

# Welcome

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## Our Presentation

### Will Begin at 1:30pm

- All viewers are muted. Audience cameras cannot be turned on.
- Who's with us today? Feel free to share your nonprofit's name in the chat box.



# FUNDAMENTALS OF CHARITABLE SOLICITATION

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# Mission of Pro Bono Partnership of Atlanta

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To provide free legal assistance to community-based nonprofits that serve low-income or disadvantaged individuals.

We match eligible organizations with volunteer lawyers from the leading corporations and law firms in Atlanta who can assist nonprofits with their business law matters.

# PBPA Learning Center for Georgia Nonprofits

[www.pbpatl.org/resources](http://www.pbpatl.org/resources)

**ARTICLES**

**WORKSHOPS**



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# Client Criteria

In order to be a client of PBPA, an organization must:



## 501(c)(3) Nonprofit

Be a 501(c)(3) nonprofit.



## Atlanta Area

Be located in or serve the the greater Atlanta area.



## Unable to Afford Legal Services

Be unable to afford legal services.



## Low-Income or Disadvantaged Individuals

Serve low-income or disadvantaged individuals.



## Paid Staff

Employ at least one paid staff person.

Visit our website at [www.pbpatl.org](http://www.pbpatl.org) to apply.

# Legal Information

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This webcast presents general guidelines for Georgia nonprofit organizations and should not be construed as legal advice. Always consult an attorney to address your particular situation.

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# Agenda

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- Charitable Contributions
- Registration Requirements
- Co-Venture Arrangements
- Acknowledgment of Donations
- Recordkeeping

# What is a Charitable Contribution?

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IRS defines a charitable contribution as a donation or gift to, or for the use of, a **qualified organization**. It is **voluntary** and is made without getting, or expecting to get, anything of equal value.





# Donative Intent

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## Voluntary – not an “exchange” transaction

- There must be “Donative Intent”
- Given without the expectation of receiving something of value in return that is outside “quid pro quo” and/or “safe harbor” rules
- There is no value attached to naming opportunities, names on honor rolls or gift club membership; “safe harbor” rules apply

# Why Should a Nonprofit Worry?

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- Form 990
  - Must list states in which the entity is registered to solicit or has been notified that it is exempt
  - Disclose paid fundraisers and fundraising expenses
- The States Care



# Registration - Georgia

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## Who must register?

- Charitable Organizations that solicit funds in GA (unless exempt)
- Paid Solicitor
- Solicitor's Agent
- Fundraising Counsel



# Registration - Georgia

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- You must register in Georgia unless you are **exempt**:
  - Educational Institutions
  - Religious Organizations
  - Fraternal, civic, benevolent, patriotic, and social organizations, when solicitation of contributions is carried on by persons without any form of compensation and which solicitation is confined to their membership
  - Charities with no paid solicitor & total revenue from contributions less than \$25,000.00 for both the immediately preceding and current calendar years

# Registration - Georgia

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## Registration in Georgia

- General page: <https://sos.ga.gov/how-to-guide/how-guide-charities#>
- Form C-100
  - GA SOS Website version: <https://sos.ga.gov/how-to-guide/how-guide-charities#Charitable%20Organization%20Registration>
  - Paper version: <https://www.pdfFiller.com/107884-C100-Form-C-100---Georgia-Secretary-of-State-State-Georgia-sos-georgia>

