

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

House Bill 645 (Delegate McDonough, *et al.*)
Economic Matters and Ways and Means

**Charitable Organizations - Acceptance of Contributions from Countries or Other
Entities Associated with Terrorist Organizations - Removal of Income Tax
Exempt Status**

This bill prohibits charitable organizations in the State from accepting contributions from countries deemed by the U.S. Department of State to be state sponsors of terrorism, or nations that have diplomatic or formal relationships with those countries, or terrorist organizations listed in the U.S. Immigration and Nationality Act.

Charitable organizations that accept illicit contributions have six months after receiving notice from the Secretary of State of Maryland to return the contributions to the donor. Organizations that do not comply are stripped of their State tax-exempt status.

The bill specifies that charitable organizations in violation of its provisions on or after July 4, 2006, but before the October 1, 2011 effective date of the bill, have six months to comply with the bill's provisions.

Fiscal Summary

State Effect: General fund revenues may increase to the extent that charitable organizations lose tax-exempt status and become subject to the income tax. The effect on State revenues is expected to be negligible. The Secretary of State's Office and the Comptroller's Office can likely handle the bill's requirements with existing resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Before a charitable organization solicits contributions in the State, or has contributions solicited for on its behalf by a charitable representative, it must register and receive a registration letter from the Secretary of State. A charitable organization based in the State also may not solicit donations outside Maryland without the proper registration.

In addition to the information and materials required in statute to complete the registration statement, charitable organizations must submit either an audit by a certified public accountant (CPA) if the gross income from contributions in the most recent fiscal year is more than \$500,000, or a review by a CPA if the gross income from contributions from the last fiscal year is between \$200,000 and \$500,000. The Secretary of State may require an audit or review if the amount of gross income is less than \$200,000.

Charitable organizations must submit an annual report to the Secretary of State each year that includes financial information about the organization's activities; any supporting audit or review documentation that the Secretary of State requires; an affidavit signed by the chairman, president, or other principal officer attesting to the truth of the annual report; and supporting documents. Failure to comply may be considered a willful or grossly negligent violation. Willful violators face misdemeanor penalties of up to one year in prison and/or a fine of up to \$5,000. Grossly negligent violations may result in a fine of up to \$3,000 and/or liability for restitution as ordered by the appropriate court.

A charitable organization includes:

- a person that is or holds itself out to be a benevolent, educational, eleemosynary, humane, patriotic, philanthropic, or religious organization and solicits or receives charitable contributions from the public;
- an ambulance, firefighting, fraternal, rescue, or police or other law enforcement organization when it solicits charitable contributions from the public; or
- an area, branch, chapter, office, or similar affiliate that solicits charitable contributions from the public within the State for a charitable organization located outside the State.

Charitable organizations are exempt from the registration requirement under certain circumstances, most notably if they are religious organizations.

Background: On September 23, 2001, President George W. Bush signed Executive Order 13224, which gave the federal government a means to disrupt the financial support network for terrorists and terrorist organizations by allowing the government to designate and block the assets of foreign individuals and entities that

commit, or pose a significant risk of committing, acts of terrorism. As a result of this executive order and Section 219 of the Immigration and Nationality Act, the U.S. Department of the Treasury maintains and updates a list of organizations with connections to terrorism. Currently, several thousand organizations are included on the list. The U.S. Department of State has designated Iran, Syria, Cuba, and Sudan as state sponsors of terrorism.

There are more than 10,000 registered charitable organizations in Maryland and several hundred charitable representatives. The Secretary of States' Office processes about 900 new registrations each year.

Additional Comments: The Secretary of State's Office has an investigative staff responsible for ensuring compliance with State laws related to charitable organizations. To the extent that the bill only requires these investigators to follow up on complaints of charitable donations that violate the bill's provisions, the agency advises that it can absorb any additional operational activity with existing resources. However, if the Secretary of State's Office were required to cross-reference each charitable organization's donor list against the list of identified terrorist organizations, the agency may need up to three additional full-time staff and a new database system to track donor lists. The agency does not currently have access to itemized donor lists of charitable organizations in the State.

Additional Information

Prior Introductions: HB 847 of 2009, a similar bill, received a hearing in the House Economic Matters Committee, but no further action was taken.

Cross File: None.

Information Source(s): U.S. Department of State, U.S. Department of the Treasury, Comptroller's Office, Secretary of State, Department of Legislative Services

Fiscal Note History: First Reader - March 16, 2011
mc/mcr

Analysis by: Michael T. Vorgetts

Direct Inquiries to:
(410) 946-5510
(301) 970-5510