



Charities Registration Raises Mandatory Audit Threshold for Non-Profits

The New Jersey Division of Consumer Affairs has approved new regulations that will raise the mandatory audit threshold for charities under the “Charitable Registration and Investigation Act.”

The amended regulations, published in the February 22, 2011, *New Jersey Register* and effective immediately, include a provision requested by the Center for Non-Profits that raises the audit threshold from \$250,000 in gross revenue to \$500,000. The rule adoption means that any organization with less than \$500,000 in gross revenue in its most recently completed fiscal year will no longer have to submit an independent audit in order to satisfy the requirements of New Jersey’s fund raising statute. The Center estimates that the new change could save each covered organization an average of \$7,000 annually, and will result in an annual ***combined savings of over \$10 million for the non-profit community***.

Under New Jersey’s Charitable Registration and Investigation Act, most organizations must register and file annual financial reports with the New Jersey Division of Consumer Affairs, Charities Registration Section. Groups that raise less than \$10,000 in a year are exempt, provided that fundraising is conducted by persons who are not compensated for soliciting contributions. Religious organizations are also exempt, as are certain libraries and schools if specific conditions are met.

Under the new regulations, if an organization had gross revenues of \$500,000 or more in the most recently completed fiscal year, the financial report must be accompanied by an independent audit. If an organization filing had gross revenues of between \$25,000 and \$500,000, the financial report must be certified by the organization’s president or other authorized officer of its governing board. Smaller organizations that are eligible to file a short-form registration statement (including most with contributions of less than \$25,000 in a year if fund raising is conducted by persons who are not compensated for soliciting contributions) must file a financial report on forms supplied by the Attorney General.

Given increased federal regulations and standards from the Financial Accounting Standards Board (FASB), costs of an audit routinely run over \$10,000 for the average non-profit, and those costs continue to increase. Although New Jersey’s mandatory audit threshold for charitable registration purposes was raised in 2006 at the Center’s urging, it remained one of the lower thresholds in the country. Especially in light of the more detailed information now required on the Form 990 information return, we believe that the new \$500,000 threshold will bring New Jersey in line with the thresholds in most other states without compromising accountability and integrity, and will provide much-needed financial relief for covered organizations.

Organizations should keep in mind that ***even if an audit is not required under the charities registration act, other funders or contractors may nonetheless require one***. Additionally, in order to safeguard against fraud and to uphold high standards of ethics, accountability and transparency, organizations should strongly consider a CPA review even if an audit is not conducted. Non-profit boards and senior management should weigh carefully, in concert with a knowledgeable attorney or accountant, which option is best for their organizations.

- For an [overview of the differences between an audit and a review](#), see this article by Heather Taylor, CPA, of Eisner Amper, LLP: http://www.njnonprofits.org/Audit_vs_reviewEisnerAmper2011.pdf
- This article from **Blue Avocado** presents [one attorney's view](#) of when a review vs. an audit may be in order: <http://www.blueavocado.org/content/attorney-recommends-review-instead-audit>

Other changes in the new regulations include additional information in the annual non-profit filings; increased contract filing requirements for independent paid fund raisers and fund raising counsel; additional safeguards for situations when fund raising counsel or independent paid fund raisers will have access to, possession of, or control over, monies or other things of value raised; additional requirements for commercial co-venture (cause-related marketing) activities; and other provisions.

For more information:

- The new regulations may be found in the February 22, 2011, *New Jersey Register* (43 N.J.R. 439 (a)) and on the Division of Consumer Affairs' Web site at http://www.nj.gov/lps/ca/adoption/charado_022211.htm. The full text of the charitable fund raising regulations are in the New Jersey Administrative Code at *N.J.A.C. 13:48*. The *New Jersey Register* and *New Jersey Administrative Code* are available online through <http://www.lexisnexis.com/njoal/>. The New Jersey Administrative Code online is only updated quarterly and may not yet reflect the newest regulations.
- The **Center for Non-Profits** has updated its detailed summary of New Jersey's fund raising law to reflect the new rule adoption. *Center members* can request a copy by emailing us at center@njnonprofits.org (please include "fund raising law summary" in the subject line).
- New Jersey Division of Consumer Affairs, Charities Registration Section
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Web:

www.state.nj.us/lps/ca/ocp/charities.htm -- Charities Registration Section main page
www.state.nj.us/lps/ca/charity/charfrm.htm -- downloadable registration forms
www.state.nj.us/lps/ca/charity/chardir.htm -- searchable database of registered charities (check to see if your organization is listed; check for typos or standard abbreviations if first search comes up empty, and always call the Charities Registration office to be sure)
<http://www.state.nj.us/lps/ca/laws/charitylaws.pdf> -- Text of New Jersey Charitable Registration and Investigation Act, N.J.S.A. 45:17A-18 et seq.
<http://www.state.nj.us/lps/ca/laws/charityregs.pdf> -- Text of Charitable Registration and Investigation Section Regulations, N.J.A.C. 13:48-1.1 et seq. (*Note: as of April 18, 2011, the new regulations are not included in this PDF document*)

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