



The
Nonprofit
Alliance

CATHOLIC DEVELOPMENT COUNCIL

Table of Contents

Introduction.....	Page 1
Overview of State Laws	Page 2-4
State Definitions, Forms, & Other Information	Page 5-20
Internal Revenue Code and Regulations References	Page 20-21
Glossary.....	Page 22-23

Application of Charitable Solicitation Registration Statutes to Tax-Exempt Religious Organizations Described in §501(c)(3)

Revised August 5, 2022

Introduction

Thirty-nine states and the District of Columbia require most charities that are soliciting funds from their residents to register with or obtain a license from the state before doing so, and thereafter to report annually for as long as they are soliciting in the state.

These requirements are administered by the secretary of state, the attorney general, or a separate consumer protection office.¹ This memo describes the rules as they apply to religious organizations that are exempt under §501(c)(3) of the Internal Revenue Code, and that are soliciting contributions (including, in most states, the sales of products) principally by mail, telephone, radio or television, and the Internet.²

Unfortunately, there is no “uniform statute,” and no two statutes are alike, having variant definitions of who is required to register, who is exempt, and what forms are required to be filed and when.

In the early 2000s a “Uniform Registration Statement” (URS), now accepted by many states, was developed.³ In most states, this is only used as the initial registration statement, and cannot be used to renew the registration or file the annual financial reports (IRS Form 990 and/or audited financial statements) required by the states.

In the past five years, an increasing number of states have discontinued use of the URS and begun requiring online filing.

¹ Local jurisdictions in many states may require registration. Few enforce their ordinances with respect to charities soliciting only by mail, telephone, radio or television, or the Internet.

² This memorandum is not legal advice, and any organization interested in the application of the laws to its specific situation should consult with knowledgeable legal counsel.

³ The URS is available at the website of the Multi-State Filer Project, www.multistatefiling.org.

Exemptions

All of the states that require registration have some exemption for religious organizations. However, the exemptions, like the rest of the statutes, are not uniform.

Some states exempt religious organizations from the statute altogether; others only exempt them from the registration and reporting requirements. In addition, the definition of a religious organization varies widely, and helpfully, many states have no statutory definition at all. This review summarizes the states' treatment of religious organizations that are exempt under §501(c)(3), including quotations of the relevant provisions and any statutory definition.

To summarize, churches and their integrated auxiliaries (as defined by the Internal Revenue Code) are exempt from registration in all states. Most other religious organizations (those required to file Form 990) are exempt from registration in 23 states and the District of Columbia, and must register and file annual reports in 16 states.

Confirming Exemptions

In some states, an organization claiming an exemption from the law or from the registration and reporting requirements is required to specifically apply to or notify the state before the exemption will be effective. Although these requirements are rarely enforced, they should be observed whenever possible.

Apart from any application requirement, religious organizations, especially those that engage a professional fundraising counsel or consultant to assist with fundraising, or a professional solicitor or fundraiser to actually solicit contributions, e.g., by telephone or personal visits, should work with legal counsel to confirm their exempt status in all states where solicitations will occur. The reason for this is that consultants and solicitors are also required to register in many states, and under a significant number of the state laws, a consultant or solicitor may not perform services with respect to solicitations in that state for a charity that is not registered or recognized as exempt by the state.⁴ Similarly, organizations should confirm the registration status of the consultant or solicitor, because in some states, it is also illegal for a charity to solicit based on work performed by an unregistered consultant or solicitor.⁵

Confirmation is usually best accomplished by a letter describing the organization's religious purposes and activities, attaching any required or relevant documents, and explaining how the organization fits within the statutory exemption. Some states also require specific forms be filed.

In any event, a state may always request proof that the organization qualifies for any available exclusion or exemption.

⁴ Although Kansas, North Dakota, Oklahoma, Rhode Island, and South Carolina will usually not confirm an exemption, a request should be made in any event, because this puts the state on notice that the organization believes itself to be exempt, and should help avoid penalties in the unlikely event that the state subsequently requires the organization to register.

⁵ About 25 states require professional fundraising counsel to register and/or file contracts, and 43 states require professional solicitors to register.

Overview of State Laws

The following section summarizes the four ways in which states (including those that have no statute requiring registration by charities) treat religious organizations under their statutes. However, for a clearer understanding of each state's law, readers should refer to the detailed state-by-state list of definitions that follows the summary.

1. No Registration

Except as noted below, the following 11 states do not require any §501(c)(3) charities to register or report merely because they solicit in the state.

Arizona* | Delaware | Idaho | Indiana | Iowa | Montana

Nebraska | South Dakota | Texas* | Vermont | Wyoming

Indiana and Vermont require professional fundraising consultants and/or professional solicitors to register, and to file annual reports with respect to their clients that are charities, as defined in the law.

2. Exclusion from the Definition of a “Charity” or “Charitable Organization”

In the following 7 states, religious organizations are specifically excepted or excluded from the definition of a “charity” or a “charitable organization,” and are thus outside the scope of the law for all purposes:

Georgia** | Michigan | Mississippi# | Nevada | North Dakota** | Pennsylvania | South Carolina**

Religious organizations that are excluded from the definition of a “charity” or “charitable organization” have no obligations under the statute, and (except in Michigan) their professional fundraising counsel, and their professional solicitors, should not list them as charitable clients on their own registration forms, contracts need not comply with any generally applicable requirements, and the counsel and solicitors need not file the contracts with the state.

