Ohio's Charitable Registration and Filing Requirements
Transcript

This transcript is provided to assist individuals who are hard of hearing. Until closed captioning can be added to the videos, please use this transcript as a substitute. You will still need to play the full video to record your completion of this training module.

Hi! My name's Beth Short. I'm with the Ohio Attorney General's Charitable Law Section. Welcome to our webinar called "Ohio's Charitable Registration System and Filing Requirements". The primary focus of this webinar is to help you register your organization online with the Ohio Attorney General's Charitable Law Section, and to assist you with filing annual reports. These processes will bring your organization into compliance and help it remain compliant.

During this presentation, we will:

- Explain why an organization needs to register and briefly outline Ohio's charitable registration and filing laws;
- Discuss what organizations are subject to these laws, and how a *Charitable organization* is defined in Ohio;
- Show you how to monitor your organization's filings through the "Research Charities" feature on our website;
- Discuss registration and annual report due dates;
- And walk you through the process of creating a user account, registering your organization and filing annual reports.

Let's Begin.

Why register? It's the law.
Most states have some charitable registration requirements, and Ohio is no exception. The biggest reason for registering with our office is: It is the law. Ohio's charitable registration requirements are governed by Ohio Revised Code Chapters 109 and 1716.

Ohio Revised Code Chapter 109 is also known as the Ohio Charitable Trust Act.
This applies if your organization is considered a charitable trust. ORC 109 defines "charitable trust" pretty broadly. Essentially, if your organization is holding funds for a charitable purpose, it will be considered a charitable trust.

This is also true regardless of whether or not your organization has tax-exempt status. But keep in mind that if your organization is recognized as a 501(c)(3), it will also be considered a charitable trust under Ohio law.

Ohio Revised Code Chapter 1716 is also known as the Ohio Charitable Organization Solicitation Act. It addresses organizations that solicit for charitable purposes in Ohio, which includes any out-of-state organizations that solicit Ohioans for donations. ORC 1716.01(K)(1) addresses what is considered a solicitation.

Your organization may be required to register under one or both statutes, for instance, if it is both a charitable trust and also engages in solicitation. This is not uncommon. Just keep in mind that if the statute applies to your organization – either one of them – you will need to register with our office. Some organizations are also exempt from registration, but we'll discuss that in more detail later on.

Why register? Registration serves many purposes.
Ohio's charitable registration requirements serve many purposes: Registration and annual filings create transparency, which helps our office prevent, identify and stop fraud. In turn, this transparency helps maintain the integrity of charitable organizations all throughout Ohio. Overall, this allows our office to protect charitable assets and prevent Ohioans from being defrauded.

We know that you, as charities, work hard to pursue your organization's mission, and our job is to protect that stated mission and to protect Ohioans by making sure that charitable assets are used for their intended purpose. Registration and annual filing requirements enable us to do that.

You will complete registration and filing online through the Charitable Ohio website.
The Ohio Attorney General's Office has a special standalone website for Ohio charities. You can get to the site from the Ohio Attorney General's website, or go directly by using the address Charitable.OhioAGO.gov.

Once you navigate to the website, you can check whether any charity is compliant on the Research Charities subpage. You can access this subpage from the bluish-gray Charitable Ohio bar across the top of the homepage. This feature is available to everyone—you do not need a user account to access the Research Charities resources.

Here, you can search for charities registered with the Ohio Attorney General and view annual filing reports. When researching a charity, you can search using either the organization's name or the EIN. Once you have conducted the search, click "Details" next to the organization's name to view registration and filing information provided to our office by the organization. You will also be able to see whether the organization is compliant; however, this page will not provide you with information regarding why an organization is not compliant, if that's the case. In order to find that information, you will need to create a user account.

The Research Charities tool is useful for charities. Oftentimes, grant applications will require proof of registration and compliance. In such cases, you can provide this information by simply printing the organization's information from the page.

