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## Making Sense of State Gift Annuity Regulations



Date: May 24, 2018

Time: 1:00 – 2:30 Eastern

Presenter: Edie Matulka  
Senior Consultant  
PG Calc



## Agenda

- I. Obtaining the Exemption
  - Differences among states
  - Information required
- II. Maintaining the Exemption
  - Items to monitor
  - Annual filings
- III. Questions and Answers



## Obtaining the Exemption

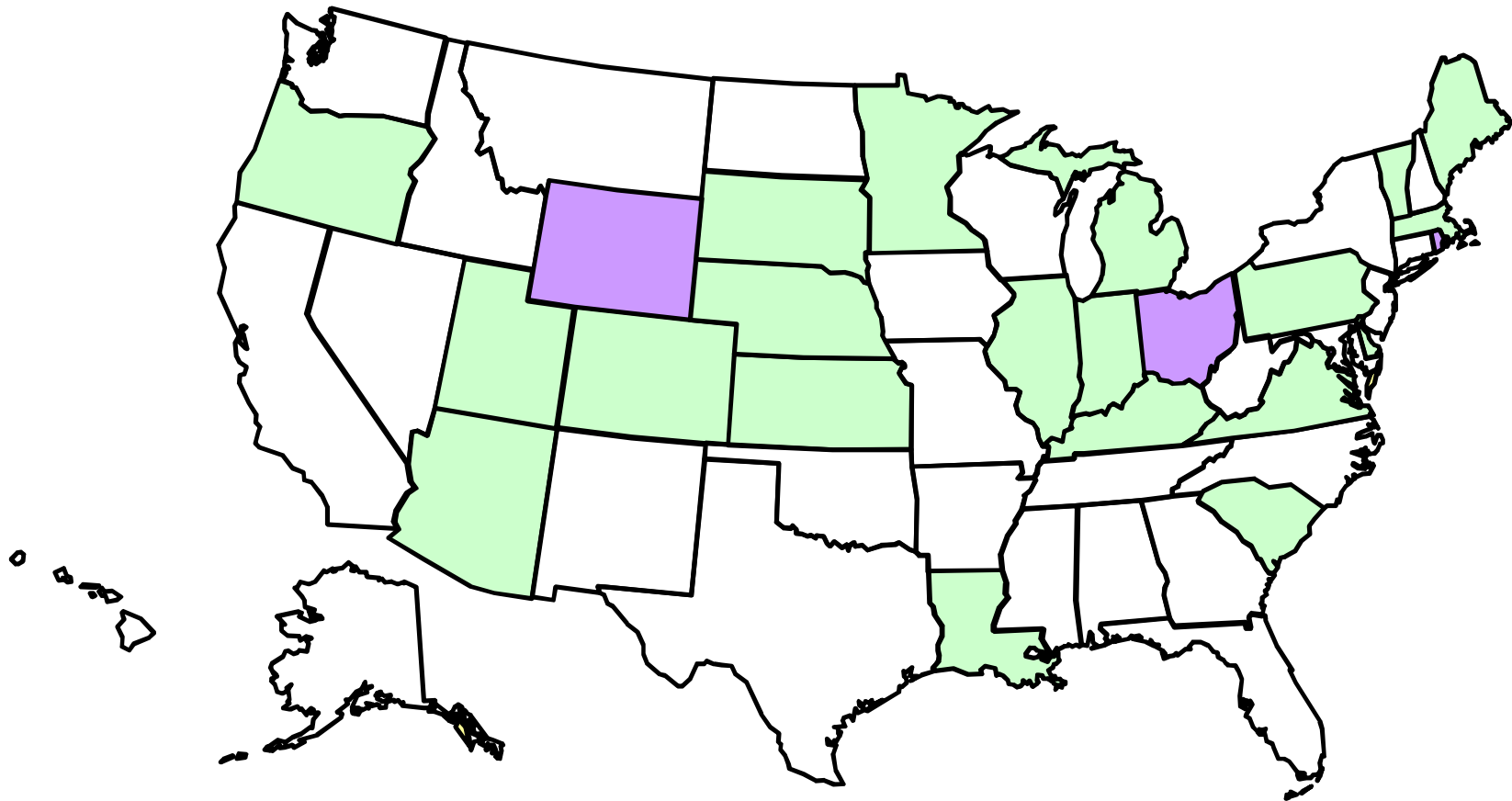
- Q: What are we doing with gift annuity registrations?
- A: Exempting your organization from the insurance code