* Arizona requires only charities benefitting veterans to register. Ariz. Rev. Stat. §13-3722. Texas requires only charities soliciting for the benefit of public safety personnel and veterans to register. Texas Occupations Code, Title 11, Chapters 1803 and 1804d

** Exemption limited to Form 990 non-filers.

Mississippi generally limits its exemption to churches.

3. Exemption from Statute

In the following 9 states and the District of Columbia, religious organizations are specifically exempt from application of the statute:

D.C. | Florida | Kentucky | Maine | New Hampshire*

New Mexico | New York | North Carolina | Virginia* | Washington*

Religious organizations that are exempt from the application of the statute have no obligations of their own under the statute. In practice, most states, e.g., New York, also treat them as other than “charities” (see Par. 2, above) for purposes of dealing with professional fundraising counsel and professional solicitors. However, New Hampshire and North Carolina take the position that professionals must treat religious organizations as charities, even though the religious organizations themselves are exempt from the statute. See Par. 4, below.

4. Exempt from Registration and Reporting

In the following 23 states, religious organizations are within the definition of a charitable organization, but are exempt from the registration and reporting requirements in the statute:

Alabama | Alaska* | Arkansas | California | Colorado* | Connecticut | Hawaii* | Illinois | Kansas

Louisiana | Maryland | Massachusetts* | Minnesota* | Missouri | New Jersey | Ohio | Oregon

Oklahoma | Rhode Island | Tennessee* | Utah | West Virginia# | Wisconsin

Religious organizations that are exempt only from the registration and reporting requirements in the statute continue to be defined as “charities,” and are subject to any other applicable provisions, e.g., prohibitions on contracting with unregistered fundraising counsel or solicitors, requirements for written contracts and specific contract provisions, and prohibitions on deceptive fundraising. Professional fundraising counsel and solicitors must list the organization as a charity on their own registrations (if required to register), and to the extent required by each state, must timely file written contracts that comply with all applicable content requirements.

Summary: Registration generally required if Form 990 is required to be filed

Alaska | Colorado | Georgia | Hawaii | Massachusetts | Minnesota | Mississippi | New Hampshire

North Dakota | South Carolina | Tennessee | Virginia | Washington | West Virginia | Wisconsin

* Exemption limited to Form 990 non-filers.

Exemption limited to churches and related organizations.

State Definitions, Forms, & Other Information

Alabama

Registration is not required, Ala. Code §13A-9-71.f, of “any society, sect, persuasion, mission, church, parish, congregation, temple, convention, or association of any of the foregoing, diocese or presbytery, or other organization, or other organization, whether or not incorporated, or any employee thereof, no part of the net earnings of which inures to the benefit of any private party or individual associated with such an organization and that otherwise qualifies as an exempt organization under Section 501(c)(3) of Title 26, United States Code, as amended.”

Ala. Code §13A-9-70(11).

Apply online at https://ago.igovsolution.net/online/Initialapplication/AGO_ExemptCharity.aspx.⁶

Alaska

Registration is not required for a church or a religious organization that is “exempt from filing [Form 990] under I.R.C. 56033(a)(2)(A).” Alaska Stat. §45.68.120(a)(1).

Request confirmation of exemption at <https://law.alaska.gov/consumer/charityreg.html#exempt>.

Arkansas

Registration exemption applies to “any bona fide, duly constituted religious entity” if the entity is both “exempt from taxation pursuant to the Internal Revenue Code” and “no part of the entity’s net income inures to the direct benefit of any individual.” Ark. Code §4-28-404(1).

File Form EX-01:

https://www.sos.arkansas.gov/uploads/bcs/SoS_EX-01_ExemptOrganizationVerification1.pdf.

Arizona

Arizona repealed its general registration statute, effective September 2013. Only charities soliciting for the benefit of veterans must register in Arizona. Ariz. Rev. Stat. §13-3722.

⁶ All URLs are current as of August 4, 2022.

California

Registration and reporting required of all “charitable corporations”—i.e., “any nonprofit corporation organized under the laws of [California] for charitable or eleemosynary purposes and any similar foreign corporation **doing business** or holding property in [California] for such purposes.” Govt. Code §12582.1 (emphasis added). Registration and reporting does not apply to “any religious corporation sole or other religious corporation or organization that holds property for religious purposes, or to any officer, director, or trustee thereof that holds property for like purposes, . . . or to a charitable corporation organized and operated primarily as a religious organization.” Govt. Code §12853. Despite the fact that merely transmitting mail or telephone calls into a state has ordinarily not been treated as “doing business” in the state, the Attorney General’s office maintains that a foreign charity is required to register, even though its sole contact with California is soliciting contributions by mail or telephone.

Request confirmation of exemption by letter to the Registry of Charitable Trusts.

<https://oag.ca.gov/charities>.

Colorado

Religious organizations are exempt from registration and reporting if they are exempt from filing Form 990 pursuant to I.R.C. §6033(a)(3)(A)(i) or (iii), or §6033(a)(3)(C)(i), or pursuant to 26 C.F.R. §1.6033-2(g)(1)(i), (ii), (iii), (iv), or (vii). Colo. Rev. Stat. §6-16-104(6)(a).

