



**California Attorney General's Office**

***GUIDE TO CHARITABLE  
SOLICITATION***

1999





**CALIFORNIA ATTORNEY  
GENERAL'S OFFICE**

**GUIDE TO CHARITABLE SOLICITATIONS**

**1999**

Copies of this Guide may be obtained by writing  
to the Attorney General's Public Inquiry Unit at  
P.O. Box 944255, Sacramento, California 94244-2550.

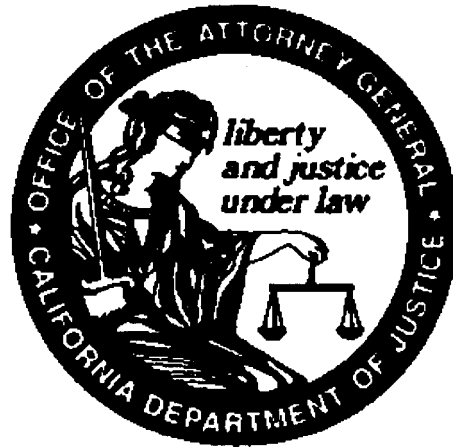


50 FREMONT STREET, SUITE 300  
SAN FRANCISCO, CA 94105  
(415) 356-6000

The Attorney General's GUIDE TO CHARITABLE SOLICITATION was prepared by the Office of the California Attorney General as a public service to all of the individuals who contribute money, time and skills to charitable organizations. This GUIDE TO CHARITABLE SOLICITATION provides information about California and federal laws that govern charities, charity reporting and fundraising for charitable purposes. The goal of this GUIDE is to provide useful information to donors and to encourage compliance with California laws regulating charities.

Attorney General of California  
January 1999

A T T O R N E Y   G E N E R A L ' S  
 G U I D E   T O  
 C H A R I T A B L E   S O L I C I T A T I O N



CHARITIES AND CHARITABLE FUNDRAISING	1-2	DONOR EDUCATION-- CHECKING OUT A CHARITY	18-20
CHARITABLE TAX EXEMPTION AND DONOR TAX DEDUCTIONS	2-5	A GUIDE FOR DONORS HOW TO READ A CHARITY TAX RETURN (IRS FORM 990)	20-24
ATTORNEY GENERAL'S OVERSIGHT OF CHARITIES	5-6	REPORTING FRAUDULENT SOLICITATION	25-27
SOLICITATION DISCLOSURE LAWS	7-10	ADDITIONAL REFERENCES	27-28
COMMERCIAL FUNDRAISERS	10-14		
SUGGESTIONS TO DONORS	14-18		

## CHARITIES AND CHARITABLE FUNDRAISING

Nearly one-eighth of all charities in the United States are registered in California with the California Attorney General.<sup>1/</sup> In 1988, there were 72,000 charities registered in California. In 1998, there were 81,000 charities registered who reported that they received \$50 billion in revenues during their most recent report year, and held \$115 billion in assets during the same period. Obviously charitable organizations represent an important economic sector in California, and have the potential to make a significant impact on the people and communities they serve through their programs.

All public charities (as contrasted with private foundations that hold large endowments) must raise funds each year in order to continue their activities and programs. Charities rely on many sources of revenue, including public contributions, government funding, private foundation grants and fees for services.

Public charities may use volunteers, paid staff, consultants, or independent contractors to help them raise funds each year. Solicitation methods vary widely; the most common include direct appeals, mail, advertising, telephone requests and telemarketing campaigns. Except when volunteers are used, all of

---

<sup>1/</sup> Trustees for charitable purposes are required to register and report to the Attorney General's Registry of Charitable Trusts under California Government Code section 12583. However, nonprofit schools, hospitals and churches are not legally required to register and report to the Attorney General. They are, therefore, not included in the data contained in this report.

these fundraising methods require some costs to the charities. These costs may be reported as salaries, consulting fees, printing, postage, or other fundraising costs by the charity.