## No CGA-specific filing

 = Silent     = Exempt – No Notification





## No Notification – Most Common Criteria

- Years in operation
  - Ranges from 3 – 20 years
- Unrestricted assets
  - Ranges from \$100,000 to \$2 million
- Disclosure language
  - Agreements
  - Marketing materials (SD)



## No Notification – Other Criteria

- Non-gift annuity registration
  - Foreign corporation
  - Charitable solicitation
- Disclosure statement
  - Philanthropy Protection Act
  - State-specific content (AZ)
- Reserve fund

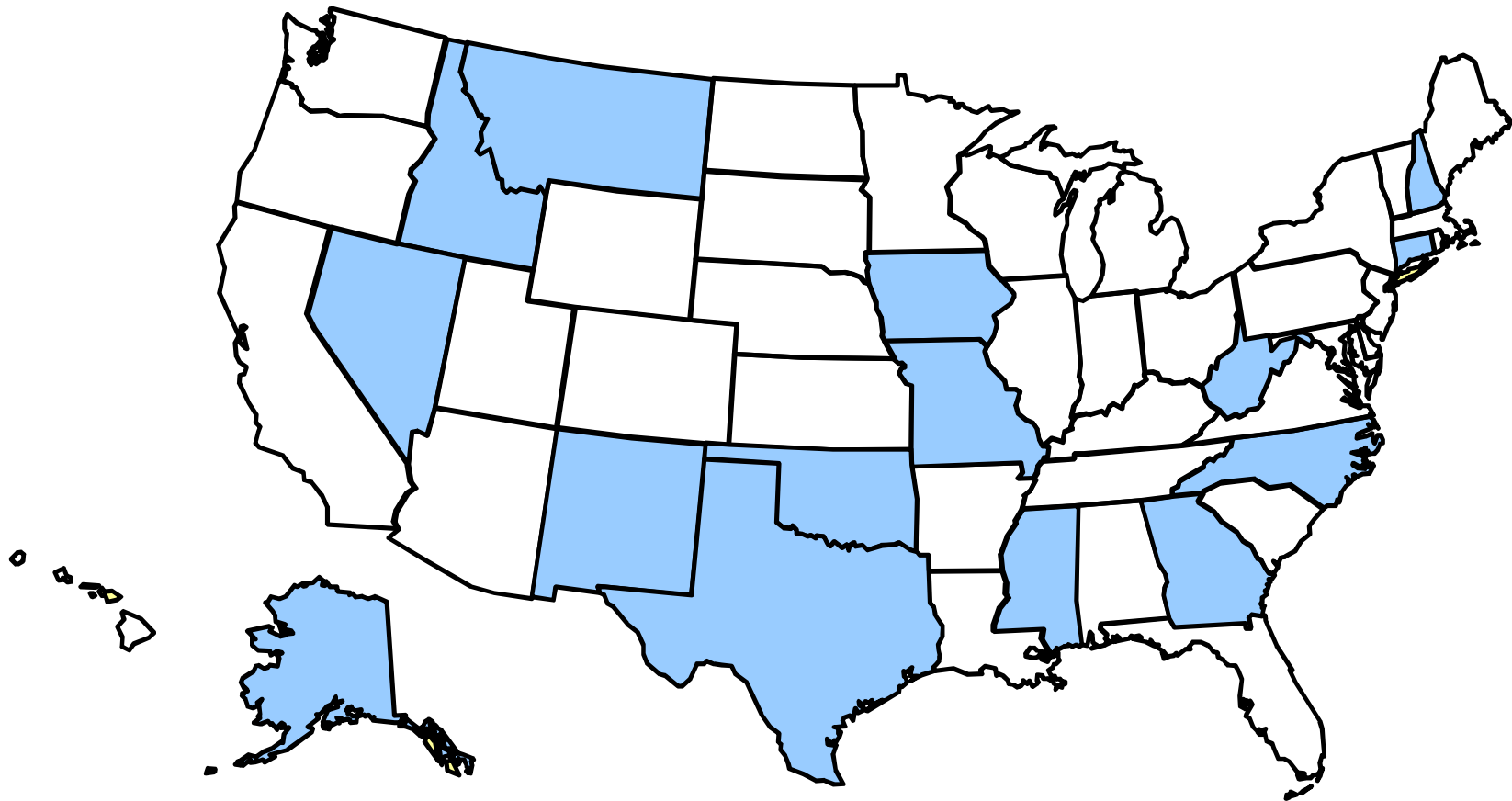


## No Notification – Action Required

- No gift annuity-specific filing
- Internal action/confirmation
- May need to complete other state registrations
  - Foreign corporation
  - Charitable solicitation