File an exemption claim that is linked here,

<https://www.sos.state.co.us/pubs/charities/filings.html#charities>.

Must be filed by an officer. May attach letter from counsel explaining rationale for exemption.

Connecticut

Registration and reporting exemption applies to “any duly organized religious corporation, institution, or society.” C.G.S. §21a-190d(1). File Form CPC-54, or apply online.

<https://portal.ct.gov/DCP/Charities/Charitable-Solicitation-Registration-Information>.

District of Columbia

The D.C. Code generally requires any person soliciting in D.C. to hold a “certificate of registration.” D.C. Code §44-1703(a). However,

The provisions of this chapter shall not apply to any person making solicitations, including solicitations for educational purposes, solely for a church or a religious corporation or a corporation or an unincorporated association under the supervision and control of any such church or religious corporation; provided, that such church, religious corporation, corporation, or unincorporated association is an organization which has been granted exemption from taxation under the provisions of §501 of the Internal Revenue Code of 1986 (26 U.S.C. §501); provided further, that such exemption from the provisions of this chapter shall be in effect only so long as such church, religious corporation, corporation, or unincorporated association shall be exempt from taxation under the provisions of §501 of the Internal Revenue Code of 1986.

D.C. Code §44-1703(b).

The regulations, 16 DCMR Chapter 13, require anyone claiming exemption to file proof of exemption with the District before soliciting. Proof of exemption consists of a photocopy of the determination letter issued by the IRS to the organization showing that it is exempt from federal income tax under §501 of the Internal Revenue Code, and an affidavit stating that the exemption is still in force and effect as of the date the proof is submitted to the D.C. Government. 16 DCMR §1303.1 et seq.

<http://www.dcregs.dc.gov/Gateway/RuleHome.aspx?RuleNumber=16-1303>

Florida

The statute does not apply to any “bona fide religious institution,” F.S.A. §496.403, defined as “any church, ecclesiastical or denominational organization, or established physical place of worship in this state at which nonprofit religious services and activities are conducted and carried on, and includes those bona fide religious groups which do not maintain specific places of worship; and to “any separate group or corporation which forms an integral part of a religious institution which is exempt [under §501(c)(3)], and which is not primarily supported by funds solicited outside its own membership or congregation.” F.S.A. §496.404(19).

Section 1(3) of Act 2014-122 states: “The Legislature respects the diversity of activities conducted by religious groups and therefore, through this act, intends that the definition of a “religious institution” apply to bona fide religious groups.” Florida formerly took the position that only Form 990 non-filers could qualify for exemption. The language in Act 2014-122 has resulted in a more liberal application of the exemption.

Request confirmation of exemption by letter to the Division of Consumer Services.

<https://www.fdacs.gov/Business-Services/Solicitation-of-Contributions>.

Georgia

The term “charitable organization” does not include a “religious organization.” Ga. Code §43-17-2(2). A “religious organization” is “an entity which: (A) Conducts regular worship services; or (B) Is qualified as a religious organization under Section 501(c)(3) of the Internal Revenue Code of 1986, as now or hereafter amended, that is not required to file IRS Form 990, Return of Organization Exempt from Federal Income Tax, under any circumstances.” Ga. Code §43-17-2(14).

Request confirmation of exemption by letter to Charities Division.
<https://sos.ga.gov/how-to-guide/how-guide-charities>.

Hawaii

Exemption from registration and reporting applies to “any duly organized religious corporation, institution, or society that is exempt from filing Form 990 with the Internal Revenue Service pursuant to sections 6033(a)(3)(A)(i) and (iii) and 6033(a)(3)(C)(i) of the Internal Revenue Code, as amended.” Haw. Rev. Stat. §467B-11.5(1).

Apply online at <https://charity.ehawaii.gov/charity/apply-exemption.html>.

Illinois

Exemption from annual reporting (but not from initial registration) applies to “a corporation sole or other religious corporation, trust, or organization incorporated or established for religious purposes, [and] any agency or organization incorporated or established for charitable, hospital, or educational purposes and engaged in effectuating one or more such purposes, that is affiliated with, operated by, or supervised or controlled by a corporation sole or other religious corporation, trust, or organization incorporated or established for religious purposes, [and] other religious agencies or organizations which serve religion by the preservation of religious rights and freedom from persecution or prejudice or by fostering religion, including the moral and ethical aspects of a particular religious faith.” ILCS 460/3(a)(1).

File Forms CO-1 and CO-3. https://ag.state.il.us/charities/register_report.html.

Kansas

Exemption from registration applies to “any corporation, trust or organization incorporated or established for religious purposes, or established for charitable, hospital or educational purposes and engaged in effectuating one or more of such purposes, that is affiliated with, operated by or supervised or controlled by a corporation, trust or organization incorporated or established for religious purposes, or to any other religious agency or organization which serves religion by the preservation of religious rights and freedom from persecution or prejudice or by fostering religion, including the moral and ethical aspects of a particular religious faith.” Kan. Stat. §17-1762(k).

The Attorney General's office states: “The Attorney General has no authority to grant exemptions for charitable registration. If a charity determines it is exempt from registering per K.S.A. 17-1762, the charity would not register with our office. The charity’s legal counsel would make this determination, as the Attorney General cannot give legal advice.”

https://ag.ks.gov/docs/default-source/forms/charity-registration/charitable-org-registration---fillable.pdf?sfvrsn=2e2baa1a_16.