To print the information, scroll to the bottom of the organization's information and select print. Charities can also direct potential donors to the Charitable Ohio site to confirm the organization's compliance with registration requirements.

Registration and Annual Filings. Charitable organizations only need to register once, but are required to file annual reports every year. Registration should be completed within six months of the formation of the organization, and must occur before the organization engages in any kind of solicitation.

When registering your organization, you will be asked to provide certain governing documents. If any changes to the governing documents are made, you will need to provide the updated versions to our office. You will also be asked to provide governing documents when requesting to be deemed exempt from registration.

Annual reports are filed online each year, and are due based on the filing organization's fiscal year end. Typically, if your organization files a 990 with the IRS, the 990 and the annual report will be due at the same time. We encourage you to complete the 990 first, as it may contain the information needed to file the annual reports with our office.

Before we get started, let's address some of the questions you'll need to answer during the registration and filing process:

- Does your organization have an employee identification number, or what we call an EIN for short? You will need an EIN to register. EINs are issued by the Internal Revenue Service. To request an EIN, you should visit www.IRS.gov. Our office cannot issue EINs for you.
- Has your organization filed with the Ohio Secretary of State's Office and, if so, is your filing up-to-date?
- Do you know what type of organization you have? Is it an association, corporation, or an individual partnership? For more information on this subject, visit www.OhioSOS.gov.
- Does your organization have tax-exempt status? If your organization is tax exempt, you will have received a tax-exempt determination letter from the IRS.

It is important to distinguish an EIN from tax-exempt status. Although both are issued by the IRS, they are not one in the same, and having an EIN does not necessarily mean your organization is tax-exempt. For more information about tax-exempt status, visit www.IRS.gov.
Regardless of whether or not your organization is tax-exempt, you will still be required to register.

With that information in hand, we are ready to show you the process for registering your organization.

Creating a user account; registering and filing annual reports
Now we are going to go over how to create a user account, register an organization, and file annual reports. We've broken this down into three easy steps:

- First, we'll show you how to create a user account.
- Then we'll explain how to complete registration for those required to complete registration.
- And, finally, we will show you how to file annual reports and discuss the fees required when filing.

We would also like to give you a few tips that will help you more easily navigate the registration and filing system. Anytime you see a small red asterisk to the left of a question, that means the question is required and must be filled out.

To the right of many of the questions, you will see a gold question mark – we call that a tool tip. Clicking the tool tip will open a window that provides additional information about the question being asked. These are especially helpful when completing the annual report. For example, sometimes the information requested can be pulled directly from your organization's form 990 or form 990EZ. In such cases, the gold question mark will often tell you what line of the 990 to refer to in order to locate the answer.

At the bottom of many pages, you'll see arrows bookending the words "Back" and "Next". Clicking either Back or Next will save whatever information you have input into the system up that point. So, if at any time you need to take a break, don't worry, you will be able to log back in and pick up wherever you left off. Until you submit the information to the system for review, you will still be able to change any of the information that was saved.

While inputting information into the system, you will not be able to print any pages – this is because the information can still be changed. Once the information is submitted, an email will be sent to all active user accounts. This email will indicate who submitted the information, and provide the date and time of the submission. You can print this email for your records, if needed.

Now we're ready to create a user account.

Creating a user account

In order to register your organization, or submit annual filings, you will first need to create a user account. We recommend that you complete this process using one device. There have been times that a user will have issues completing the process if they start with one type of device, say a computer, and attempt to switch to using a mobile device partway through.

To create a user account, you will need to navigate to our website, Charitable.OhioAGO.gov, and select the "Charity Registration" tab in the top blue banner. This will produce a drop-down menu. From the drop-down menu, you will select "Register a Charity, File Annual Reports, or Create an Account".

This will take you to a login page. You will notice that the login page is broken down into two sections. Returning users, who have already created a user account – they can log in using the top section. New users, however, will need to create an account. You will do this in the bottom section, designated for "First Time Users".

