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State Regulation of Charitable Giving

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I. State Regulation of Charitable Giving - Background

The state regulation of charities has a long history. The majority of charities are created under state law and state laws shape the management, governance and practices of charitable organizations.

Charities receive preferential tax treatment from both federal and state government in recognition of the benefits charitable organizations provide to society at large. However, with this preferential treatment, there is also a responsibility to ensure that charitable assets are used for charitable purposes, that the charitable funds are expended in accordance with donor intent and that the charity is operated pursuant to the controlling rules and regulations.

- A. State regulation of charities is grounded in the concept of consumer protection. State regulation protects the citizenry from fraudulent and deceptive practices and ensures that the monies collected for charitable purposes are used for those purposes.
 - 1. Among the states, there are similarities in the general regulatory requirements for charities.
 - 2. The last few years have seen a shift in focus to include governance practices, executive compensation and excess benefits.
- B. The role of the Attorney General's office. The power of most attorneys general (AG) rests in the common law and is based on constitutional, statutory and judicial authority. As these authorities evolve over time, so will the power, duties and responsibilities assigned to the office of the AG.
 - 1. Enforce the law.
 - 2. Ensure proper administration of charitable funds and fulfillment of fiduciary duties.
 - 3. Protect the citizens from fraudulent and deceptive solicitations.
- C. Some states create specific state offices for charity regulation.
 - 1. These agencies may or may not report through the AG.
 - 2. National Association of State Charity Officials (NASCO)
<http://www.nasconet.org/>

II. Changing Landscape of Charitable Solicitations.

The use of technology allows charities to create new fund-raising methodologies and opportunities to engage donors and build relationships, while exponentially increasing the number of individuals reached. However, these same technological developments have also changed the way donors provide support and the public perception of charities.

A. Increased use of social media.

1. Facebook, crowd sourcing.
2. Demographics of the donors using these tools shows a much younger audience.

B. Changes in the way individuals make gifts.

1. On-line
2. Donor Advised Funds
3. Giving Circles
4. Text/Mobile
 - a. Text/mobile based donations can drive larger fund-raising efforts based on incremental donations.
 1. See: 2012 Consumer Attitudes Survey on Mobile Giving www.mobilegiving.ca

C. Changes in public perception of charities. Driven not only by the increased availability of information pertaining to charities but also the 24/7 news cycle which drives increased media coverage of perceived charitable scandals.

1. Charitable Information and Watchdog Groups
 - a. Better Business Bureau – www.give.org
 - b. American Institute of Philanthropy – www.charitywatch.org
 - c. Charity Navigator – www.charitynavigator.org
 - d. Guidestar – www.guidestar.org
2. Media coverage, congressional reaction.
 - a. Washington Post – October 26, 2013
<http://www.washingtonpost.com/wp-srv/special/local/nonprofit-diversions-database/>

Also available as part of the eCourse

[Charitable Contribution Compliance, plus State Regulation of Charitable Solicitations](#)

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