

**VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
OFFICE OF CHARITABLE AND REGULATORY PROGRAMS**

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IS YOUR FORM 102 REGISTRATION COMPLETE?

Virginia Code Section 57-61.1.A. states that "Registrations by charitable organizations, professional solicitors, and professional fund-raising counsel *are effective, if complete, upon receipt* by the Commissioner." (Emphasis added.)

To ensure that you are submitting a complete registration, please consider the top reasons the Form 102 is incomplete:

- **Not all questions on the form are answered.**

Commonly unanswered questions on the Form 102 include:

Question 3:

This question asks for the organization's physical street address. Per the definition outlined in 2VAC-610-10, "Primary address" means the bona fide physical street address of the organization or sole proprietor." If the organization does not maintain an office, pursuant to Section 57-49.A.2., please provide the name and address of the person having custody of its financial records.

Question 7, part i) and ii):

This question provides this office with information regarding whether the organization qualifies to file a joint or consolidated registration pursuant to Section 57-49.B.

In part i), please answer "yes" if the organization has chapters, branches, or affiliates in Virginia. Please also attach a list with the affiliate's name, name of the primary contact person, address, and telephone numbers.

In part ii), please indicate whether the income and expenses of the affiliates are included in the organization's financial statement. If "yes," per 2VAC-610-20.B., a joint registration may be issued to the parent organization, which would apply to those subordinate organizations if:

1. The parent organization shares a group IRS exemption status with its chapters and all financial reporting is consolidated in the parent organization's IRS Form 990, Form 990-PF, or Form 990-EZ, or in its certified audited financial statements, or, if the organization's annual income is under \$25,000, in its treasurer's report; or
2. Each chapter has its own separate IRS exemption status, but the organization's articles of incorporation or bylaws state that all financial matters are managed by the parent organization and all financial reporting is consolidated in the parent organization's IRS Form 990, Form 990-PF, or Form 990-EZ, or in its certified audited financial statements, or, if its annual income is under \$25,000, in its treasurer's report.

To assist this office in determining whether your organization qualifies for a joint registration, it is recommended you provide, in addition to the required documentation, the following: 1) an organizational chart demonstrating the relationship of the parent to its subordinates; 2) any operating agreements between the parent and subordinates; 3) the letter from the IRS documenting a group exemption which lists the parent organization and its subordinates; 4) a written statement which provides information regarding how your organization includes the financial information of its subordinates in its annual financial report.

Question 16:

Pursuant to Section 57-58., the organization is required to compute, in response to question 16, the percentage that its fund-raising expenses for its preceding fiscal year bore to its support received directly from the public during such year. Section 57-48. defines "Contribution" as:

...any gift, bequest, devise, or other grant of any money, credit, financial assistance, or property of any kind or value, including the promise to contribute, except payments by the membership of an organization for membership fees, dues, fines, or assessments, or for services rendered to individual members, and except money, credit, financial assistance, or property received from any governmental authority. "Contribution" does not include any donation of blood or any gift made pursuant to Article 2 (§ 32.1-289.2 et seq.) of Chapter 8 of Title 32.1. (Emphasis added).

Total contributions can be found on the IRS Form 990, Part VII, Line 1h (less government grants, Line 1e). On the IRS Form 990-EZ, total contributions can be found in Part 1, Line 1. On the IRS Form 990-PF, total contributions can be found in Part 1, Line 1. In an audited financial statement, total contributions will be distinguishable from "revenue" and will often be identified as "support." On a treasurer's report, total contributions may be identified as "contributions," "in-kind donations," and "grants." If you receive government grants, please designate those grants in the treasurer's report accordingly.

Fundraising expenses can be found on the IRS Form 990, Part IX, Line 25, Column D. Fundraising expenses on the IRS Form 990-EZ, 990-PF, audited financial report, or treasurer's report, may be identified as professional fees and other payments to independent contractors, event expenses, printing, publications, postage, or shipping.

For additional questions regarding how to respond to question 16, we encourage you to speak with a certified public accountant with the understanding that Section 57-53. requires every charitable organization to keep true fiscal records in accordance with uniform standards of accounting.