However, we recommend notifying the AG’s office by letter that the organization is claiming exemption. See page 2, footnote 4.

Kentucky

The following solicitations are exempt from the provisions of KRS 367.650 to 367.670:

* * * * *

(2) Solicitations by a religious organization for funds for religious purposes such as maintenance of a house of worship, conduct of services, and propagation of its faith and tenets as distinguished from other charitable and civic purposes employed by nonreligious organizations.

K.R.S. 5367.660(2).

Request confirmation of exemption by letter to the Attorney General’s office.

<https://ag.ky.gov/Resources/Consumer-Resources/charity/Pages/registration.aspx>.

Non-exempt charities that file Form 990 need only file a copy of Form 990. K.R.S. 5367.657(1).

Louisiana

Louisiana law does not require charities to register. See R.S. 551:1901 et seq. However, 16 ADC 5515 administratively declares that a charity using a professional solicitor is committing a deceptive trade practice unless it registers. However, the regulation exempts from registration “religious institutions,” including

ecclesiastical or denominational organizations, churches, or established physical places for worship in this state at which nonprofit religious services and activities are regularly conducted and carried on and shall also include those bona fide religious groups which do not maintain specific places of worship. Also includes integral parts of religious institutions that are not primarily supported by funds solicited outside its own membership or congregation, and institutions soliciting contributions for the construction and maintenance of a house of worship or a clergyman’s residence.

If using a professional solicitor, see

<http://www.ag.state.la.us/Files/Article/291/Documents/CharitableExemptionChecklist.pdf>, and file <http://www.ag.state.la.us/Files/Article/291/Documents/CharitableExemptionForm.pdf>. La. Rev. Stat. 551:1901(6) defines a “professional solicitor” as “. . . any person who, for financial consideration, solicits contributions for or on behalf of a charitable organization, whether such solicitation is performed personally or through his agents, servants, or employees or through agents engaged in the solicitation of contributions under the direction of such person.”

However, 16 La. Adm. Code 5515 adds at the end, “. . . or a person who plans, conducts, manages, or advises a charitable organization in connection with the solicitation of contributions.” The effect is to (improperly) include fundraising consultants in the definition of a professional solicitor.

Maine

Section 5003.1 of the Charitable Solicitations Act states: “For purposes of this chapter, an organization established for and serving bona fide religious purposes is not a charitable organization.” 9 M.R.S 55003.1.

Request confirmation by letter to the Office of Professional and Occupational Regulation.

<https://www.maine.gov/pfr/professionallicensing/professions/charitable-solicitations-act>.

Maryland

Exemption from registration and reporting applies to organizations not employing a professional solicitor that are religious organizations, a parent organization of a religious organization, or a school affiliated with a religious organization. Business Regulation Article, §6-102(c)(1)(ii)2. File Form 990 with the Secretary of State if registration is not required and Form 990 is filed with the IRS. §6-405(b).

If an organization is a religious organization or an organization affiliated with a religious organization, it may be exempt from the requirements of the Act. To request an exemption on religious grounds, please submit a written request for religious exemption, along with bylaws, a copy of the IRS tax determination letter designating the organization as tax exempt, the organization's articles of incorporation, and other information explaining the mission of the organization.

<https://sos.maryland.gov/Charity/Pages/Registering-Charity.aspx>.

Massachusetts

Form PC-Annual Report (one signer; no Schedule A). Massachusetts has no religious exemption from registration under Chapter 12, §8E. However, annual reports are not required to be filed with respect to "any property held for any religious purpose by any public charity, incorporated or unincorporated." §8F. This applies only to property-holding entities, not to those conducting religious activities. And 940 CMR §2.02(1)(a) exempts from filing reports, "A public charity that is exempt from filing a return pursuant to Treasury Regulation §1.6033-2(g)(1)(i) or (ii) or (iv) or (vii)."

Registration is also required under 68 MGL §19, subject to an exemption in §20 for "(1) any religious corporation, trust, foundation, association or organization incorporated or established for religious purposes, nor any agency or organization incorporated or established for charitable purposes and engaged in effectuating one or more of such purposes, which is affiliated with, operated by, or supervised or controlled by a corporation sole or other religious corporation, trust, foundation, association, or organization incorporated or established for religious purposes, nor any other religious agency or organization which serves religion by the preservation of religious rights and freedom from persecution or prejudice or by fostering religion, including the moral and ethical aspects of a particular religious faith; . . ."

Request confirmation of exemption by letter to charitiesfilings@mass.gov.

Michigan

A “charitable organization” “does not include duly constituted religious organizations or a group affiliated with and forming an integral part of a religious organization no part of the net income of which inures to the direct benefit of any individual if it has received a declaration of current tax exempt status from the United States. The affiliated group shall not be required to obtain a declaration if the parent or principal organization has obtained tax exempt status. M.C.L. §400.272(a).

File Form CTS-03.

https://www.michigan.gov/ag/-/media/Project/Websites/AG/charities/registration-forms/Fillable_Exemption_Form_2909_Final.pdf?rev=de910e161cbt-8416284622104e0af8c72&hash=3A944E1AB575364328AE22FDF24AE0DD.

