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PARTNER
IN PLANNED
GIVING
SUCCESS



State Regulation of CGAs: From Simple to Downright Complex



Date: April 29, 2021

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

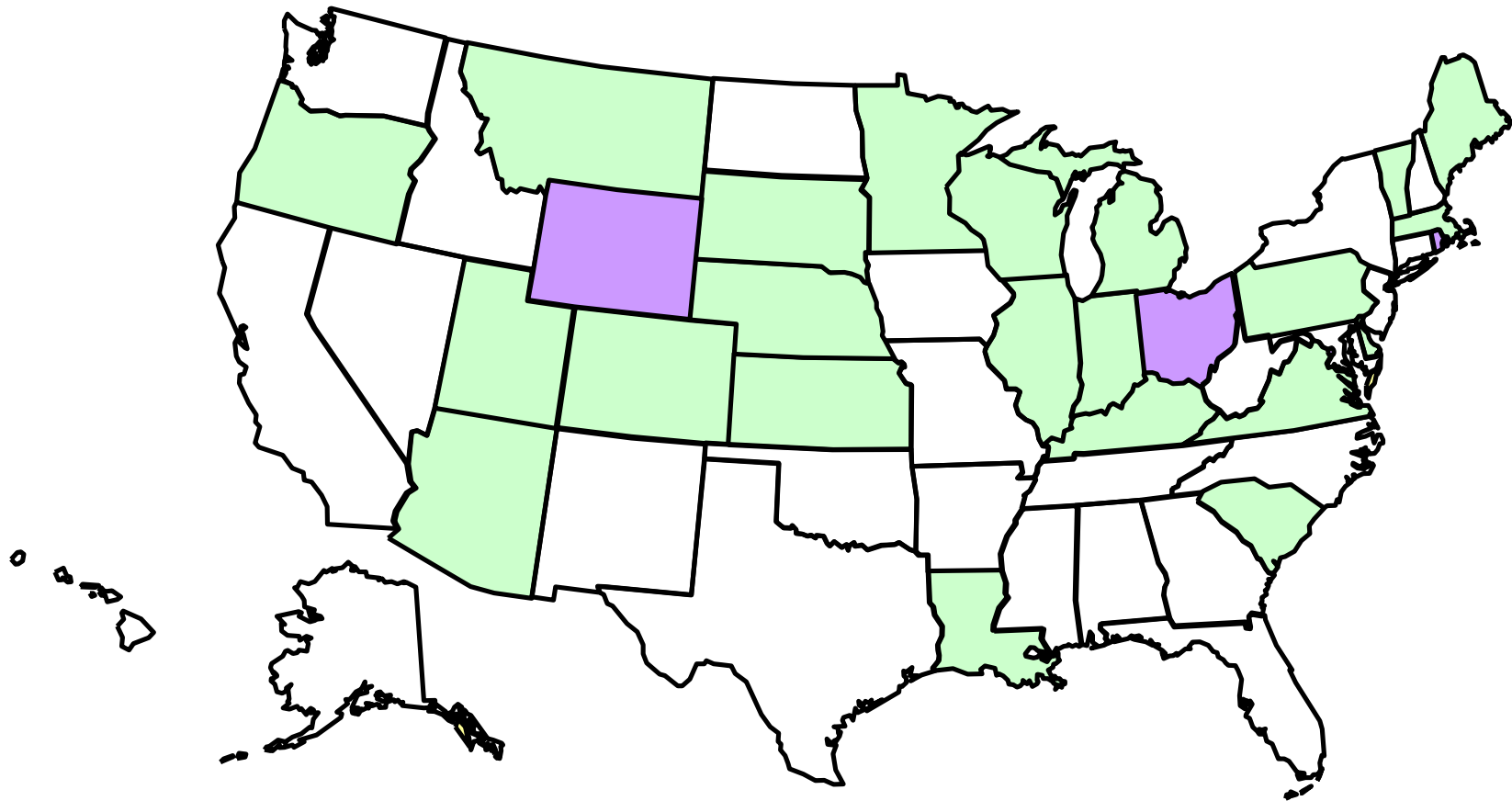
- Q: What are we doing with gift annuity registrations?
- A: Exempting your organization from the insurance code





No CGA-Specific Filing (Simple)

 = 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
- Reserve fund





No Notification – Other Criteria

- Disclosure statement
 - Philanthropy Protection Act
 - State-specific content (AZ)
- Disclosure language
 - Agreements
 - Marketing materials (SD)