Question 20:

In response to question 20, please advise how your organization intends to use the contributions received in the current fiscal year.

• **Not all attachments were included. Please refer to the "Checklist of Required Attachments" on page 2 of the form.**

- Be sure to include the remittance form and check, made payable to "**Treasurer of Virginia**," with the appropriate fee payment. Please refer to the "Computation of Fee Criteria" on page 6 where the annual fee can be calculated. The fee will be based on the gross contributions calculated from the attached financial report for the most recent past fiscal year. "**Gross contributions**" is defined in 2VAC5-610-10 as, "the total contributions received by the organization from all sources, regardless of geographic location, excluding government grants." (Emphasis added.)
- Be sure to provide a listing of names, addresses, and titles of this year's officers, directors, trustees, and any principal salaried executive staff. If these individuals are to be contacted at the organization's primary address, please so indicate on the list.

- Be sure to provide the required financial report for the **most recently completed** fiscal year. If you do not include any financial report or if you include the wrong financial report, you will incur a late fee of \$100 in both instances.
- Be sure that the completed IRS Form 990, 990-PF, or 990-EZ, for the past fiscal year, includes all schedules, except Schedule B, and attachments as filed with the IRS.
- The IRS 990-N filing with the IRS **does not constitute** a financial report for the most recently completed fiscal year. If your organization qualifies to file with the IRS a Form 990-N, your organization may file a treasurer's report in lieu of a IRS Form 990, 990-PF, or 990-EZ. A treasurer's report includes both a balance sheet **AND** an income and expense statement. For a sample treasurer's report, please see Appendix A.
- Be sure to include a list of the addresses and telephone numbers for any branch offices in Virginia if you answered "yes" to question 4.
- Be sure to include a list of any Virginia affiliates' names, addresses and telephone numbers if you answered "yes" to question 7.
- If you answered "yes" to question 15c, be sure to include a statement of pertinent facts pertaining to any felony conviction, if the organization, or any officer, professional fund-raiser or professional solicitor thereof, have ever been convicted of a felony.
- Include copies of signed contracts between your organization and each professional fundraising counsel and/or professional solicitor.
- If you answered "yes" to question 22 or 23 (refer to questions), please be sure to attach copies of any applicable Court Orders.
- Include copies of the current articles of incorporation, bylaws, or other in unincorporated, any other governing documents. If current copies are already on file with this office, only amendments, if any, are required after the initial or lapsed registration.
- Be sure to include a certificate of incorporation with your articles of incorporation. If the organizing jurisdiction does not provide a certificate, please be sure that the articles display the stamp or seal of the incorporating jurisdiction.
- If the organization merges or makes a name change, we need updated articles and certificate, bylaws, and IRS determination letter.
- **The list of officers, directors, trustees, and any principal salaried staff does not include names, titles, and addresses and does not identify the C.F.O. / Treasurer, by whatever title, as the person authorized to act within the capacity and function of the C.F.O./Treasurer.**

As required by Section 57-49.A.5., the organization is required to provide a listing of **names, addresses, and titles** of this year's officers, directors, trustees, and any principal salaried executive

staff. If these individuals are to be contacted at the organization's primary address, please so indicate on the list. We will not accept the listing of officers, directors, trustees, and principal salaried staff included in the most recently completed IRS Form 990 since that listing is not for the current year and may not be current.

As required by Section 57-49.D., one of the signatures on the form is to be that of the **chief fiscal officer (C.F.O.)**. Therefore, the chief fiscal officer, by whatever title, must be identifiable on the listing of officers, directors, trustees, and principal salaried staff as the person authorized to act within the capacity and function of the chief fiscal officer. If the person signing the form holds a title other than that of C.F.O., but acts within the capacity and function of C.F.O., then the organization can provide this office with a written statement that the person signing the registration form is "authorized to act within the capacity and function of the C.F.O.//signed."

