



The Office of Secretary of State
Securities and Charities Division

Brian P. Kemp
Secretary of State
Commissioner of Securities

Noula Zaharis
Director

March 15, 2017

Policy Interpretation Memorandum

Re: FILING REQUIREMENTS FOR CHARITABLE ORGANIZATIONS

In order to promote maximum regulatory efficiency in the application of the Georgia Charitable Solicitations Act of 1988, O.C.G.A. § 43-17-1, et seq., the Office of the Secretary of State (“Office”) finds it to be in the public interest to issue this policy interpretation.

Pursuant to O.C.G.A. § 43-17-5(b)(4), a charitable organization, seeking an initial registration as such, that received or collected any charitable contributions during its preceding fiscal year, must provide a copy of the Form 990, Return of Organization Exempt From Income Tax, or the Form 990-EZ, Short Form Return of Organization Exempt From Income Tax, filed with the Internal Revenue Service (“IRS”) by the organization for the previous taxable year.

Pursuant to O.C.G.A. § 43-17-5(b)(9), a charitable organization, seeking the renewal of registration, that received or collected any charitable contributions during its preceding two fiscal years, must provide a copy of the Form 990, Return of Organization Exempt From Income Tax, or the Form 990-EZ, Short Form Return of Organization Exempt From Income Tax, filed with the IRS by the organization for the previous two taxable years.

A significant purpose of the Form 990 requirement of O.C.G.A. § 43-17-5 is to provide the Secretary of State with sufficient information regarding the registering charitable organization. Exempt organizations must file with the IRS by the 15th day of the 5th month after the end of the organization’s fiscal year, but the IRS will extend this deadline by six (6) months upon the filing of Form 8868 requesting an extension. Since the IRS filing deadlines create a situation in which charitable organizations cannot comply with the Form 990 requirements of O.C.G.A. § 43-17-5, there appears to be an undue hardship for charitable organizations seeking registration. Strict adherence with the filing requirement is not necessary for the Secretary of State to make a determination regarding the registration qualifications of the charitable organization.

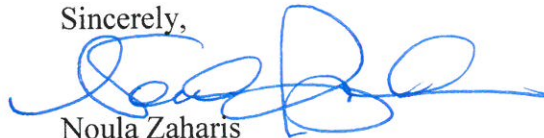
Wherefore, by the authority vested to me as the Secretary of State of the State of Georgia, it is hereby determined that a charitable organization seeking initial registration is deemed to be in compliance with the Form 990 requirement of O.C.G.A. § 43-17-5(b)(4), provided that such charitable organization submits a copy of the Form 990, Return of Organization Exempt From Income Tax, or the Form 990-EZ, Short Form Return of Organization Exempt From Income Tax, most recently filed with the IRS, and pledges to, upon submission to the IRS, provide a copy of

the Form 990, Return of Organization Exempt From Income Tax, or the Form 990-EZ, Short Form Return of Organization Exempt From Income Tax, for the charitable organization's most recent taxable year not available at the time of registration.

It is further determined that a charitable organization seeking the renewal of a registration is deemed to be in compliance with the Form 990 requirement of O.C.G.A. § 43-17-5(b)(9), provided that such charitable organization submits a copies of Form 990, Return of Organization Exempt From Income Tax, or the Form 990-EZ, Short Form Return of Organization Exempt From Income Tax, filed with the IRS for the two most recent taxable years, and pledges to, upon submission to the IRS, provide a copy of the Form 990, Return of Organization Exempt From Income Tax, or the Form 990-EZ, Short Form Return of Organization Exempt From Income Tax, for the charitable organization's most recent taxable year not available at the time of the registration renewal.

Nothing in this policy statement shall be construed to limit the Secretary of State's authority to request any additional information regarding an applicant. This policy interpretation is subject to change at the discretion of the Office

Sincerely,



Noula Zaharis

Director, Securities & Charities Division

The Office of the Secretary of State, Brian P. Kemp