Most of the charities registered in California are organized as California nonprofit public benefit corporations. These corporations are required to have at least one director (most have at least three directors) and three officers; a president, a chief financial officer and a secretary. The powers, duties and liabilities of directors and officers of public benefit corporations are governed by California statutes. Most directors serve on a volunteer basis and they are required to discharge their duties to the charity in good faith and with reasonable care. Directors may be held personally responsible if they commit fraud or gross negligence in managing the corporation and thereby cause financial losses to the corporation.<sup>2/</sup>

#### **CHARITABLE TAX EXEMPTION AND DONOR TAX DEDUCTIONS**

Most charitable organizations in California seek income tax exempt status under federal Internal Revenue Code (IRC) section 501(c)(3) and California Revenue and Taxation Code section 23701(d). These provisions generally exempt a charity from federal or state income tax on all forms of income derived from the charity's exempt purposes. Individuals who itemize and

---

<sup>2.</sup> The duties and liabilities of directors and officers and applicable statutes are discussed in another publication, the Attorney General's Guide for Charities available from the Attorney General's Public Inquiry Unit, P.O. Box 944255, Sacramento, California 94244-2550.

corporate donors may deduct their contributions to "section 501(c)(3) organizations," subject to various limitations set forth in section 170 of the Internal Revenue Code. To the extent a donor receives something of value in return for a contribution, that value is not tax deductible. Charities are required to provide donors with receipts for charitable contributions over \$250, which donors must have to substantiate their tax deductions.

A section 501(c)(3) organization must be "organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary or education purposes."<sup>3/</sup> To qualify, an organization must satisfy an organizational and an operational test. However, the United States Supreme Court ruled that state laws cannot require charities to devote any specific percentage of their revenues to their charitable programs, and federal law does not impose spending limits. Once a charity meets the initial qualification tests applied by the Internal Revenue Service (IRS), the charity may be audited by the IRS, particularly if the IRS receives specific information about private inurement or tax fraud by the charity. The ultimate

---

<sup>3.</sup> There are many categories of nonprofit organizations permitted under the Internal Revenue Code that are not charities, such as business leagues, fraternal organizations and trade associations. These other types of nonprofit organizations generally do not register with the Attorney General and their tax returns are not available for public review. However, some nonprofit social welfare organizations classified as tax exempt under IRC 501(c)(4) have dedicated their assets to charitable purposes and, as a result, are registered with the Attorney General. Form 990s for these nonprofit organizations may be available from IRS.



penalty for violation of tax laws by a charity is revocation of its tax exempt status. "Excessive benefit transactions" may also result in penalty assessments by IRS.

Large charitable organizations that are tax exempt under IRC 501(c)(3) file informational tax returns on IRS Form 990. These Form 990s are public documents and copies of the Form 990 may be requested from a public charity. Smaller charities with total assets under \$250,000 and annual gross revenue under \$100,000 file IRS Form 990-EZ. Religious organizations and charities with annual gross receipts of less than \$25,000 generally do not file informational returns with the IRS or the Attorney General.

Many charities hire employees to staff their offices, provide program services, conduct fund-raising, maintain books of account, file tax forms and provide other necessary services for the operation of the charity. The fact that a charity has "tax exempt status" and is a nonprofit corporation does not excuse it from the same legal obligations to its employees and creditors that apply to any business corporation. A nonprofit corporation may legally incur reasonable expenses of operation in the same manner as a business (for-profit) corporation, without endangering its tax exempt status.

Generally, individuals who make cash contributions to any public charity that has IRC 501(c)(3) tax exemption may claim the amount of the charitable contribution as a tax deduction on the donor's individual income tax return (Form 1040). Gifts of real

or personal property to charity are also tax deductible, but must be substantiated as to the gift's value. If the donor receives something of monetary value in return for the contribution to charity, that amount may not be claimed as part of the tax deduction.

#### **ATTORNEY GENERAL'S OVERSIGHT OF CHARITIES**

Different government agencies review the status and operations of charitable organizations. The IRS and the California Franchise Tax Board initially determine whether an organization qualifies for federal and state income tax exempt status. At any time during the operating life of a charity, the IRS or Franchise Tax Board may audit the organization to determine its liability for taxes, penalties, or revocation of tax exempt status.

The role of the Attorney General in overseeing California charities is different from the IRS and Franchise Tax Board. The Attorney General represents all beneficiaries of charity, who cannot sue in their own right. The Attorney General investigates and audits charities to detect cases in which directors and trustees have mismanaged, diverted, or defrauded the charity. If unlawful actions by directors have resulted in a loss of charitable assets, the Attorney General may sue to remove the directors and to recover the missing funds. Any funds recovered by the Attorney General are returned to charity.