- **Page 5 of the form was not signed by the C.F.O. / Treasurer and was not submitted with the original signatures of the C.F.O. and other authorized officer.**

As required by Section 57-49.D., the registration form must be signed by the **chief fiscal officer (C.F.O.)** and by another authorized officer of the charitable organization. The chief fiscal officer, **by whatever title**, who will sign the form, **must be identified** on the list of officers, directors, trustees, and principal salaried staff as the person responsible for overseeing the organization's financial activities and for ensuring that the organization's financial reports are accurate and complete. If the person signing the form holds a title other than that of C.F.O., but acts within the capacity and function of C.F.O., then the organization can provide this office with a written statement that the person signing the registration form is "authorized to act within the capacity and function of the C.F.O.//signed."

The second signature will be that of another authorized officer of the charitable organization and that person will be identifiable on the current listing of officers, directors, trustees, and principal salaried staff. The Form 102 must be submitted with the **original signatures**. Please make a copy of the signed Form 102 for your own records.

- **The IRS Form 990, 990-PF, or 990-EZ is not signed by an officer of the organization or the treasurer's report is not "verified as accurate and true" and signed by the C.F.O./Treasurer.**

Pursuant to 2VAC5-610-20 and 2VAC5-610-30, the IRS Form 990, 990-PF, or 990-EZ, for the past fiscal year, must be **signed**. If you e-filed the Form, you may attach a copy of the **signed** IRS Form 8879 e-file signature authorization, in lieu of a signature.

Pursuant 2VAC6-610-10, a "Certified treasurer's report means an **income and expense** statement and **a balance sheet** for the past fiscal year that have been prepared and signed by the organization's treasurer verifying that the report is accurate and true." Therefore, the treasurer's report needs to include the certification **signed** by the treasurer, "I hereby certify that, to the best of my knowledge, that the financial statement above is accurate and correct. //signed." For a sample treasurer's report, please see Appendix A.

- **The most recently completed fiscal year’s financial report was not included, which incurs a late fee of \$100.**

Section 57-49.A. requires your annual registration to be filed within 4 months and 15 days from the end of the organization’s most recently completed fiscal year. If your financial report is not ready by the registration due date, your organization may request in writing an extension of time to file the registration of up to 6 months. The extension request may be mailed, faxed to our office at 804-225-2666, or emailed to OCARPUNIT.vdacs@vdacs.virginia.gov, and will include: 1) the organization’s name, 2) FEIN #, and 3) the extension request length of time, which is either for 3 months or for a total of 6 months.

- **Wrong fee payment. Refer to the “Computation of Fee Criteria” on page 6, where the annual fee can be calculated.**

Be sure to refer to the “Computation of Fee Criteria” on page 6 where the annual fee can be calculated. The fee will be based on the gross contributions calculated from the attached financial report for the **most recent past fiscal year**. “**Gross contributions**” is defined in 2VAC5-610-10 as “the total contributions received by the organization from all sources, regardless of geographic location, **excluding** government grants.” (Emphasis added.)

Pursuant to Section 57-49.A., your annual registration is due every year 4 months and 15 days from the end of the organization’s most recently completed fiscal year. If your registration has lapsed, you will be required to pay the \$100 late fee **and** the annual fee. You will **never pay** an initial and late registration fee at the same time.

Initial registrants pay a \$100 initial fee. If the organization has prior financial history, the organization is **also** required to pay an annual fee. Organizations with no financial history are not required to pay an annual fee. See Section 57-49.E.

- **A late fee of \$100 is not paid with late filings. If your organization’s registration has lapsed, you are required to pay the late fee, in addition to the annual registration fee.**

As required by Section 57-49.E. “Any organization which allows its registration to lapse, without requesting an extension of time to file, shall be required to resubmit an initial registration.” The initial fee payment for a lapsed registration is essentially the “late fee” payment. You are **never** required to pay an initial and late registration fee at the same time.

Copies of the Virginia Solicitation of Contributions Law, applicable Rules Governing the Solicitation of Contributions, registration forms, and information can be found at: <http://vdacs.virginia.gov/consumer/index.shtml#solicitation>.