To create an account, you will need to provide an email address and create a password.
Make sure that the email address you provide is one you have access to. The system will send an email to this address asking to confirm your account. If you cannot access the provided email address, you will not be able to confirm your account.

Also, provide an email address that you check regularly. The system will send notices to this email address that will help you monitor your organization's activity. For example, if additional documentation is needed to ensure your organization remains compliant, you will receive an email from us. Or you may receive notices if another user linked to the same organization submits information.

You will also be asked to provide your first and last name, a phone number, and your relationship to the organization. Once you have entered the information into those fields, select "Create" to continue setting up your user account.

A single organization can have multiple user accounts. For example, the organization's president and the organization's treasurer may maintain different accounts, and if multiple people from your organization need access to the system, they will just need to create their own individual user account with a unique email and password.

If an account needs to be removed, for instance, because an individual might no longer be associated with your organization, all you need to do is send an email to CharitableRegistration@OhioAGO.gov requesting deactivation. In the email, please include the name of the organization, the organization's EIN, and the user account email address that you are seeking to have deactivated.

As you continue setting up your user account, you will be asked to provide the EIN for the organization you would like to have linked to your user account.

If your organization already is in our system, the organization's information will populate based on the EIN number that you provided. The system will ask you whether the organization identified is the organization you wish your account to be linked to.

If you happen to notice that any of the populated information is out-of-date or incorrect, we do not recommend making any changes at this stage. You will have the opportunity to change that information later, after you have created your account. If the system cannot locate any information for your organization within our database, you will be asked to provide some basic demographic information about your organization. Please note that this is not registration. This is to identify which organization your account should be linked to.

Once you hit submit, a confirmation email will immediately be sent to the email address you provided. To confirm your email address, you will need to log in to the email account you provided, and find the email from CharitableRegistration@OhioAGO.gov. Open the email, and click the link indicated to confirm you email address. Once you have done this, you will be able to log into the system using the user account that you created.

If you do not receive the confirmation email within five minutes, try refreshing your email folder by selecting "Send and Receive". If you still have not received the email, check your spam filter in case the email was sent there. In some cases, you may need to check that the email was not blocked by a firewall, or you may need to add CharitableRegistration@OhioAGO.gov to your "safe sender" list. If you've checked all of these possible issues and you still do not receive the email, you should contact our office.

Many of our users are affiliated with multiple charitable organizations. If this applies to you, don't worry, you will be able to link your account to multiple organizations within our system after you have created your user account. But when initially creating your user account, you will only need to provide the information for one of the organizations you wish to be linked to.
To link additional organizations to your account, you will login to your user account and navigate to the "Menu" option. Here, you will select "Add Organization". Once you verify that you want to be connected to the additional organization, select "Submit".

Upon signing into your user account, you will see a list of all the organizations your account is linked to. From here, you can select whatever organization you would like to work in.
Once inside the system, you can also navigate to a different organization without having to log out and log back in. Simply select the "Menu" button on the left-hand side and select the organization you want to switch over to.

After confirming your account and signing in, you should receive a welcome message that says "Welcome, (followed by the name of your charity). You are logged in to (whatever the charity name is)."

You will also see a "To Do List". It is important that you pay attention to what appears on your To Do List; it will provide you with details regarding outstanding tasks that need to be completed for that organization.

Congratulations, you have completed Step 1! You are well on your way to helping your organization become and remain compliant.

Registering your organization
Now that you've created your user account, you will be able to register your organization. Organizations must register and file online from the To Do List. If registration is required, it will be listed as a task on this list. If you receive a message from the system indicating that nothing is required, but you see a registration task on the To Do List, you may want to contact our office to verify which information is correct.

To access the To Do List and register your organization, you will need to log in with the user account you created. To find the login page, first navigate to Charitable.OhioAGO.gov, then select the Charity Registration Tab, and select the first option from the dropdown menu "Register a Charity, File Reports or Create an Account". This will take you to the login page, where you will then need to log in.