The California Attorney General has a specialized unit, the Charitable Trusts Section, that carries out the Attorney

General's charity enforcement program. The Charitable Trusts Section is made up of the Legal and Audits Section and the Registry of Charitable Trusts.

The Legal and Audits Section is staffed by attorneys and investigative auditors. This section receives information from many sources about fiscal abuse, fraud and mismanagement by charity directors and trustees; it conducts civil investigations and audits of alleged charity abuse, and files civil court actions against directors to recover diverted charitable assets. This section also investigates and prosecutes charity solicitation fraud cases against commercial fundraisers and others.

The Registry of Charitable Trusts maintains the public files containing Form 990 tax returns for all of California's registered charities.<sup>4/</sup> The Registry maintains a current index and a computer printout of all registered California charities. The Registry receives, processes and houses over 80,000 files, many containing charity CT-2 and Form 990 reports, which are available for public review in Sacramento. The Registry's telephone number is (916) 445-2021; the mailing address is Registry of Charitable Trusts, P.O. Box 903447, Sacramento, California 94203-4470. The Registry is located at 1300 I Street, 11th Floor, Sacramento, California.

---

<sup>4/</sup> Charities reporting revenue or assets under \$25,000 file with the IRS and the Registry once every ten years. Larger charities are required to file these Form 990 or 990EZ reports annually.

## SOLICITATION DISCLOSURE LAWS

Pleas for charitable contributions appear to be increasing in frequency. Potential donors are confronted on the street, at the office, at home, by telephone and by mail with requests to give money to a worthy cause. Donors generally want to know how their contributions to charity will be spent and expect that their gifts will be used to carry out the charitable programs of the organization they support.

Donors may assume that federal and state laws require charities to expend a certain percentage of annual revenue collected for charitable programs, or that statutes limit the percentage of revenue that is spent on charity fundraising. This is not the case. In fact, the United States Supreme Court has ruled in three separate decisions that solicitation of charitable contributions is protected speech under the First Amendment and that state laws cannot infringe upon this protected speech. State laws that applied percentages to determine the legality of a fundraiser's fee, or required fundraisers to disclose fundraising percentages at the point of solicitation, have been held unconstitutional.<sup>5/</sup>

California has enacted many statutes that promote informed charitable giving. In 1959, California enacted the "Uniform Supervision of Trustees for Charitable Purposes Act" (Calif.

---

<sup>5</sup>. See Schaumburg v. Citizens for a Better Environment (1980) 444 U.S. 620; Secretary of the State of Maryland v. Joseph H. Munson Co. (1984) 467 U.S. 947; and Riley v. National Federal for the Blind (1988) 487 U.S. 781.

Government Code §§12580 et seq.). This law requires most charities operating in California to register with the Attorney General and file annual financial reports (CT-2 and Form 990) listing revenues and expenditures. These reports are used by the Attorney General to investigate and litigate cases of charity fraud and fiscal mismanagement. These reports are also available for public review at the Registry of Charitable Trusts in Sacramento, or at the charity's principal office, or by mail from the charity.

In 1972, the California Legislature decided that the best protection against solicitation fraud was a well-informed public. To promote public education about charitable solicitation costs through disclosure to the donor, California passed the "Charitable Solicitation Disclosure Law" (Calif. Business & Professions Code §§17510 et seq.). This law required charitable solicitors in California to disclose at the point of solicitation the percentage of the money raised that would go to fundraising costs as opposed to charitable programs. The goal was to inform every California donor exactly how much of each charitable dollar given would reach the intended charity.

In 1988, the United States Supreme Court held unconstitutional pre-solicitation disclosure requirements of the type contained in California law, and barred states from enforcing laws that required solicitors to tell donors what percentage of the money raised would actually go to charitable purposes.

(Nat. Fed. of Blind. No. Carolina v. Riley, 108 Sup.Ct. 2667 (1988) 487 U.S. 781 (1988)). The court concluded that full disclosure about high fundraising costs at the point of solicitation might interfere with solicitors' First Amendment rights of freedom of speech to solicit for charity. The court did allow that state Attorneys General could directly obtain fundraising cost information from fundraisers and use this information for public education and protection against fraud.