Note that Form CTS-03 improperly states: “If the organization's IRS 501(c)(3) determination letter requires it to file a Form 990, 990-EZ, or 990-N, the organization likely does not qualify for this exemption.”

M.C.L. §400.272(f) defines a professional fundraiser as any “person who for compensation or other consideration plans, conducts, manages, or carries on a drive or campaign of soliciting contributions for or on behalf of a charitable organization, *religious organization*, or any other person; or who engages in the business of or holds himself out as independently engaged in the business of soliciting contributions for such purposes. Thus, even though a religious organization is not a “charitable organization,” professionals that must register (**which do not include fundraising consultants that do not have custody or control of funds**) must list religious organizations soliciting in Michigan as clients on their own registration forms, and submit those contracts to Michigan.

Minnesota

Exemption from registration and reporting applies to “a religious society or organization” that is exempt from filing Form 990 pursuant to I.R.C. §6033(a)(2)(A)(i) and (iii), and §6033(a)(2)(C)(i).

File Charitable Organization Exemption Form,
https://www.ag.state.mn.us/charity/Forms/Char_ExemptionForm.pdf.

Mississippi

A “charitable organization” does not include “any bona fide duly constituted religious institutions and such separate groups or corporations which form an integral part of religious institutions, provided that: (A) Such religious institutions, groups, or corporations are tax exempt pursuant to the Internal Revenue Code; (B) No part of their net income inures to the direct benefit of any individual; and (C) Their conduct is primarily supported by government grants or contracts, funds solicited from their own membership, congregations, or previous donors, and, fees charged for services rendered.” Miss. Code §79-11-501(a)(iii).

Secretary of State Rule 101(B) defines a “religious institution” as “(1) Ecclesiastical or denominational organizations, churches, diocese or presbytery or established physical places for worship, whether or not incorporated, at which nonprofit religious services and activities are regularly conducted and carried on and also includes those religious groups which do not maintain specific places of worship; (2) Such separate groups or corporations which form an integral part of a religious institution as defined by subsection (B)(1) of this Rule and which are exempt from federal income tax under the provisions of Section 501(c)(3) of the Internal Revenue Code of [1986]; and (3) Such institutions soliciting contributions for the construction and maintenance of a house of worship or clergyman's residence.” Mississippi requests specific representations regarding the extent to which the organization is supported by prior donors.

Request confirmation of exemption by letter to Charities Division.
<https://www.sos.ms.gov/charities>.

Missouri

Exemption from registration applies to “any society, sect, persuasion, mission, church, parish, congregation, temple, convention, or association of any of the foregoing, diocese or presbytery, or other organization that either: (a) meets at more or less regular intervals for worship of a supreme being or higher power, or for mutual support or edification in piety or with respect to the idea that a minimal standard of behavior from the standpoint of overall morality is to be observed, or (b) is, including but not limited to, any nursing, boarding, retirement, children's or orphan's home, or any foundation, commission, hospital, school, college, university, seminary, or other entity which is owned, operated, controlled, supervised or principally supported by, or associated with through the sharing of common religious bonds and convictions, any organization which meets the requirements of this subdivision.”

Missouri also exempts from registration “any organization that has obtained an exemption from the payment of federal income taxes as provided on section 501(c)(3)..., as amended, if, in fact, no part of the net earnings of the organization inure to the benefit of any private party or individual associated with such organization.” It is not clear whether this exemption applies to, e.g., a church that is exempt under §501(c)(3) but hasn't obtained a determination letter from the IRS.

Request confirmation of exemption from the Office of the Attorney General.
<https://ago.mo.gov/civil-division/consumer/business-registrations/charitable-organizations-professional-fundraisers>.

Nebraska

Statute declared to be an unconstitutional prior restraint on speech protected by the First Amendment. *State v. Kelley*, 541 N.W.2d 645 (1996).

Nevada

The law excludes from the definition of a “charitable organization” (that is subject to the law) “an organization that is established for and serving bona fide religious purposes.” N.R.S. §82A.025.

Registration and exemption forms and instructions are on the Secretary of State’s website, at <http://nvsos.gov/sos/licensing/charitable-organizations> (Different forms must be filed, depending on whether or not the organization is incorporated or doing business in Nevada.).

However, these forms apply only to charities that are subject to the law but exempt from registration and reporting, and should not be used by a religious organization, including a church, claiming it is excluded from the definition of a charitable organization.

Request confirmation of exemption by letter to the Secretary of State’s office.

New Hampshire

Exemption from the statute for “any religious organization which holds property for charitable or religious purposes or to their integrated auxiliaries or to conventions or associations of churches” is said by the Charitable Trust Unit to have been “uniformly interpreted” as limited to Form 990 non-filers, “based upon what we believe the legislative intent was.” In practice, New Hampshire will recognize an exemption only for a religious organization not required to file Form 990.

Request confirmation of exemption by letter to Charitable Trusts Unit.
<https://www.doj.nh.gov/charitable-trusts/>.

New Jersey

Registration requirements do not apply to “any religious corporation, trust, foundation, association or organization incorporated under [New Jersey law] or established for religious purposes. Any agency or organization incorporated or established for charitable purposes and engaged in effectuating one or more charitable purposes, which is affiliated with, operated by, or supervised or controlled by a corporation, trust, foundation, association, or organization incorporated or established for religious purposes, or any other religious agency or organization shall also be exempt.”