Once you have logged in, you will see the To Do List indicating what tasks need to be completed. If you see "Registration" on this list, that means your organization still needs to be registered. If you do not see Registration on this list, that means registration has already been completed, likely by someone else from your organization.

To complete the registration process, you will click on the Registration link. Here, you will need to answer several questions on behalf of your organization. These questions cover the following topic areas:

- Demographic information
- Organizational structure
- Organizational purpose
- Asset information

Recall what we talked about earlier, that you will only need to answer questions marked with a red asterisk. These questions are all required.

You will also be asked to provide certain documentation.

During this process, you will be asked to provide your organization's fiscal year end. Your organization's 12-month fiscal year will serve as the basis for reporting financial information. The most common fiscal periods are January 1 to December 31, or July 1 to June 30. If your organization has been granted tax-exempt status, the organization's fiscal year end will be indicated on the tax exemption determination letter provided by the IRS. When providing a response to this question, you will want to indicate the last month of the fiscal year. For example, if your organization's fiscal year is January 1 to December 31, you will put December.

When registering your organization, you will be asked to provide two kinds of documentation:

- Creating or governing documents, and
- Documentation verifying tax exempt status

Creating or governing documents include Articles of Incorporation, Bylaws, Constitution or Trust Agreement. These documents are normally what is required when filing for incorporation with the Secretary of State's Office.

If your organization has been granted tax-exempt status, you will need to provide a copy of the tax exemption determination letter issued to your organization by the IRS. This is not the letter that assigned you an EIN.

To be granted tax-exempt status, an organization must apply to the IRS and pay a fee. If you are not sure whether your organization is tax exempt, you can check the IRS database of tax-exempt organizations on their website at www.IRS.gov.

If your organization does not have tax-exempt status, you will need to complete the Affirmation of IRS Status Form. This form is available on our website at Charitable.OhioAGO.gov under the "Charity Registration" section.

The Affirmation of IRS Status Form will ask you to select one of three options, identifying whether your organization intends to become tax-exempt:

- The first option is for organizations that say "We are not going to apply. We know we don't have it and we're not going to apply".
- The second option is for organizations that are self-declaring.
- And the third option is "We have applied to the IRS but just haven't heard from the IRS yet." If you've applied but not yet heard back, you'll be asked to put the date that you applied. This form will be uploaded in place of your tax exemption determination letter. When the organization does receive its tax exemption determination letter, you will need to upload that letter.

If you don't have the requested documentation, you have the option of uploading, emailing or faxing the records later. But, bear in mind, your organization will not be fully registered until you provide the required documentation.

To provide the records later, scroll down to the bottom on the page and click the box indicating that you will submit the records later. In the meantime, the task to provide the documentation will remain on your To Do List.

To complete registration, review the information you've input on the registration form and, if it all looks good, select "Submit" at the bottom of the page. Do not forget to select Submit. Once you have done this, you will be ready to move on to the final step of filing the organization's annual report. But keep in mind, even though you are able to move to the next step, your registration will not be considered complete until you provide the requested documents.

Filing your annual report

The final step in our process is filing annual reports and paying registration fees. Just like with registration, the To Do List will indicate whether your organization has any annual reports that need to be filed.

If your organization does need to file an annual report, a "File Annual Report" link will appear on the To Do List. This link will not appear on the To Do List until you have completed registration, so you must complete your registration first.

Annual reports are required to be filed every year, and must be filed online. Please do not send paper forms. You may not be prompted to file an annual report if your organization is new. Annual reports are due after the organization's fiscal year end. If your organization is new, and has not reached its fiscal year end, you won't be prompted to file an annual report until after that has occurred.

It's possible that your organization will need to file annual reports for more than one year to become compliant. After selecting "File Annual Report" you will be presented with a list of years. Your organization will need to file an Annual Report for every year listed.