In response to the Riley decision, California in 1990 enacted a new statute known as the "Commercial Fundraiser for Charitable Purposes Law" (Calif. Government Code §12599). It requires that all commercial fundraisers who solicit for charitable purposes in California register with the Attorney General and report annually on the money they collect and their fundraising costs.

This 1990 law was amended several times to add a bonding requirement for commercial fundraisers and to expand the definition of a commercial fundraiser for charitable purposes to cover any individual or entity who for compensation solicits funds for charitable purposes, or who receives or controls funds as a result of solicitation for charitable purposes. It is unlawful for a commercial fundraiser for charitable purposes to not disclose the percentage of total fundraising expenses, i.e., the ratio of total expenses of the fundraiser to the total revenue received by the fundraiser, upon receiving a written or oral request from a person solicited. Effective January 1, 1999,

the law added fundraising counsel to the registration requirement. The law requires a commercial fundraiser for charitable purposes to disclose, prior to oral solicitation or sales solicitation, that the solicitation is in fact being conducted by a commercial fundraiser. The law also requires disclosure of the name of the fundraiser as it is registered with the Attorney General. (Calif. Bus. and Prof. Code §17510.85).

Since 1990, with the new information supplied from commercial fundraiser reports and with cooperation from local law enforcement agencies, the Attorney General has identified and prosecuted several commercial fundraisers (who sometimes masquerade as charitable corporations). These prosecutions have resulted in injunctions against continued solicitation, recovery of damages and restitution to charity, dissolution of "sham" charities, and other corrective action.

However, prosecution of charity solicitation fraud can only occur after the abuse has taken place. Prevention of abuse is a primary law enforcement goal. Public education is an important step in preventing charity solicitation fraud. Informed donors tend to be less vulnerable to high pressure solicitation tactics and wary of unsupported charity claims.

### **COMMERCIAL FUNDRAISERS**

The term "commercial fundraiser" refers generally to a person or corporation that is a for-profit business that contracts with charities, for compensation, to raise money in the charity's name. The commercial fundraiser usually makes a profit

by charging the charity a flat fee or a percentage of the contributions collected in the charity's name. It is not unusual to find commercial fundraiser contracts that provide the fundraiser will receive 50% of the net proceeds after all of the fundraising campaign expenses are deducted. These types of fundraising contracts have, on average, yielded a relatively small return to charity.

Relatively few charities use commercial fundraisers. In the past two years, commercial fundraisers reported that they raised less than \$200 million for charity each year. At the same time, charities reported total revenues of \$50 billion. On average, approximately 40% of the total dollars collected by commercial fundraisers in California actually went to charities, according to reports filed by commercial fundraisers with the California Attorney General. More than one-half of the contributions raised by commercial fundraisers want to pay for campaign expenses and fees to fundraisers. Although this is not illegal, it can be a costly method of charitable fundraising that donors should understand. Many donors may prefer to make direct contributions to a charity instead of giving money to commercial fundraisers.

Commercial fundraisers are required by California law to disclose to a prospective donor that they are commercial fundraisers, but enforcement of disclosure laws is difficult. Solicitations can be misleading, particularly those done by telephone ("telemarketing"), and through personal contact at



stores and shopping centers. In these cases, a prospective donor may be given only superficial information and not told about costs or actual programs. Also potentially misleading are direct mail solicitations (printed letters, brochures, mailgrams, etc.) which may include pleas and pictures designed to appeal to the emotions, or which offer such gimmicks as contest prizes and sweepstakes awards. If you receive direct mail solicitations that do not contain detailed information about the charity's program and about its costs of fundraising, beware.

It is up to the donor to ask the important questions. Ask the solicitor if he or she works for a commercial fundraiser and is being paid to solicit. Ask the name of the commercial fundraiser and for proof of registration. Ask the solicitor what percentage of your donation will actually go to charity. Ask for written information about the charity's programs and expenses to be mailed to you so that you can study it and decide if it merits your contribution. If you decide to contribute, write a check to the name of the tax exempt charity. Do not give your credit card number to a telephone solicitor. Do not be pressured by any solicitor into giving your money if you are being threatened or harassed by high-pressure tactics. Simply hang up, or walk away from the solicitor.