# Notification required







## Notification – Most Common Criteria

- Years in operation
  - 3 years
- Unrestricted assets
  - Either \$100,000 or \$300,000
- Disclosure language
  - Agreements
  - Marketing materials (OK)



## Notification – Other Criteria

- Non-gift annuity registration
  - Charitable solicitation
- Reserve fund
- Gift annuity rates
  - Cannot exceed ACGA rates (NH)

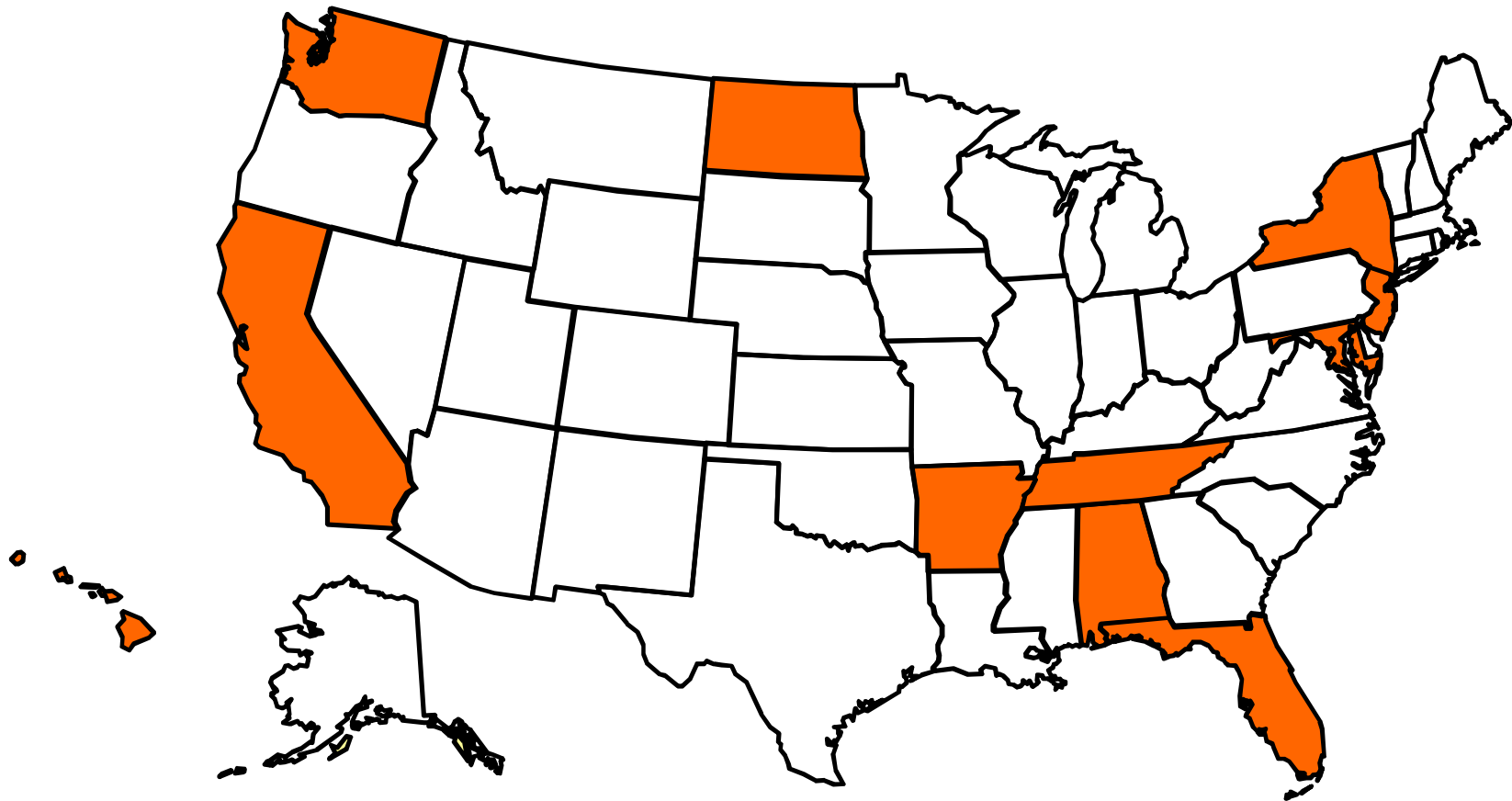


## Notification – Action Required

- Filing to the state
  - State prescribed form or notification letter
- Supporting documentation
  - IRS tax-exempt letter
  - Audited financials
  - Sample gift annuity agreement
  - Gift annuity application form
  - Sample marketing materials
  - Proof of other applicable registrations



