6/30/2015 year end to a 12/31/2015 year end, the following are due:

7/1/2014-6/30/2015 (full FYE year) = 2014 tax year Hawaii annual report
7/1/2015-12/31/2015 (short year) = 2015 tax year Hawaii annual report
1/1/2016-12/31/2016 (full calendar year) = 2016 tax year Hawaii annual report

The Hawaii annual reports are due within 10 business days after the organization files each of its Forms 990 with the IRS.

Example 2: Calendar year end to fiscal year end (the change in accounting period results in having to file two Form 990 filings for the same tax year)

In this situation, the organization will have two periods that have the same tax year. The organization will need to combine the two periods for the same tax year and submit only one combined Hawaii annual report for that year. For example, if an organization switches from a 12/31/2014 year end to a 6/30/2015 year end, the following are due:

1/1/2014-12/31/2014 (full calendar year) = 2014 tax year Hawaii annual report
1/1/2015-6/30/2015 (short year) = 2015 tax year Hawaii annual report
7/1/2015-6/30/2016 (full fiscal year) = 2015 tax year Hawaii annual report

The Hawaii annual report for the 2015 year will be due 10 business days after the organization files its FYE 6/30/2016 Form 990 with the IRS. The 2015 Hawaii annual report should include both the short year and the full fiscal year.

10. What are the annual fees and how are they calculated?

The law requires each registered organization to pay an annual fee based on the organization's annual *gross revenue* (**Part I, lines 12 and 9 of the Form 990 and 990EZ, respectively**):

Annual Gross Revenue	Annual Fee
Less than \$25,000	None
At least \$25,000 but less than \$50,000	\$25.00
At least \$50,000 but less than \$100,000	\$50.00
At least \$100,000 but less than \$250,000	\$100.00

At least \$250,000 but less than \$500,00	\$150.00
At least \$500,000 but less than \$1 million	\$200.00
At least \$1 million but less than \$2 million	\$250.00
At least \$2 million but less than \$5 million	\$350.00
\$5 million and over	\$600.00

These fees are used to support personnel positions needed to administer and enforce the registration law, to investigate fraudulent solicitations, and to make the registration data and other filings available to the public and publicly searchable.

11. How are the annual fees paid to the Attorney General?

After the Attorney General has accepted an organization’s annual financial report, the registration system will send a courtesy payment reminder email to the email address listed for the organization and to the email address of the person who authenticated the annual report. The email will direct the organization to the Hawaii Charities Online site to complete the payment of the annual fees by credit card or electronic check. The organization will have 14 days after the annual report is accepted to pay the annual fee without incurring any late fees.

Organizations may also access the Hawaii payment processing site at <http://ag.ehawaii.gov/charity/fein.html>.

12. What are the penalties for failing to timely file the annual report or failing to timely pay the annual fee?

Under Hawaii law, the Attorney General may assess late fees of \$20 per day up to a maximum fee of \$1,000 against an organization for the failure to timely file its annual report. Additionally, the Attorney General may assess late fees of \$20 per day up to a maximum fee of \$1,000 against an organization that fails to timely pay its annual filing fees.

13. Which organizations are exempt from the registration requirement?

An organization may apply to the Attorney General for an exemption from the registration requirement. To qualify for an exemption, an organization must fall within at least one of the following categories:

- (1) A duly organized religious corporation, institution or society that is exempt from filing Form 990 with the Internal Revenue Service under I.R.C. §§ 6033(a)(3)(A)(i) and (iii) and 6033(a)(3)(C)(i).
- (2) A parent-teacher association.
- (3) An educational institution that is licensed or accredited by any of the following organizations:
 - a. Hawaii Council of Private Schools
 - b. Hawaii Association of Independent Schools

- c. Western Association of Schools and Colleges
 - d. Middle States Association of Colleges and Schools
 - e. New England Association of Schools and Colleges
 - f. North Central Association of Schools and Colleges
 - g. Northwest Association of Schools and Colleges
 - h. Southern Association of Schools and Colleges
 - i. The National Association for the Education of Young Children
 - j. The Northwest Accreditation Commission for Primary and Secondary Schools
- (4) An organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code that has an established identity with and expressly authorized by one of the foregoing accredited educational institutions. **Note: This exemption applies only to organizations that solicit contributions primarily from parents, alumni, students and faculty of the educational institution.**
- (5) A nonprofit hospital licensed by the State or any similar provision of the laws of any other state.
- (6) A corporation established by act of Congress that is required by federal law to submit to Congress annual reports, fully audited by the United States Department of Defense, of its activities.
- (7) An agency of Hawaii, another state, or the federal government.
- (8) A charitable organization that normally receives less than \$25,000 in contributions annually, if the organization does not compensate any professional solicitor or professional fundraising counsel. For purposes of this exemption, “normally receives less than \$25,000” means that the average contributions received from the last 3 years is less than \$25,000. Contributions do not include grants from governmental authorities or 501(c)(3) organizations. Contributions include those received from any jurisdiction, not just Hawaii.

If the organization believes it qualifies for an exemption, the organization must apply for an exemption with the Attorney General online at <https://ag.ehawaii.gov/charity/apply.html>.

14. Whom should I contact for more information?

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