There are three basic categories of for-profit fundraisers that solicit for charities. In California, two of these categories are required to register and report annually to the California Attorney General. These categories are:

1. **Commercial fundraiser** means any individual or business, other than a charity, the charity's employees or unpaid volunteers, who for compensation solicits funds for charitable purposes, or who receive or control funds raised in California through charitable solicitations. Generally, commercial fundraisers are for-profit businesses that contract with charities to raise funds in the charity's name. Commercial fundraisers are required to register and report annually to the Attorney General.

2. **Fundraising counsel** is defined as any person who for compensation plans, manages or prepares fundraising campaigns for charity clients and advises charities on how to raise funds, but does not actually conduct campaigns or receive or control donated funds. Many companies that previously reported to the Attorney General as "commercial fundraisers" have recently claimed to be "fundraising counsel," and were exempt from detailed reporting to the Attorney General.

Fundraising counsel are paid to help raise substantial funds in California on behalf of their charity clients and generally receive a fee for their services. They do not solicit funds from California residents directly, and are therefore exempt from "commercial fundraiser" registration. As of legislation effective 1999, "fundraising counsel" are required to register with the Attorney General and make certifications regarding their contracts with charities.

3. **Commercial co-venturer** is defined as a for-profit business that joins with a charity to sponsor an event or promote sale of a product or service, and then splits the proceeds of the event or sale with the charity. Commercial co-venturers are not required to register with the Attorney General as long as they have a valid contract with and are accountable to the charity.

The Attorney General compiles and reports to the public annually on the results of charitable solicitation by commercial fundraisers in California. Anyone wishing to obtain the most recent data on commercial fundraiser campaign results in California may request the "Attorney General's Summary of Commercial Fundraising" from the Public Inquiry Unit at P.O. Box 944255, Sacramento, California 94244-2550. This information is also available on the Internet at <http://caag.state.ca.us>.

#### **SUGGESTIONS TO DONORS**

Basic knowledge about charity operations and reporting, and charitable solicitation methods can be a donor's best protection when making decisions about charitable giving. The following checklist may be useful to many donors.

#### **GET INVOLVED WITH CHARITIES IN YOUR OWN COMMUNITY AND SUPPORT THEIR PROGRAMS**

The best way for many donors to select worthwhile charities to support is to work with a local charity as a volunteer. This will help a person gain first-hand knowledge about a charity's program in the person's own community.

## WHEN SOLICITED FOR CHARITY, ASK QUESTIONS

Any potential donor can make a more informed choice about charitable giving by asking questions of the solicitor. The following outline contains common useful questions.

1. **Ask if the solicitor works for a commercial fundraiser and is being paid to solicit.** If so, ask the name of the commercial fundraiser and for proof of registration.

2. **Ask the solicitor how your donation will be distributed.** How much will go to the program you want to support, and how much will cover the charity's administration costs? If a commercial fundraiser is used, ask what percentage the fundraiser will keep.

3. **Ask for written information,** including the charity's name, address and telephone number. A charity or fundraiser should give you materials outlining the charity's program services, how your donation will be used, and proof that your contribution is tax-deductible.

4. **Call the charity directly.** Find out if the organization exists and is aware of the solicitation. Has it authorized the use of its name by the solicitor? If not, you may be dealing with a fraudulent solicitor. Ask the charity to send you written information about its revenues, expenses and programs.

5. **If the solicitor tells you the donation is for your local law enforcement or fire department,** call that department directly to ensure that it is actually participating in the

fundraising appeal. For more information about public safety appeals, see page 25.

#### SPECIAL PRECAUTIONS

Copycat Names: **Watch out for similar sounding names.** Some questionable organizations use names that closely resemble those of well-established charitable organizations.

Tax Confusion: **Know the difference between "tax exempt" and "tax deductible."** Tax exempt means the organization does not pay income taxes. Tax deductible means you can deduct your charitable contribution on your federal and state income tax returns, and generally applies only to charitable gifts. Even though an organization has tax exempt status, your contribution may not be deductible. Ask for a receipt showing the amount of contribution and stating that it is tax deductible.

**Also, beware of organizations that use meaningless terms to suggest that they are tax exempt charities.** The fact that an organization has a "tax I.D. number" does not mean it is a charity. All organizations, both nonprofit and for-profit, must have tax I.D. numbers. A receipt that says "keep this receipt for your records" does not mean that your donation is deductible or that the organization is tax exempt.