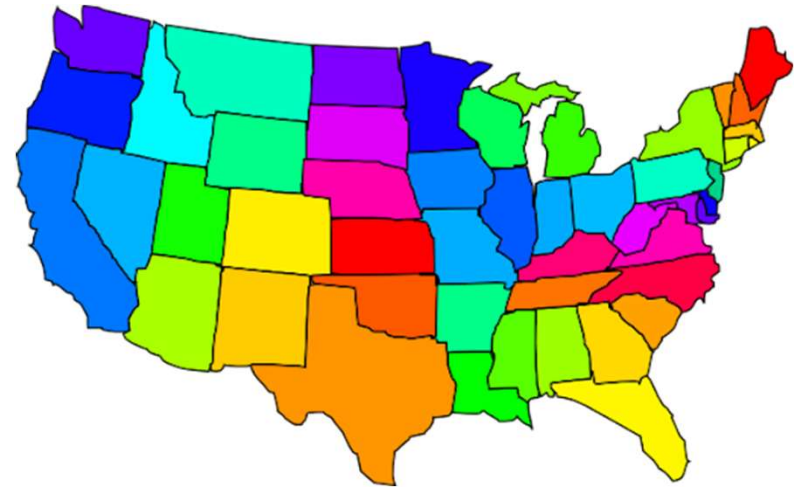


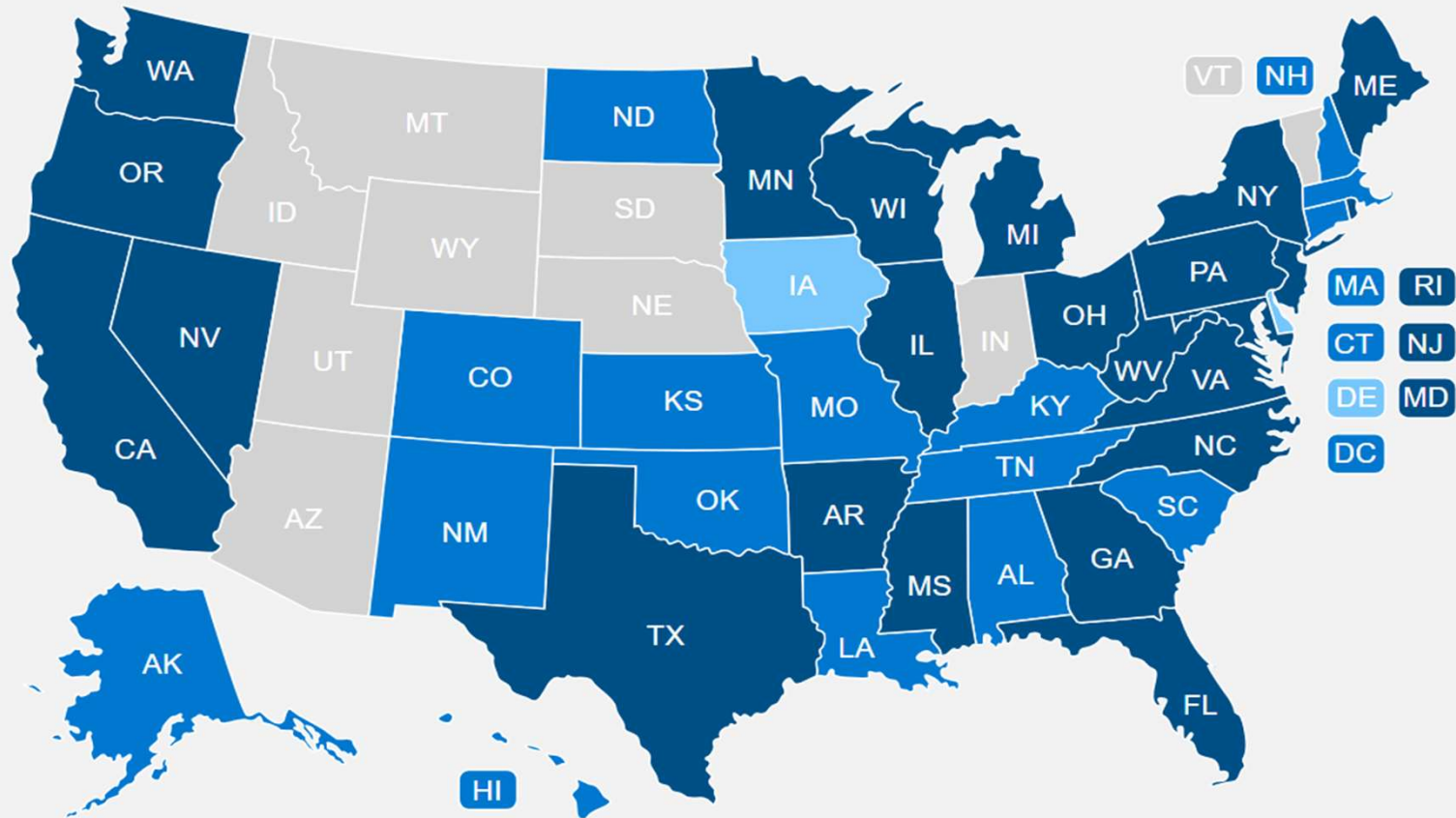
# Registration – Other States

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When do you need to register in other states?