## Application (highly regulated)





## Application – Most Common Criteria

- Years in operation
  - Ranges from 3 – 10 years
  - In-state activity in Hawaii and Maryland
- Unrestricted assets
  - \$500,000 for Washington
  - \$200,000 held in-state for Hawaii
  - Even if unspecified amount, states looking at financial condition



## Application – Most Common Criteria

- Annuity agreement content
  - Disclosure language
  - Specific provisions (e.g., payment correction, age or DOB of annuitant, governing law)
- Schedule of maximum gift annuity rates
  - May require actuarial support if higher than ACGA
  - Addendum if lower than submitted schedule (CA)



## Application – Most Common Criteria

- Segregated reserve fund
  - Minimum fund balance
  - Varying calculation methodologies and surplus requirements
  - State-specific fund(s)
- Investment restrictions
  - Prudent investor
  - Specific requirements (CA and FL)



## Application – Other Criteria

- Filing of gift annuity rate schedule
- Registration with other state agencies
- Board resolutions
- Appointment of in-state agent
- Disclosure statement – state-specific content
- Information from individuals





## Application – Action Required

- Filing to the state
  - One or more state prescribed forms
- Supporting documentation
  - Organizational: IRS tax-exempt letter, articles of incorporation, by-laws, listing of board/officers, certificate of good standing
  - Financial: audited financials, Form 990, reserve fund information, investment policy statement
  - Programmatic: prototype agreement forms, disclosure statement, marketing materials



## Maintaining the Exemption: Issues to Monitor

- Change in legal name
- Change in financial institution
- In-state agent
  - Individual or firm (CA)
  - State agency (AL, TN, WA)





## Issues to Monitor

- Agreement forms
  - Filed: AL, AR, CA, MD, NJ, NY, ND, TN, WA
  - New forms need approval
  - Disclosure language (in 23 states where forms not submitted)
- Rates
  - Filed: AL, AR, CA, MD, NJ, NY, WA
  - Notify when change
  - Presumption with ACGA rates; modification?



## Issues to Monitor

- Minimum assets (24 states)
  - At time of issuance
  - Annual reporting (HI, WA)
  - Self-suspension





## Issues to Monitor

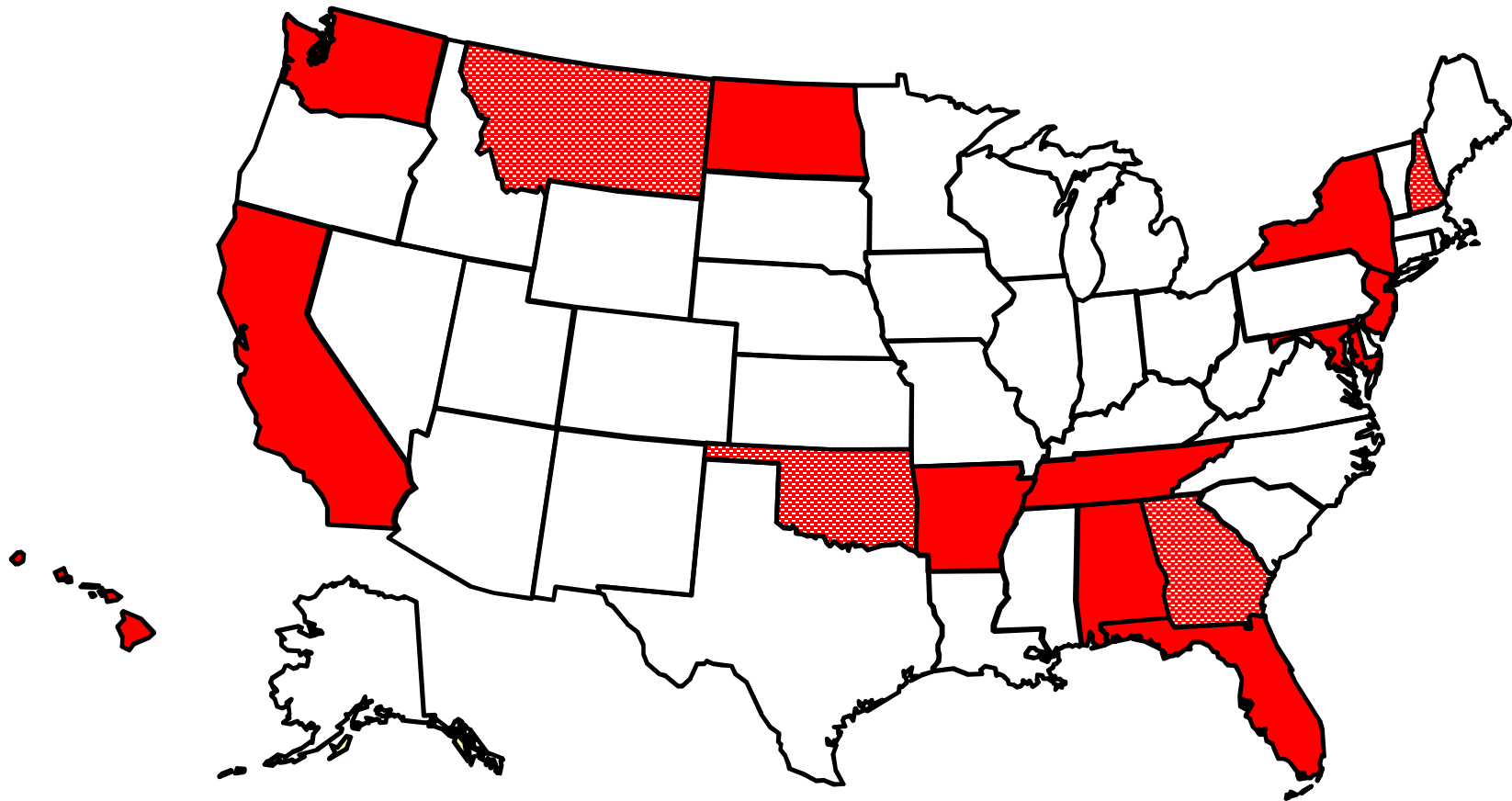
### Gift annuity reserve fund(s)