Avoid Cash: **Make any charitable contribution by writing a check to the name of the tax exempt charity. Do not give cash.** Use the full name of the charity, rather than initials, on the check.

Credit Cards: **Do not ever give your credit number to a telephone solicitor** or in response to any unsolicited phone call you receive.

High Pressure Tactics: **Do not be pressured by the solicitor into giving money if you feel uncomfortable about the pitch or are being threatened.** Responsible fundraisers will not push you to give on the spot. **Also, be wary of solicitors who offer to send a courier to collect your donation immediately.** Do not give out your home address to a phone solicitor.

Sweepstakes: **Avoid becoming a victim of solicitations that guarantee sweepstakes winnings in exchange for a contribution.** They are misleading, at best. Legally, you never have to "donate" to be eligible to win a prize. Federal law enforcement agencies receive many calls about sweepstakes fraud and are investigating many of these complaints.

Sales: **Consider the cost when buying merchandise or tickets for special events, or when receiving free goods in exchange for giving to charity.** These items cost money and generally are paid for out of your contribution. Although sales can be an effective fundraising tool, they usually result in less money for the charity than a non-sales solicitation. Moreover, the value of the goods and services received in exchange for a contribution is not tax-deductible to you.

False claims: **Be skeptical if someone thanks you for a pledge you don't remember making.** If you have any doubt that you previously made a pledge or donation, check your records. Be

alert for invoices claiming that you have made a pledge when you know you have not. Some solicitors use these fraudulent tactics.

Threats: **In case of threats or suspicious solicitations, hang up the phone, shut the door, or walk away.** Immediately report the threatening solicitation to the consumer fraud division of your local district attorney's office. You may also call the Better Business Bureau and report the name of the organization that solicited you. Multiple complaints will be forwarded by the district attorney's office and the Better Business Bureau to the Attorney General's office for further investigation.

#### **DONOR EDUCATION - CHECKING OUT A CHARITY**

Many charities use donations efficiently to carry out charitable programs. Others may spend most of their revenues on administrative expenses or high fundraising expenses. Some charities misrepresent their fundraising intentions or solicit for nonexistent causes.

Donors can obtain general information about many charities (i.e., revenue, programs, administrative and fundraising expenses) by contacting the following organizations and private reporting services:

#### **Your local Better Business Bureau**

**The Council of Better Business Bureaus, Inc.**  
Philanthropic Advisory Service  
4200 Wilson Boulevard, Suite 800  
Arlington, Virginia, 22203-1804  
(703) 276-0100  
www.bbb.org

**National Charities Information Bureau, Inc.**

19 Union Square West, 6th Floor  
New York, New York 10003-3395  
(212) 929-6300  
[www.give.org](http://www.give.org)

**American Institute of Philanthropy**

4579 Laclede Avenue, Suite 136  
St. Louis, Missouri 63108  
(314) 454-3040

**Federal Trade Commission web site**

[www.ftc.gov](http://www.ftc.gov)

For persons who have the time and interest, or who plan to make a large contribution, the best method of "checking out a charity" is to personally research the organization. Some of the most useful information available about a charity is found on the organization's IRS Form 990 information tax return. The Form 990 for a charity is a public record and may be reviewed by any person. The Form 990 is available for review at the charity's principal office or by mail from the charity. The Form 990 may be obtained from the IRS by contacting the IRS General Disclosure Officer at either of the numbers listed below:

IRS District Office, Oakland, California - (510) 637-2312

IRS Exempt Organization Branch, Los Angeles, California -  
(213) 894-2289.

To request a copy of a Form 990 from the IRS, a person must submit Form 4506 which is available at any IRS regional office.

Form 990s are also available for inspection at the Attorney General's Registry of Charitable Trusts in Sacramento. The Registry receives, processes and houses over 80,000 files, many



containing charity Form 990 reports. The Registry's telephone number is (916) 445-2021; the mailing address is Registry of Charitable Trusts, P.O. Box 903447, Sacramento, California 94203-4470. The Registry is located at 1300 I Street, 11th Floor, Sacramento, California.

**A GUIDE FOR DONORS: HOW TO REVIEW  
A CHARITY TAX RETURN (IRS FORM 990)**

An enormous amount of valuable information can be obtained from reading the informational tax returns filed by charitable organizations on IRS Form 990. Set out below are helpful tips to assist anyone to read the Form 990 and to answer commonly asked questions.

