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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

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Agenda


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

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Obtaining the Exemption

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



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No CGA-specific filing

■ = Silent ■ = Exempt – No Notification

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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)

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No Notification – Other Criteria

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

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No Notification – Action Required

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

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Notification required

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Notification – Most Common Criteria

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

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Notification – Other Criteria

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

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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

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Application (highly regulated)


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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


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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)

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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)

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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

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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

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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)



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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?

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Issues to Monitor

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




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Issues to Monitor

Gift annuity reserve fund(s)

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



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Annual Filings

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Annual Filings

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

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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

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Information Gathering

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

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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 49.38.010(4) **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

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Information Gathering

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




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Form Completion

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

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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							

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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)

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Form Completion - Tips

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





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Continuity of Knowledge

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



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Questions?



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Still Have a Question?

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