Request confirmation of exemption by letter to Charities Registration Section.
<https://www.njconsumeraffairs.gov/charities>.

New Mexico

Act does not apply, N.M. Stat. §57-22-4.A, to “any church, organization or group organized for the purpose of divine worship or religious teaching or other specific religious activity or any other organization that is formed in association with or to primarily encourage, support or promote the work, worship, fellowship or teaching of the church, organization or group.” N.M. Stat. §57-22-3.G.

Request confirmation of exemption by letter to the Office of the Attorney General.
<https://www.nmag.gov/charities.aspx>.

New York

The Act does not apply to “corporations organized under the Religious Corporations Law and other religious agencies and organizations, and charities, agencies, and organizations operated, supervised, or controlled by or in connection with a religious organization.” Executive Law, §172a-1.1.

Use online registration form to document exemption.
Guide at <https://www.charitiesnys.com/pdfs/online-reg-useguide.pdf>; form starts at <https://www.charitiesnys.com/e-file.html>.

North Carolina

“Any person who solicits contributions for a “religious institution” is “exempt from the provisions of this Chapter.” N.C.G.S. §131F-3(1).

“Religious institution” means “any church, ecclesiastical, or denominational organization, or any established physical place for worship in this State at which nonprofit religious services and activities are regularly conducted, and any bona fide religious groups that do not maintain specific places of worship,” and “any separate group or corporation that forms an integral part of a religious institution that is exempt from federal income tax under . . . section 501(c)(3) of the Internal Revenue Code, and that is primarily supported by funds solicited inside its own membership or congregation.” N.C.G.S. §131F-2(17).

Request confirmation of exemption by letter to the Charitable Solicitation Licensing Division.
<https://www.sosnc.gov/divisions/charities>.

North Dakota

A “charity” does not include “[a] religious society or organization that is exempt from filing [IRS Form 990] pursuant to [I.R.C. §]6033(a)(2)(A)(i) and (iii) and [I.R.C. §] 6033(a)(2)(C)(i).” North Dakota’s Century Code §50-22-01(2)(B)(5).

Request confirmation of exemption by letter to the Office of the Secretary of State.
<https://sos.nd.gov/business/nonprofit-services/charitable-organizations.html>.

Ohio

Registration exemption applies to “any religious agencies and organizations, and charities, agencies, and organizations operated, supervised, or controlled by a religious organization.” Ohio Rev. Code §1716.03(A).

Request confirmation of exemption by letter to the Office of the Attorney General.
<https://charitable.ohioago.gov/Resources-for-Charities>.

Oklahoma

Registration exemption applies to “organizations incorporated for religious purposes and actually engaged in bona fide religious programs, and other directly operated, supervised, or controlled by a religious organization.” 18 Okla. Stat. §552.4.1.

Request confirmation of exemption by letter to the Charitable Organizations Section.
<https://www.sos.ok.gov/charity/default.aspx>.

Oregon

The Charitable Trust and Corporation Act, which otherwise requires charities to register with the Attorney General and file annual reports, does not apply to “[a]ny religious corporation sole or other religious corporation or organization which holds property for religious purposes, or to any officer, director or trustee thereof who holds property for like purposes.” O.R.S. §128.640(2). A “religious organization” is “any organized church or group organized for the purpose of divine worship, religious teaching, or other directly ancillary purposes.” O.R.S. §128.620(4). A foreign charity soliciting funds in Oregon is considered to be doing business in Oregon for purposes of the Act.

Request confirmation of exemption by letter to the Charitable Activities Section.
<https://www.doj.state.or.us/charitable-activities/>.

Pennsylvania

A “charitable organization” does not include:

- (2) any bona fide duly constituted religious institutions and such separate groups or corporations which form an integral part of religious institutions, provided that:
 - (i) such religious institutions, groups or corporations are tax exempt pursuant to the Internal Revenue Code of 1986;
 - (ii) no part of their net income inures to the direct benefit of any individual; and
 - (iii) their conduct is primarily supported by government grants or contracts, funds solicited from their own memberships, congregations or previous donors, and fees charged for services rendered.

10 P.S. §162.3. Request confirmation of “exclusion” by filing Form BCO-9,

<https://www.dos.pa.gov/BusinessCharities/Charities/RegistrationForms/Documents/Registration%20Forms/BCO-9,%20approval%20of%20exemption%20exclusion,%203-2018%20final.pdf>.

Note that Form BCO-9 improperly suggests that only churches and their affiliates may be excluded. The statute does not define a “religious institution.”

Rhode Island

Registration exemption applies to “churches or recognized denominations and religious organizations, societies and institutions operated, supervised, or controlled by a religious organization or society which solicit from other than their own membership. Institutions directly affiliated with but which are not operated, supervised, or controlled by any religious organizations or religious society which own, maintain, and operate homes for the aged, orphanages, and homes for unwed mothers.” R.I. Gen. Laws §5-53.1-3(13).

Request confirmation of exemption by letter to Charitable Organizations Section.

<https://dbr.ri.gov/insurance-banking-securities-and-charitable-organizations/securities-and-charities/charitable>.