Which Charities Must File With The IRS?

Most charities file IRS Form 990.<sup>6/</sup> Charitable organizations with income of less than \$100,000 during the year and assets of less than \$250,000 at year-end may file a shorter form the Form 990 EZ. Charities classified as private foundations file a Form 990 PF. A private foundation receives most of its income from investments and little or none from public donations. Many nonprofit organizations are not charitable, such as business leagues, cemetery organizations, fraternal organizations, trade associations, labor unions and political organizations. These organizations may file a Form 990 with the IRS but it is not filed with the California Attorney

---

<sup>6/</sup>Charities reporting revenue under \$25,000 are not required to file with the IRS annually as do larger charities.

General.

Where Can I Find The Form 990 For A Charity?

Federal tax law requires any exempt charity to provide copies of Form 990 for the past three years immediately to anyone who requests them in person at the charity's main office. Consult your local telephone directory to determine if a charity has an office in your community. In addition, a charity is required to send copies of its Form 990 to any person who requests it in writing. If you have difficulty locating a Form 990 for a charity, ask the person who solicits you on behalf of the charity for information about obtaining the Form 990. Anyone having trouble obtaining a copy of charity's Form 990 may complain to the director of the local IRS district in which the charity's principal office is located.

Is My Contribution Deductible?

Your contribution is deductible if the charity is tax exempt under Internal Revenue Code section 501(c)(3), subject to certain limitations. You can find a charity's exemption code listed on Form 990 (1998 version) at line G. It can be found on Line I on the 990 EZ and line H on the 990 PF. Note that on earlier versions of the tax forms, this item can be found on different lines.

Where Does This Charity's Money Come From?

A charity's source of income is listed in Part I, lines 1-12. On lines 1a-c, you can see how much of the charity's annual revenue has come from public donations (a) or government grants (c). Line 12 will tell you the total revenue of the charity for the year.

If you are concerned over whether a charity had any extraordinary gains or losses, line 8a-d will provide helpful information. Substantial extraordinary losses may, for example, show investment losses from speculative and imprudent investments or it may reflect a tendency to overstate donations of stock, real property, artwork, etc., with resulting losses on their sale.

#### How Does The Charity Spend Its Money?

A summary of the charity's early expenditures by category is found in Part I, lines 13-17. Charities categorize their own expenditures as either "program services" (line 13), "management and general" (line 14), "fundraising" (line 15), and "payment to affiliates" (line 16). It is important to remember that these allocations are made by the charities themselves or by their accountants. While they are usually accurate, there are incentives for charities to maximize their allocations to "program services" and to minimize reported expenditures for "fundraising" and "management and general" and, therefore, reporting abuses do occur in this area.

In addition, accounting rules often allow charities to allocate a portion of their fundraising expenses to "program

services" if they claim a public education benefit. This is particularly prevalent among charities doing direct mail fundraising. You can find out if this is occurring by looking just below Part II, line 44 where it says "reporting of joint costs." If this box is checked "yes," such an allocation is occurring. While most charities allocate properly, this has been an area where abuses do occur. As such, you should scrutinize these responses carefully.

For details of how a charity spends its money, the best place to look is in Part II, lines 22-44. In this section, you can find how much the charity paid its officers and directors (line 25), its lawyers (line 32), and its accountants (line 31). You can find out how much was spent in travel (line 39) or on conferences, conventions and meetings (line 40). Special scrutiny may be appropriate where all expenses are claimed to be "program services" and no allocation is made to "management and general," particularly in the areas of officer, director compensation, fundraising, accounting or legal fees.

#### What Are The Charity's Programs?

Charities are given an opportunity in Part III of the Form 990 to describe in their own words the significant program service accomplishments during the year.

#### Are The Charities' Officers, Directors Or Trustees Engaged In Self-Dealing?

Compensation to individual officers, directors, and trustees

can be found in Part V of the 990. Self-dealing transactions can also be located in Part IV at lines 50 and 63. California's CT-2 Report contains an explicit question in this regard and also requires disclosure of the amount of money involved (see CT-2, Part II, line 4). No equivalent entry is required on the Form 990.