- Fund balance
- Investment allocation
- Not just at FYE or CYE





# Annual Filings





## Annual Filings

- What:
  - Re-notification
  - Audited financials
  - Detailed reporting
- When:
  - FYE vs. CYE; tickler system
- Who:
  - PGO, business/finance, outsourced





## Prior to End of Reporting Period

- Catch up on data entry
- Run reserve calculation
- Check investment allocation (CA, FL)
- Make adjustments to reserve fund
- Review tickler sheet/checklist







## Information Gathering

- Reserve account
  - Account statements
  - Reserve calculations (actuary?)
  - Overall asset figures
  - FASB liability
  - Financial reports (e.g., holdings and transactions)
  - Gift reports
  - Reinsurance



# Information Gathering

**Certificate Holder's Summary of Net Assets as of 12/31/2013**

	Unrestricted	Temporarily Restricted	Permanently Restricted	Total Net Assets
Net Assets	\$0	\$0	\$0	\$0

Did your organization have and maintain minimum unrestricted net assets of \$500,000 as required by RCW 48.38.010(6) **at all times** during the period covered by this Annual Report?

- Yes
- No

**Certificate Holder's Statement of Income and Expenses for the year ending 12/31/2013**

	Unrestricted	Temporarily Restricted	Permanently Restricted	Total
Income	\$0	\$0	\$0	\$0
Expenses	\$0	\$0	\$0	\$0
Net Income (Loss)	\$0	\$0	\$0	\$0



## Information Gathering

- General interrogatories
  - Legal structure/name change
  - Amended articles
  - Annuity rates
  - Agreement forms
  - Miscellaneous





## Form Completion

- Concurrent preparation between financial and organizational questions
- Signatories
- Check request timeframe
- Varying ways of submission (email, mail, on-line)



## Form Completion - Frustrations

- Construction of document
  - Incomplete/inaccurate formulas, cell links
  - Insufficient pages
  - Not always Excel friendly
- “Busy work”

Schedule G							
Showing all BONDS, STOCKS and Other Assets ACQUIRED during the current year							
1	2	3	4	5	6	7	8
Line #	CUSIP #	Description	Number of Shares of stocks	Actual Cost	Par Value	Accrued Interest and Dividends Paid	Date of Acquired
Bonds							
9101							
9102							
9103							



## Form Completion - Investments

- Least complicated – mutual funds
- More complicated – assets with a lot of activity (i.e., paydowns, accrued interest)
- Pose challenges – investment pools, partnerships (frequent cost adjustments not easily captured on form)



## Form Completion - Tips

- Have your reports at hand
  - Prior year report
  - Reserve report
  - New and closed gift reports
  - Holdings and transactions





## Continuity of Knowledge

- Staff transition
  - Maintain files
  - Tickler system
  - Other resources
    - ✓ ACGA
    - ✓ State web pages
    - ✓ CGA manual







# Questions?





## Still Have a Question?

Contact: Edie Matulka

Email: [ematulka@pgcalc.com](mailto:ematulka@pgcalc.com)

Phone: 206-329-8144