

AMENDATORY SECTION (Amending WSR 09-22-056, filed 10/30/09, effective 11/30/09)

WAC 434-120-107 Audited financial report--Tiered reporting requirements (effective January 1, 2010). (1) Tier one: Charitable organizations (~~submitting an initial registration, shall~~) with one million dollars or less in annual gross revenue averaged over the last three accounting years must meet the financial reporting requirements(~~(7)~~) specified in RCW 19.09.075 (~~or~~) and WAC 434-120-105. (~~If an organization does not file a federal form (990, 990PF, 990EZ, 990T), the organization must complete the solicitation report contained in the form prescribed by the secretary.~~)

(2) Tier two: Charitable organizations with more than one million dollars and up to three million dollars in annual gross revenue averaged over the last three (~~fiscal~~) accounting years, (~~shall have the federal tax reporting form (990, 990EZ, 990PF or 990T) prepared or reviewed by a certified public accountant or other professional, independent third-party who normally prepares or reviews the federal returns in the ordinary course of their business. If the federal tax form is not signed by a preparer who is so qualified, the charitable organization must, using a reporting form provided by the secretary, confirm that the federal tax form was reviewed by an independent third-party who normally prepares or reviews federal returns in the ordinary course of their business~~) must provide one of the following:

(a) A photocopy of the federal tax reporting form (990, 990EZ, 990 PF) that has been prepared by a certified public accountant or other professional, who normally prepares or reviews federal returns in the ordinary course of their business; or

(b) A photocopy of an audited financial statement prepared by an independent certified public accountant for the preceding accounting year; or

(c) For governmental entities, a photocopy of the most recent audited financial statement prepared by the applicable government auditing agency or other independent certified public accountant.

(3) Tier three: Charitable organizations with more than three million dollars in annual gross revenue averaged over the last three (~~fiscal~~) accounting years, (~~shall~~) must submit (~~an audited financial statement prepared by an independent certified public accountant for the year immediately following any year in which the organization achieves a three year average of more than three million dollars. For organizations with more than three million dollars in annual gross revenue averaged over the last three fiscal years, but directly or indirectly receive five hundred thousand dollars or less in cash contributions averaged over the last three fiscal years, the audit requirement is waived.~~

~~Organizations with five hundred thousand dollars or less in cash contributions averaged over the last three fiscal years shall meet the financial reporting requirements described in subsection (2) of this section. For purposes of meeting the financial requirements in this section, "cash" includes currency, checks, credit card payments, donor advised funds, and electronic fund transfers, but does not include gifts of tangible, real, or personal property or in-kind services)) one of the following:~~

~~(a) A photocopy of an audited financial statement prepared by an independent certified public accountant for the preceding accounting year; or~~

~~(b) For governmental entities, a photocopy of the most recent audited financial statement prepared by the applicable government auditing agency or other independent certified public accountant.~~

~~(4) If an organization has been in existence for less than three years, the organization must calculate its average gross revenue based on the number of years the organization has been in existence to determine which tier is applicable.~~

~~((+4)) (5) Waiver of audit requirement: The secretary may waive the requirement to file audited financial statements prepared by an independent certified public accountant ((when the)) for organizations ((can demonstrate that they have reached a three year average of)) with more than three million dollars in gross revenue ((through unusual or nonreoccurring revenue received in a single year without which they would have not met the three year annual gross average threshold.~~

~~(5) This rule becomes effective January 1, 2010)) averaged over the last three accounting years and that meet one of the following:~~

~~(a) Directly or indirectly receive five hundred thousand dollars or less in cash averaged over the last three accounting years. Organizations with five hundred thousand dollars or less in cash averaged over the last three accounting years must meet tier two reporting requirements. For purposes of meeting the financial requirements in this section, "cash" includes currency, checks, credit card payments, donor advised funds, and electronic fund transfers received from all sources including, but not limited to, solicitations, investment income and tuition. "Cash" does not include gifts of tangible, real, or personal property or in-kind services; or~~

~~(b) Organizations who can demonstrate that they have reached a three-year average of more than three million dollars in gross revenue through unusual or nonrecurring revenue received in a single year without which they would not have met the three-year annual gross average threshold.~~

AMENDATORY SECTION (Amending WSR 09-22-056, filed 10/30/09, effective 11/30/09)

WAC 434-120-110 Organizations exempt from filing requirements--Optional filing. (1) Charitable organizations exempt from the filing requirements of this chapter under RCW 19.09.076(1) and WAC 434-120-100 (2)(b), (c), or (e) may register with the charities program.

(2) Charitable organizations choosing to register under this section (~~shall~~) may register by(~~+~~

~~(a))~~ completing the registration form specified by the secretary(~~;~~ and

~~(b) Paying the appropriate registration fee per WAC 434-120-145).~~

(3) Charitable organizations registered under this section may change or update their registration by(~~+~~

~~(a))~~ filing the (~~update~~) updated information with the charities program(~~;~~ and

~~(b) Paying the appropriate fee per WAC 434-120-145).~~

(4) Expedited processing under WAC 434-112-080 is available for registrations and updates under this section.