South Carolina

A “charitable organization” does not include “a church, synagogue, mosque, or other congregation organized for the purpose of divine worship, and integrated auxiliaries of them, or a religious organization determined by the Internal Revenue Service to be a tax exempt organization that is not required to file Internal Revenue Service Form 990, Form 990-EZ, or Form 990-N based on its religious classification. 'Integrated auxiliaries', as used in this subsection, include men's or women's organizations, seminaries, mission societies, and youth groups affiliated with a church, synagogue, mosque, or other congregation organized for the purpose of divine worship.” S.C. Code of Laws §33-56-20(1)(b)(i).

Request confirmation that the organization is not a charitable organization by letter to the Charities Division. <http://sos.sc.gov/online-filings/charities-pfrs-and-raffles/charities>.

Tennessee

The registration requirements of the Act do not apply to any “bona fide religious institution,” Tenn. Code Ann. §48-101-502(a)(1), including “(1) ecclesiastical or denominational organizations, churches, or established physical places for worship in this state, at which nonprofit religious services are regularly conducted and carried on and also include those bona fide religious groups which do not maintain specific places of worship and which are not subject to Federal income tax and are not required to file and IRS Form 990 under circumstances; and (2) such separate groups or corporations which form an integral part of those institutions which are...not required to file an IRS Form 990 under any circumstance and which are not primarily supported by funds solicited outside their own membership or congregation; and (3) such institutions soliciting contributions for the construction and maintenance of the house of worship or a clergyman's residence.” Tenn. Code Ann. §48-101-502(c).

Reciprocal exemption: The Act also requires the Secretary of State to exempt from registration charitable organizations “organized under the laws of another state, having their principal place of business outside the state, whose funds are derived principally from sources outside the state, and which have been granted exemption from the filing of registration statements by the state under whose laws they are organized, if such state has a statute similar in substance to the provisions of [the Tennessee Charitable Solicitations Act].” Tenn. Code Ann. §48-101-510(b). This exemption applies to a religious organization that is not located in Tennessee, and that is exempt from registration in the state where it is incorporated, even if it is required to file Form 990.

Request confirmation of exemption by letter to the Charitable Organizations office. <https://sos.tn.gov/charities>.

Texas

Only charities soliciting for the benefit of public safety personnel and veterans must register in Texas. Texas Occupations Code, Title 11, Chapters 1803 and 1804.

Utah

Exemption from registration and reporting is available to “a bona fide religious, ecclesiastical, or denominational” organization if: (i) the solicitation is made for a church, missionary, religious, or humanitarian purpose; and (ii) the organization is; (A) a lawfully organized corporation, institution, society, church, or established physical place of worship, at which nonprofit religious services and activities are regularly conducted and carried on; (B) a bona fide religious group: (I) that does not maintain specific places of worship; (II) that is not subject to federal income tax; and (III) is not required to file an IRS Form 990 under any circumstances; or (C) a separate group or corporation that is an integral part of an institution that is an income tax exempt organization under 26 U.S.C. §501(c)(3) and is not primarily supported by funds solicited outside its own membership or congregation.”

Request confirmation of exemption by letter to the Division of Consumer Protection, or online at <https://consumerprotection.utah.gov/businesses/charities.html>.

Virginia

A “charitable organization” does not include “any church or convention or association of churches, primarily operated for non-secular purposes.” Va. Code §57-48.

Request confirmation of exemption by letter to Office of Charitable and Regulatory Programs. <https://www.vdacs.virginia.gov/food-charitable-solicitation.shtml>. Do not use Form 100.

Washington

Only “churches and their integrated auxiliaries” are exempt from the statute (except certain provisions relating to solicitation) because they are deemed not to be “charitable organizations.” RCW §19.09.020(2).

Request confirmation of exemption by letter to the Charities Program. <https://www.sos.wa.gov/charities/>.

West Virginia

Registration exemption applies to “churches, synagogues, associations, or convention of churches, religious orders or religious organizations, that are an integral part of a church which qualifies as tax exempt under the provisions of 26 U.S.C. §501(c)(3) and which qualifies as being exempt from filing an annual return under the provisions of 26 U.S.C. §6033.” W.Va. Code, §29-19-6(5).

Request confirmation of exemption by letter to the Charities Division. <https://sos.wv.gov/business/Pages/Charities.aspx>.

Wisconsin

Registration exemption applies to organizations exempt from filing Form 990 “under section 6033(a)(3)(A)(i) and (iii) and (C)(i) of the Internal Revenue Code.” Wisc. Stat. §202.12(5)(a)1.

Request confirmation of exemption by letter to the Division of Corporate and Consumer Services, DFICharitableOrgs@dfi.wisconsin.gov.

Internal Revenue Code and Regulations References

Several state statutes exempt religious organizations from registration and reporting requirements if the organization is exempt from filing IRS Form 990. Section §6033(a)(3)⁷ of the Internal Revenue Code exempts certain religious organizations from filing Form 990. These include:

- §6033(a)(3)(A)(i): churches, their integrated auxiliaries; and conventions or associations of churches;
- §6033(a)(3)(A)(ii): organizations described in §6033(a)(3)(C);
- §6033(a)(3)(A)(iii): the exclusively religious activities of any religious order; and
- §6033(a)(3)(C)(i): religious organizations that are not private foundations and whose average annual gross receipts do not exceed \$5,000.