If you have just registered your organization for the first time, but the organization formed several years prior, it's possible that the To Do List will identify reports due for past years. *Usually,* only the two most recent years are listed.

If you have more than one annual report due, you will need to file them in chronological order, beginning with the oldest. You will also need to pay fees for the oldest report first. It is important to do this to avoid being assessed any additional fees when filing.

As we mentioned earlier, your organization is required to file an annual report with our office every year. The period covered by the report will be your organization's fiscal year. When determining a fiscal year, we always refer to the year-end date.

Meaning, for example, if your organization's fiscal year is July 1 to June 30, your 2022 annual report would cover the time period of July 1 2021 to June 30, 2022, because the fiscal year ends in 2022.

If your organization files a Form 990 with the IRS, the time period covered by the Form 990 is the same as the time period covered by the annual report. When looking at the Form 990 return, the year-end date is on the second line.

Your organization's annual report and Form 990 will be due on the same date. We find it more helpful to file the Form 990 first.

If the IRS grants your organization a filing extension, we will honor the extended due date. In fact, if your organization has not filed its annual report by the due date, we will assume that an extension was granted. We will not consider your filing late as long as you file an annual report and pay the required fees before the extended deadline has passed.

Every charitable organization that files is asked the same four questions. It's very important that these four questions are answered correctly:

- Did your organization, on its own behalf, solicit Ohioans?
- Did your organization hire a professional solicitor?
- What was the organization's gross revenue?
- What was the organization's total assets at the end of the year?

Depending on your responses to these questions, you may be required to answer additional questions; however, for many smaller organizations, these first four questions will be all that are required.

Let's go through the questions and talk about the kind of information we are looking for in your responses.

Did your organization, on its own behalf, solicit Ohioans? What the question is really asking is: How did your organization get money to operate? Did you go door-to-door asking for donations? Did you have bake sales? Spaghetti dinners? Fish fries? You get the idea.

It is surprising how many times PTOs or booster organizations incorrectly mark that they don't solicit, and this is usually a red flag to us because raising money is commonly a primary activity of many of these organizations.

You will notice that the question is followed by examples of solicitation activities, specifically: "contributions, instant pull tabs, bingo, special events, etc." This list is only meant to provide you with some examples of solicitation. Sometimes people find it confusing because it mentions bingo. If your organization conducts bingo, that is considered a form of solicitation, but it's not the only form of solicitation out there.

If you have any question about whether your organization is soliciting, please refer to Ohio Revised Code Section 1716.01(K).

Did your organization hire a professional solicitor? This question is rather straightforward. Does or did your organization have a contract with someone that solicits for the organization? You will either answer "Yes" or "No".

What was the organization's gross revenue? For this one, you are going to provide a dollar amount. We want to know how much your organization took in during the year. And we are asking for the gross amount, so how much your organization brought in before any deductions or expenses are taken out.

What were the organization's total remaining assets at the end of the year? Essentially, after all was said and done, was there anything of value left over? Assets include whatever is left in the organization's bank accounts; cash on hand; real property owned by the organization; other kinds of tangible property such as vehicles and equipment; and intangible items such as investments, etc. Again, this question is asking for a dollar amount, so you will want to provide the value of any tangible or intangible assets.

Most organizations will only be required to answer those four questions. For these organizations, once the answers to these questions have been submitted, and any required fees paid, their annual filing obligations will have been met. Not all organizations are required to pay filing fees, but we will address that here in a moment.

As mentioned, some organizations will be required to answer additional questions. This is based on the responses you provided to the initial four questions. The additional questions cover things such as revenue, assets, liabilities and expenses in more detail.

Program service expenses. We're often asked what constitutes program service expenses. Program expenses are broadly defined as any activity that fulfills an organization's purpose, as determined by your organization's mission statement. So, your organization's program service expenses will be unique to your organization and based on your organization's stated purpose, which should be listed in its governing documents.