(5) The secretary offers this optional registration because some grant making entities and programs require registration with the charities program.

AMENDATORY SECTION (Amending WSR 94-01-004, filed 12/1/93, effective 1/1/94)

WAC 434-120-115 Treatment of appropriated funds. A government subdivision or publicly supported educational facility that is also a charitable organization (~~shall~~) must report government appropriated funds only to the extent such funds are directly expended to support fund raising efforts or to defray costs of administering the organization's fund-raising programs.

AMENDATORY SECTION (Amending WSR 09-01-106, filed 12/17/08, effective 1/17/09)

WAC 434-120-130 Financial standards. Upon the request of the attorney general, secretary or the county prosecutor, a charitable organization (~~shall~~) must submit a financial statement containing, but not limited to, the following information within thirty days from date of request.

(1) The gross amount of the contributions pledged and the

gross amount collected.

(2) The amount thereof, given or to be given to charitable purposes represented together with details as to the manner of distribution as may be required.

(3) The aggregate amount paid and to be paid for the expenses of such solicitation.

(4) The amounts paid to and to be paid to commercial fund-raisers or charitable organizations.

(5) Copies of any annual or periodic reports furnished by the charitable organization, of its activities during or for the same (~~fiscal~~) accounting period.

AMENDATORY SECTION (Amending WSR 94-01-004, filed 12/1/93, effective 1/1/94)

WAC 434-120-135 Contributor lists. All charitable organizations registered under this act (~~shall~~) must keep records of all contributors to the organization for three years. If a commercial fund raiser manages a campaign for a charitable organization, either the commercial fund raiser or the charitable organization (~~shall~~) must be the entity responsible for maintaining the contributor records for that campaign. These records (~~shall~~) must include the names of the following contributors:

(1) Each contributing entity that collects individual donations from an employee or member group or a business, turning them over to the charitable organization as a single sum, such as the United Way;

(2) Each corporation that contributed; and

(3) Each individual who contributed more than twenty-five dollars.

The records must be retrievable and compilable for a period of three years and (~~shall~~) must be turned over within ten working days upon written request of the attorney general or the county prosecutor, although the organization is not required to keep the names in a standard list format at all times.

AMENDATORY SECTION (Amending WSR 09-22-056, filed 10/30/09, effective 11/30/09)

WAC 434-120-140 How and when. (1) (~~Original~~) Initial registration: An entity required to register as a charitable organization (~~shall~~) must complete the form described in WAC 434-120-105 and submit it with the fee in WAC 434-120-145 prior to

conducting any solicitation.

(2) Annual renewal:

(a) An entity ~~((shall))~~ must renew its charitable registration by no later than the fifteenth day of the fifth month after the end of its ~~((fiscal))~~ accounting year.

(b) The renewal ~~((shall))~~ must include the same information required for registration as described in WAC 434-120-105 and RCW 19.09.075, except that a determination letter from the Internal Revenue Service need not be attached if it was previously filed. The solicitation report will be based on the most recent filing with the Internal Revenue Service or if the organization does not file with the Internal Revenue Service, the solicitation report will be based on the most recently completed ~~((fiscal))~~ accounting year. No organization may submit the same ~~((fiscal))~~ financial information for two consecutive years.

(c) No change in an entity's ~~((fiscal))~~ accounting year ~~((shall))~~ may cause the due date of a renewal to be more than one year after the previous registration or renewal. For purposes of renewals that include financial information for a partial year, due to a change of ~~((fiscal))~~ accounting year, threshold levels for registration and financial statement requirements ~~((shall))~~ must be determined on a prorated basis.

(3) An organization ~~((shall))~~ must notify the charities program of a change in organization name, mailing address, organization structure, principal officer, Washington representative, tax status, ~~((fiscal))~~ accounting year, or any other information filed under RCW 19.09.075 or WAC 434-120-105.

(4) The organization ~~((shall))~~ must submit changes using the form available from the charities program within thirty days after the change ~~((and include the appropriate fee per WAC 434-120-145))~~.

AMENDATORY SECTION (Amending WSR 10-15-036, filed 7/13/10, effective 8/13/10)

WAC 434-120-145 Fees. (1) Original registration: Entities registering as charitable organizations must pay a fee of sixty dollars for the first year of registration; charitable organizations registering as exempt per RCW 19.09.076(1), may do so at no fee.

(2) Annual renewal: Organizations must pay a renewal fee of forty dollars; organizations choosing to register as exempt per WAC 434-120-110, are not required to renew.

(3) Information changes: Organizations filing changes of information described in WAC 434-120-105 will file at no charge.

(4) Photocopy fees: For copy of a charitable organization registration form or letter, including the finance and solicitation reports, the fee is five dollars.

(5) The fee for expedited service is twenty dollars for single on-line transactions within each new or existing charity's program

file. The fee for expedited service of paper documents (in-person, mail or fax) is fifty dollars for single or multiple transactions within each new or existing charity's program file. In addition, the filing fee for each transaction will apply.

(6) For service of process on a registered charity, commercial fund-raiser, or charitable trust, the fee is fifty dollars.