Treas. Reg. 1.6033-2(g)(1) exempts the following religious organizations from filing Form 990:

- (i) A church, an interchurch organization of local units of a church, a convention or association of churches, or an integrated auxiliary of a church (as defined in paragraph (h) of this section);
 - (ii) An exclusively religious activity of any religious order;
 - (iii) An organization (other than a private foundation) the gross receipts of which in each taxable year are normally not more than \$5,000 (as described in subparagraph (3) of this paragraph);
 - (iv) A mission society sponsored by or affiliated with one or more churches or church denominations, more than one-half of the activities of which society are conducted in, or directed at persons in foreign countries; [or]
- *****
- (vii) An educational organization (below college level) that is described in section 170(b)(1)(A)(ii), that has a program of a general academic nature, and that is affiliated (within the meaning of paragraph (h)(2) of this section) with a church or operated by a religious order.

⁷ Section 516(b)(1)(A) of the Tax Increase Prevention and Reconciliation Act of 2005 (Pub. Law 109-222) amended §6033(a) of the Internal Revenue Code by re-designating paragraph (2) as paragraph (3) and inserting a new paragraph (2). Some of the state statutes that refer to §6033(a)(2) have not yet been amended.

Excepting Colorado, the state statutes that reference the statutory Form 990 filing exemptions do not address these regulatory exemptions. However, in one case involving an organization exempt from filing Form 990 because it is described in Treas. Reg. §1.6033-2(g)(1)(iv)(church-affiliated foreign mission society), all states but Mississippi and West Virginia (the latter's exemption is expressly limited to churches) exempted the organization from registration and reporting.

An organization that believes it is exempt from filing Form 990 **must** obtain a ruling to this effect from the IRS, either with its initial application for exemption, or subsequently by filing IRS Form 8940, *Request for Miscellaneous Determination*.⁸ If the IRS' files show an organization is required to file Form 990, and it fails to do so for three consecutive years, its exemption under §501(c) will be automatically revoked. I.R.C. §6033(j).

⁸ Form: <https://www.irs.gov/pub/irs-pdf/f8940.pdf>. Instructions: <https://www.irs.gov/pub/irs-pdf/i8940.pdf>.

Glossary

501(c)(3):

Section 501(c)(3) is the portion of the US Internal Revenue Code that allows for federal tax exemption of nonprofit organizations, specifically those that are considered public charities, private foundations or private operating foundations. It is regulated and administered by the US Department of Treasury through the Internal Revenue Service. There are other 501(c) organizations, indicated by categories 501(c)(1) – 501(c)(29)¹

Exemptions:

Amount that taxpayers can claim for themselves, their spouses, and eligible dependents. There are two types of exemptions—personal and dependency. Each exemption reduces the income subject to tax.²

Form 990:

The 990 is the tax form the Internal Revenue Service (IRS) requires all 501(c)(3) tax-exempt charitable and nonprofit organizations to submit annually. The Form 990 is designed to increase financial transparency and includes revenue, expenditure, and income data in addition to information used to assess whether a nonprofit aligns with federal requirements for tax-exempt status. The forms are publicly accessible once they are processed, but note that there can be a 12-18 month delay from the end of the organization's fiscal year to the latest available online form.³

Incorporated:

To incorporate (incorporation) is the legal process of creating an entity or corporation. It is required to draft and file the Articles of Incorporation (also referred as corporate charter) with the Secretary of State, as well as enumerate the corporation's shareholders.

The Articles of Incorporation generally lists the purpose of the corporation, the type and number of shares, its location, along with its original capital structure.

After the corporation is legally established, the assets and the income of the corporation will be separated from the personal assets and income of the shareholders, and the corporation is usually identified as "Inc." or "Limited (Ltd.)"⁴

¹ <https://www.501c3.org/what-is-a-501c3/>

² https://apps.irs.gov/app/understandingTaxes/teacher/howts_mod06.jsp

³ <https://guides.loc.gov/nonprofit-sector/form-990>

⁴ <https://www.law.cornell.edu/wex/incorporate>

Solicitation:

(1) *In general.* The term “solicitation” means the marketing of a product or service initiated by a person to a particular consumer that is—

- (i) Based on eligibility information communicated to that person by its affiliate as described in this part; and
- (ii) Intended to encourage the consumer to purchase or obtain such product or service.

(2) *Exclusion of marketing directed at the general public.* A solicitation does not include marketing communications that are directed at the general public. For example, television, general circulation magazine, and billboard advertisements do not constitute solicitations, even if those communications are intended to encourage consumers to purchase products and services from the person initiating the communications.

(3) *Examples of solicitations.* A solicitation would include, for example, a telemarketing call, direct mail, e-mail, or other form of marketing communication directed to a particular consumer that is based on eligibility information received from an affiliate.⁵

Statute:

A statute is a law enacted by a legislature. Statutes are also called acts.⁶

Unincorporated:

Unincorporated businesses are sole proprietorships (owned by a single individual) and partnerships (owned by two or more individuals). In a business partnership, each owner or partner can make business decisions and share any profits.⁷

⁵ <https://www.law.cornell.edu/cfr/text/16/680.3>

⁶ <https://www.law.cornell.edu/wex/statute>

⁷ <https://www.irs.gov/statistics/soi-tax-stats-unincorporated-business-state-and-county-data#:~:text=What%20Are%20Unincorporated%20Businesses%3F,decisions%20and%20share%20any%20profits.>