To provide some examples of a programming service expenses:

- If your organization is a food pantry, you could claim the cost of food purchased for clients as a programming expense.
- If your organization is education-based, you might report the costs of purchasing textbooks or computers as a programming expense.

After answering the questions asked, you'll be given a chance to review the information you provided and make changes.

When you are ready to file your annual report, you will hit "Submit". Once you hit Submit, you will not be able to go back and make any changes. If you discover that you've made a mistake after you've hit Submit, you will need to email CharitableRegistration@OhioAGO.gov and request that the changes be made. In your email, you will need to include your organization's name, EIN and the details of the change needed.

Once you have submitted the annual report, you and any others with accounts linked to your organization will receive an email notification identifying who submitted the annual report and when it was submitted.

After submitting your organization's annual report, you will need to check your To Do List to see whether any fees are required. If a fee is due, the system will automatically calculate the amount due based on the information provided in the annual report.
You will be shown how much is due and asked to choose a payment method. Fees can be paid online with either a MasterCard and Visa, or by an E-check. Paying by E-check requires a bank account number and bank routing number authorizing an electronic transfer. <u>Mailing a check is no longer permitted</u>.

The amount of fees your organization is required to pay is determined based on which statute – either the Charitable Trust Act (in Ohio Revised Code Chapter 109) or the Charitable Solicitation Act (in Ohio Revised Code Chapter 1716) – the organization falls under. Depending on which statute applies, the amount of fees due is assessed differently.

For organizations that file under the Charitable Trust Act (Ohio Revised Code 109) the fees are based on the amount of total assets the organization has at its year end. For organizations that file under the Charitable Organizations Solicitation Act, the fees are based on the total amount of contributions received from Ohioans throughout the organization's fiscal year

It is important to stay in compliance, file and pay fees on time. Late fees are $200 for each occurrence.

Filing exemptions. Not all organizations are required to register and file with the Ohio Attorney General's Charitable Law Section. Some organizations qualify for specialized exemptions. Exemptions are not automatic and must be requested. Certain exemptions are written into the statutes. The most common exemptions are for religious entities and educational institutions.

To request an exemption, you will need to create a user account, which you already know how to do from Step 1. Once logged into your account, you will navigate to the Menu and select "Request Exemption". This will be along the left-side of the page. Here, you can review the criteria that apply to different exemptions, and assess whether any of the exemptions apply to your organization.

Organizations can be exempt under either the Charitable Trust Act or the Charitable Organizations Solicitation Act. Exemptions under the Charitable Trust Act can be found in Ohio Revised Code Section 109.26. Exemptions under the Charitable Organizations Solicitation Act can be found in Ohio Revised Code Section 1716.03. Please note that certain entities may be exempt under one of these statutes, but still be required to register and file annual reports under the other statute.

You may select any exemption that applies to your organization. You will be asked to supply documentation supporting your request for exemption within 30 days of the request. Then, you will provide a cover letter or email explaining how your organization meets the exemption criteria selected. This letter should describe your group's activities and how that activity relates to the exemption category. If supporting documents were not uploaded to the system, they can be attached to this cover letter or email.

Your request will be reviewed by an attorney in our office, and a decision will be emailed. Once a decision has been made, be sure to read your decision notice carefully.

Most states have some sort of charitable registration requirements and if you are operating or raising funds in other states, you will need to check with those jurisdictions to see what, if any, filings your organization should make there.

Charitable registration helps strengthen and protect the charitable sector and is an important tool for donors to ensure their contributions are going to organizations that comply with the law and value proper board governance principles. We've attempted to make Ohio's system user-friendly for charitable organizations and the public. Feel free to advise the community to check out your organization's standing with our office by using Research Charities.

I hope you will check out another webinar we have in Charitable University related to other governmental filings your charity should be aware of. Thank you for joining us.