

CA Charities: News on Forms and Fees

01.28.22 | Linda J. Rosenthal, JD



The nation's charitable organizations are subject to a dizzying array of laws: federal and non-federal, tax and non-tax. See [*Say What? We're Monitored by How Many Agencies?*](#) (March 5, 2015).

The individual states – and particularly their attorneys general – are at “the [forefront of protecting charitable assets](#) and ensuring their lawful and intended use in the public interest.” This authority somewhat overlaps that of the IRS, but it has much deeper and broader historic roots.

There was no federal income tax at all until 1913; before then, the national government “[played little part](#) in charities regulation.” Oversight was the exclusive province of the states. The authority of the state attorneys general dates back to our earliest colonial days; the early settlers in turn adopted this precedent from the authority granted by the English Parliament to the Crown Attorney General in the Charitable Uses Act of 1601. See [*Donor Disclosure: The Hottest Ticket In Town*](#) (May 25, 2021), citing [*Brief of Amici Curiae Scholars of the Law of Non-Profit Organizations in Support of Respondent*](#) [California Attorney General] (March 31, 2021) in [*Americans for Prosperity Foundation \(AFPF\) v. Bonta*](#).

Even after the massive overhaul of the Internal Revenue Code in 1954 and again in the Tax Reform Act of 1969, “...the federal role was limited to the [carrot-and-stick of the tax power](#).” The States remained “better suited to correcting the behavior of charitable fiduciaries” than the IRS given the States’ “broader oversight role and remedial authority.”

Particularly in the last decade or so, the influence of state attorneys general – especially in the biggest jurisdictions with the most nonprofits (and significant enough budgets to fund these offices and activities) – has grown. At the same time, largely due to draconian budget cuts by Congress – the regulatory power of the Internal Revenue Service has contracted significantly.

California AG Authority

As the largest state in the union, California also has the most charitable organizations, followed by Texas and New York.

“Charities represent an important economic sector in California and significantly impact the communities they serve In January 2021, there were over 118,000 charitable organizations registered with the Registry of Charitable Trusts. As of June 2019, these registered charities reported total revenues over \$293 billion and total assets over \$854 billion.”

It is the state’s Attorney General who has oversight authority for charities, charitable trusts, as well as over individuals and other organizations who hold charitable assets or engage in fundraising for charitable purposes. California Government Code § 12580 *et seq.* [the Supervision of Trustees and Fundraisers for Charitable Purposes Act] and California Business & Professions Code § 17510 *et seq.* [charitable solicitations]; California Code of Regulations, tit. 11, § 300 *et seq.*

The purpose of this regulatory power is “to protect charitable assets for their intended use and ensure that the charitable donations contributed by Californians are not misapplied and squandered through fraud or other means.”

There are two “main elements of the Attorney General’s regulatory program”:

- “The attorneys and auditors of the Charitable Trusts Section investigate and bring legal actions against charities and fundraising professionals that misuse charitable assets or engage in fraudulent fundraising practices.”
- “The Registry of Charitable Trusts administers the statutory registration program. All charitable trustees and fundraising professionals are required to register and file annual financial disclosure reports with the Registry.” There are additional filing duties for nonprofits that conduct raffles for charitable purposes as well as for fundraisers.

Required Forms and Fees

The California Association of Nonprofits explains that the “most common reason for nonprofits to lose their good standing with the State of California is a failure to submit required forms.”

The Attorney General’s Guide for Charities (rev. June 2021) is an invaluable, 115-page, online resource. Chapter 6, Reporting Requirements, Attorney General, explains these registration and reporting derived from state statutes and regulations.

- *Form CT-1 and Initial Registration:* Section 12585 of the Government Code requires charitable organizations, including trustees, to register with the Attorney General’s Registry of Charitable Trusts within 30 days of first receiving property (i.e., a cash donation, property donation, or other assets with financial value received for charitable purposes).
- *Form RRF-1 and Annual Reporting:* There are also annual registration-renewal requirements. This form’s filing fee depends on the organization’s gross annual revenue for the preceding year. Charitable organizations in good standing with the Registry may file the Form RRF-1 electronically with the Registry.

Changes for 2022

Although there were certain revisions effective on New Year's Day 2020, there are now new changes affecting charities and charitable trustees as well as raffle registrants and also commercial fundraisers, fundraising counsels, and commercial coventurers.

There are new forms as well as increased filing fees. The Charities homepage of the Attorney General's website, includes this instruction: "Before registering, renewing or reporting each year, please always download the latest forms available from the appropriate program page using the menu on the right."

More particularly – and note the date here – these updated forms "... are required with any filings received by the Registry on or after January 1, 2022." (italics and bolding in original).

"The primary charity registration fees have gone up, effective January 1, 2022 to \$50 annually from the previous amount of \$25." The AG's Office explains: "We haven't raised registration fees in over 14 years so this increase was long overdue."

In addition, the charity registrants' annual renewal fees have gone up; the variable fee schedule is on the updated Form RRF-1.

The raffle-registration fee has also increased to \$30; see new Form CT-NRP-1. And the annual registration fees for commercial fundraisers, fundraising counsels and commercial coventurers has increased to \$500.

Schedule B Dropped

There is another significant notice on the California Attorney General's Charities homepage: "Effective July 1, 2021, the Registry of Charitable Trusts will no longer require the filing of Schedule B to the IRS Form 990 as part of the registration and annual reporting requirements."

That short and simple statement on the website acknowledges the dramatic consequences of the Supreme Court's highly controversial opinion last July 1, 2021 in *Americans for Prosperity Foundation v. Bonta*.

The other states including New York and New Jersey that had almost identical donor-disclosure requirements have (at least so far) suspended the collection of the Form 990, Schedule B, which was the focus of the high-court dispute.

Conclusion

Even if the 6-3 opinion in *Bonta* against the California Attorney General had been narrowly crafted, it would have been deeply disappointing.

The case presented by the state government, along with a mountain of outstanding amici curiae briefs, was solid and strong. (See our posts from last May and June – here, here, and here – including links to excellent argument and legal authority. See particularly the outstanding amici curiae submission by the Office of the Attorney General of New York on behalf of itself and the attorneys general of sixteen additional jurisdictions.)

It's long been common wisdom in the legal field that the Supreme Court justices generally like to write as limited a ruling as possible in each case. There was no such restraint here, including holding that the Schedule B confidential donor disclosure requirement was unconstitutional "facially"; that is, across the board instead of solely "as applied" to the facts of this situation.

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