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## INTERNATIONAL KNOWLEDGE AND EXPERIENCE EXCHANGE ON THE DEVELOPMENT OF NON-GOVERNMENT ORGANIZATIONS

*Ho Chi Minh, 31.07-01.08.2014*

### **Fundraising Regulation in the United States**

- Overview of fundraising practices and policies in the US
- Overview of fundraising regulation in the US: State and federal aspects
- State regulation of fundraising and the crucial role of state regulation
- Federal regulation of fundraising
- Issues particularly raised by Chinese colleagues

### **Overview of Charitable Solicitation (Fundraising) Regulation in the US: State and Federal Aspects**

- The crucial role of state regulation
- Increasing federal interest, usually through federal tax reporting (Form 990)
- General features of state fundraising regulation law in the US
  - Fundraising law in 40 states; 10 states may not require fundraising regulation/reporting but may still enforce other laws
  - Broad definitions of “charitable,” “solicitation,” and “revenue”
  - Key: The act of *requesting* a charitable contribution (i.e., in contrast to the receipt, uses, or impact of donations)
  - Coverage of all solicitations for charitable purposes addressed to the state's residents regardless of location of solicitor or beneficiaries
  - Registration and annual reporting requirements for both nonprofits that solicit on their own behalf and for others who assist/engage in solicitations on a commercial basis
  - Registration requirements and process
  - Registration exemptions
  - The role of the Unified Registration Statement (and additional statements)
  - Reporting
  - Unfair and deceptive practices
  - Disclosures
  - Rules for professional fundraisers
  - Special issues with Internet fundraising
  - Qualifying to do business out-of-state
- Registration requirements and process
  - Applicability to all nonprofits (not just 501(c)(3) – also social welfare organizations; chambers of commerce; membership organizations)
  - Rationales for registration: Public information; law enforcement
  - Who is required to register?\_Generally, any nonprofit that makes or intends to make a charitable solicitation within a state requiring registration
  - Asking for donations, not receiving them
- Registration exemptions
  - Differ by state, and some common exemptions



- Religious organizations; Hospitals; Some or all nonprofit educational institutions; Organizations with less revenue (ie \$1,500 - \$50,000); Chapters/affiliates of broader nonprofits; Political organizations/groups/campaigns; Appeals for individuals
- Registration requirements and process
  - The role of the Unified Registration Statement (and additional statements): Availability to *facilitate multistate filing*; <http://www.multistatefiling.org/>
  - Reporting: Annual financial reporting required in most states
    - Details required, ie income, expenses, programs, etc.
- Unfair and deceptive practices
  - Specific prohibitions in state law – examples: Any unfair or deceptive acts/practices; Representation of charitable group without authorization; Deceptive use of nonprofit name; Misrepresentation of various kinds
  - Enforcement by state enforcement authority (generally Attorney General or Secretary of State)
- Disclosure statements about fundraising information
  - 13 states require notification to all solicitees that additional information is available
  - Example – New Jersey: “Information filed with the Attorney General concerning this charitable solicitation and the percentage of contributions received by the charity during the last reporting period that were dedicated to the charitable purpose may be obtained from Attorney General of the State of New Jersey by calling [...] and is available on the Internet at [...]. Registration with the Attorney General does not imply endorsement.”
- Special rules for professional fundraisers
  - Professional solicitors and fundraising consultants
  - Close regulation; Specific and often stricter state rules governing registration, reporting and other areas; Contract requirements
- Federal filing rules
  - Form 990 (> \$200k receipts, >\$500k assets); Form 990-EZ (\$50-200k receipts, <\$500k assets); Form 990-N (normally < \$50,000 receipts)
  - Exemptions from 990 filing (ie religious organizations)
  - Requirement of telling IRS in which state organization is required to file Form 990
  - Schedule G: Supplemental information on fundraising

### Needed Reforms to US State Charitable Solicitation Law (my thanks to Put Barber)

- “Lighter but tighter registration”
- Focus on informed giving – public and organizational education/capacity building
- Enforcement with teeth