- Charleston Principles
  - Sufficient contacts in the state
  - Specifically targeting people in that state
  - Contributions on a repeated and ongoing basis
- Each state has own law
- <https://labyrinthinc.com/state-fundraising-compliance-guide/>





<https://labyrinthinc.com/state-fundraising-compliance-guide/>

# Checklist of Solicitation Activities

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## List of states where currently solicit or plan to solicit:

- Individuals by email (including newsletters and donate request on email), mail, tv, radio, etc.
- Corporation grant proposals or donation requests, in-kind donation requests, cause marketing requests, etc.
- Government grants
- By holding a fundraising event
- By a cause marketing arrangement where goods &/or services sold
- Other??





# Hiring Someone to Help You Fundraise

- Need to comply with applicable Charitable Solicitation Laws
- Employee
- Independent contractor
  - Contract
  - Solicitation Registration



PBPA Podcast: Legal Considerations for Working with Third-Party Fundraisers

<https://pbpatl.org/solicitors-consultants-grant-writers-working-with-third-party-fundraisers/draisers>

# Commercial Co-Ventures/ Cause Marketing

- For-profit Company B sells its products or services and tells public a percentage of profits goes to Charity A or \$XX for each item goes to Charity A
  - ✓ Marketing approach - Company B does well by doing good for Charity A
  - ✓ A “Co-venture” under Georgia law
    - ✓ Charity A and Company B must have a contract
    - ✓ Deal must be properly disclosed to the public.
  
- Other states: May be subject to state registration and/or reporting.



# Substantiation & Acknowledgment

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- Federal law requirements (See IRS Pub 1771)
- Donor cannot take deduction without a receipt, bank record, or cancelled check for a donation of any amount
  - Evidence of donation must state name of charity, date of donation and amount of donation
- Donations throughout the year may be bundled into one acknowledgment letter
- For donations of \$250 or more, donor must have a written contemporaneous receipt from the charity acknowledging the contribution

# Substantiation & Acknowledgment (cont.)

- The acknowledgment should include:
  - Name of charity
  - Amount of cash contribution or description of non-cash contribution and
  - One of the following:
    - Statement that no goods or services were provided (if that is the case),
    - Description and good faith estimate of the value of goods the charity provided in return for the donation, or
    - State that goods or services provided consisted entirely of intangible religious benefits



**REMEMBER: Donations of personal services & use of facilities are NOT deductible**

# Substantiation & Acknowledgment (cont.)

- Quid Pro Quo Donations
  - Definition: “this for that”
  - Written acknowledgement
  - Payment must exceed the value of the goods/services provided in exchange for donation
  - Examples
  - Exceptions: token items, membership benefits
  - In-kind donations

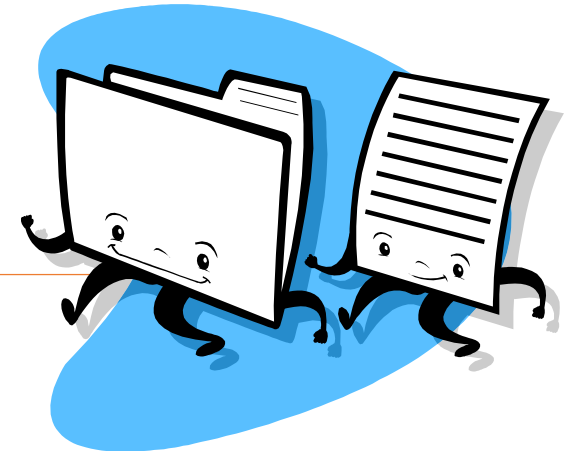


# Substantiation & Acknowledgment (cont.)

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- Un-reimbursed expenses
- Donations of automobiles, boats & other significant items
  - IRS publications & forms:
    - Donee (charity): Pub. 4302; Form 8282
    - Door: Pub 4303: Forms 8283 and 1098-C
  - PBPA Vehicle Donation article: <https://pbpatl.org/vehicle-donations/>
- PBPA Acknowledgment Guide
  - <https://pbpatl.org/guide-to-sending-acknowledgments-for-donations/>
- Penalties for not meeting written disclosure requirement

# Recordkeeping



- Maintain records of:
  - Fundraising activities
    - Solicitation materials, including website solicitation efforts
    - Contracts with paid solicitors, co-venturers, solicitor agents
    - Method used and evidence of tracking payments from paid solicitors, co-venturers, solicitor agents
    - Activities that included quid pro quo donations, including how value of goods/services determined
      - e.g., Tickets that state value of goods/services provided
    - Sponsorship packages and value of goods/services provided
    - Employees and volunteers who solicit donations for the organization
  - Donation acknowledgments
  - Charitable registration filings

Questions?



# Pro Bono Partnership of Atlanta

[www.pbpatl.org](http://www.pbpatl.org)

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