#### Is This Charity Financially Stable?

Part I, line 21 shows the charity's net worth. Ongoing negative fund balances may threaten a charity's continued existence. Part VI, line 79 indicates a liquidation, termination or substantial contraction of assets -- all of which may indicate an anticipated cessation of operations.

#### Other Items Of Interest

Part VI, lines 76-92 contain information that may be particularly meaningful to potential donors. For example, line 85(a) deals with political lobbying, line 84(a) deals with solicitations that are not tax-deductible; and line 80 deals with related organizations.

Finally, we should note that it is always helpful to review Form 990 for more than a single year in order to get an accurate picture of the charity's finances and to avoid being misled by a single atypical yearly report. In addition, we would urge readers to be skeptical if important line items on the Form 990 are left blank or if significant internal inconsistencies exist within a report.

## REPORTING FRAUDULENT SOLICITATION

If you believe a person or organization is engaged in charitable solicitation fraud, contact your local police department, the district attorney's office ("consumer fraud division") or the Better Business Bureau in your county.

You may also file a complaint with the Federal Trade Commission, Correspondence Branch, Washington, D.C. 20580.

Public and law enforcement agency complaints about charities and commercial fundraisers may be reported in writing to the California Attorney General at the Registry of Charitable Trusts, P.O. Box 903447, Sacramento, California 94203, by the Internet at <http://caag.state.ca.us>, or by telephone at (916) 445-2021.

Some specialized law enforcement concerns are described below.

Public Safety Fundraising Appeals: Police and firefighters risk their lives to make communities safer. When a fundraiser calls or writes to solicit donations on behalf of a fire or police service organization, many people consider making a donation as a show of support. Donors should be aware that the words "police" or "firefighter" in an organization's name do not necessarily mean that police or firefighters are members of the group. Also, solicitation that claims local ties with public safety personnel in your area does not necessarily mean that your donation will be used locally. Before you write a check, ask for a written description of the programs that your donation will

support, and the fundraising costs, and review that report closely.

Many solicitations on behalf of police and firefighter organizations are made by commercial fundraisers.

Also beware that some donations to police and firefighter groups may not be tax deductible even though the group is "tax exempt," but not a charity.

California law requires fundraisers who solicit **using any name which implies that a non-governmental organization is composed of law enforcement personnel** to disclose the following **additional** information in the course of the solicitation:

1) **the total number of members in the organization;** 2) **the total number of members working or living in the county where the solicitation is being made;** and 3) **if soliciting for advertising, the statewide circulation of the publication.**

Remember, if the solicitor says your donation will be used for your local law enforcement or fire department, call that department to make sure the solicitation is authorized before you contribute.

Victimization of Senior Citizens: Every year, the Attorney General's Office receives numerous complaints about fraudulent practices targeting senior citizens. Some commercial fundraisers using both telephone and direct mail solicitation, have been accused of these tactics. Solicitors may tap into a wealthy enclave such as a retirement community. Solicitors often find that senior citizens are reluctant to say "no" to a pitch. In

some cases, older individuals have been coerced by a solicitor's bullying tactics.

Senior citizens must be especially vigilant. Ask all of the questions set forth on pages 15-17 of this Guide. Do not be afraid to say "no" to solicitors or to hang up on a caller. Do not worry about being rude; protect yourself by using caution every time you are contacted by a person who claims to be soliciting for charity. Contact your local Better Business Bureau before making a donation, however small, to check out the "charity" before you contribute.

In case of threats, suspicious solicitations, or fraud, report the solicitation to the consumer fraud division of your local district attorney's office. Also call the Better Business Bureau and report the name of the organization that solicited you. Multiple complaints will be forwarded by the district attorney's office and the Better Business Bureau to the Attorney General's Office for further investigation.

#### **ADDITIONAL REFERENCES**

To review the most recent financial data reported to the California Attorney General by commercial fundraisers soliciting for charitable purposes, write to the Attorney General's Public Inquiry Unit at P.O. Box 944255, Sacramento, California 94244 and request the most recent "Attorney General's Summary of Results of Charitable Solicitation by Commercial Fundraisers." The same information may be obtained from the Attorney General's Internet site: [www.caag.state.ca.us/publications/](http://www.caag.state.ca.us/publications/).



For general information about formation and operation of a nonprofit public benefit corporation and the Attorney General's oversight of charities in California, write to the Public Inquiry Unit for a copy of the Attorney General's Guide for Charities.