No Notification – Action Required

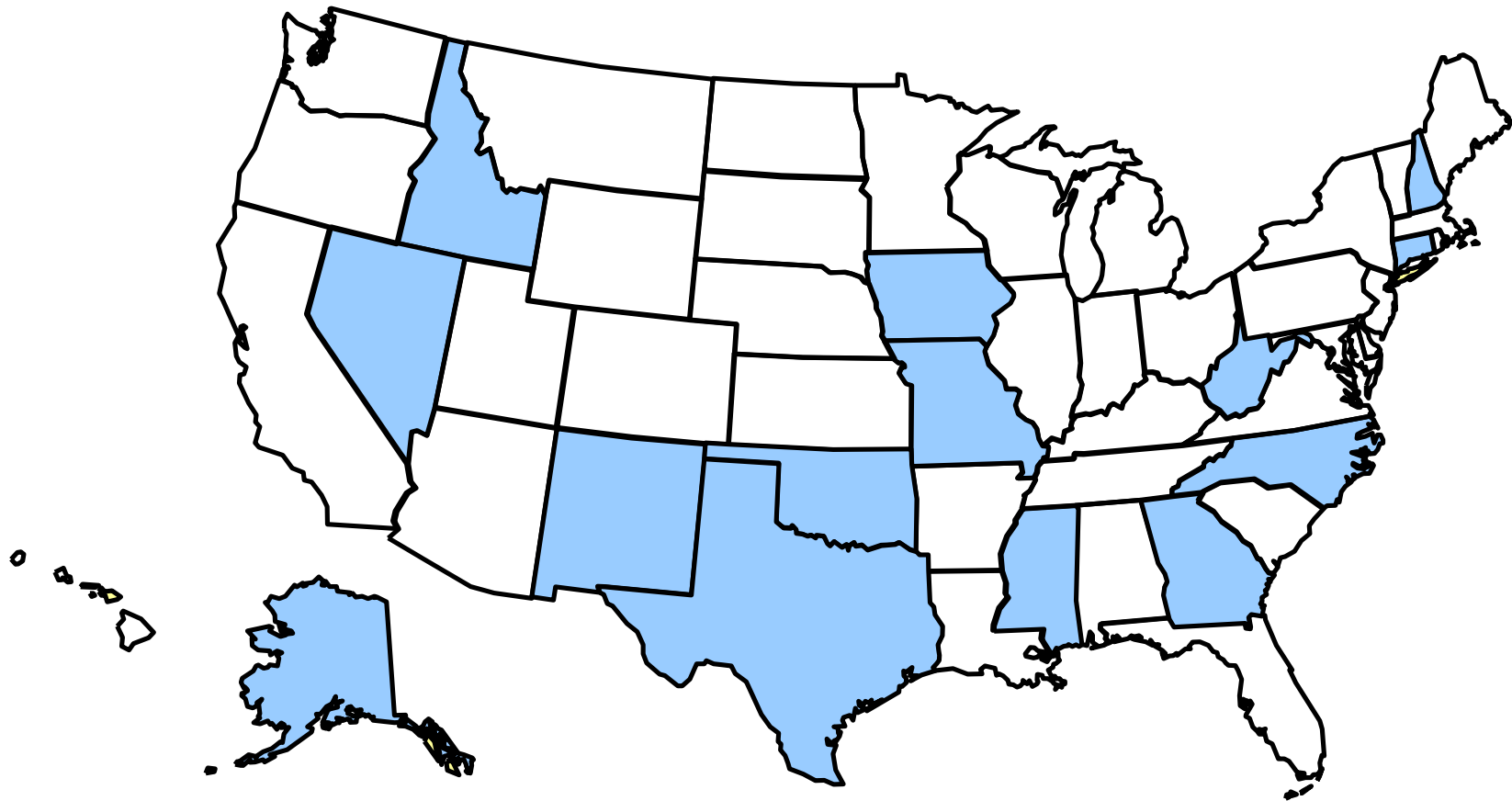
- No gift annuity-specific filing
- Internal action/confirmation
- May need to complete other state registrations
 - Foreign corporation
 - Charitable solicitation

What Do I
Need To Do?





Notification Required (Still Pretty Simple)





Notification – Most Common Criteria

- Years in operation
 - 3 years
- Unrestricted assets
 - Either \$100,000 or \$300,000
- Reserve fund





Notification – Other Criteria

- Non-gift annuity registration
 - Charitable solicitation
- Disclosure language
 - Agreements
 - Marketing materials (OK)
- Gift annuity rates
 - Cannot exceed ACGA rates (NH)





Notification – Action Required

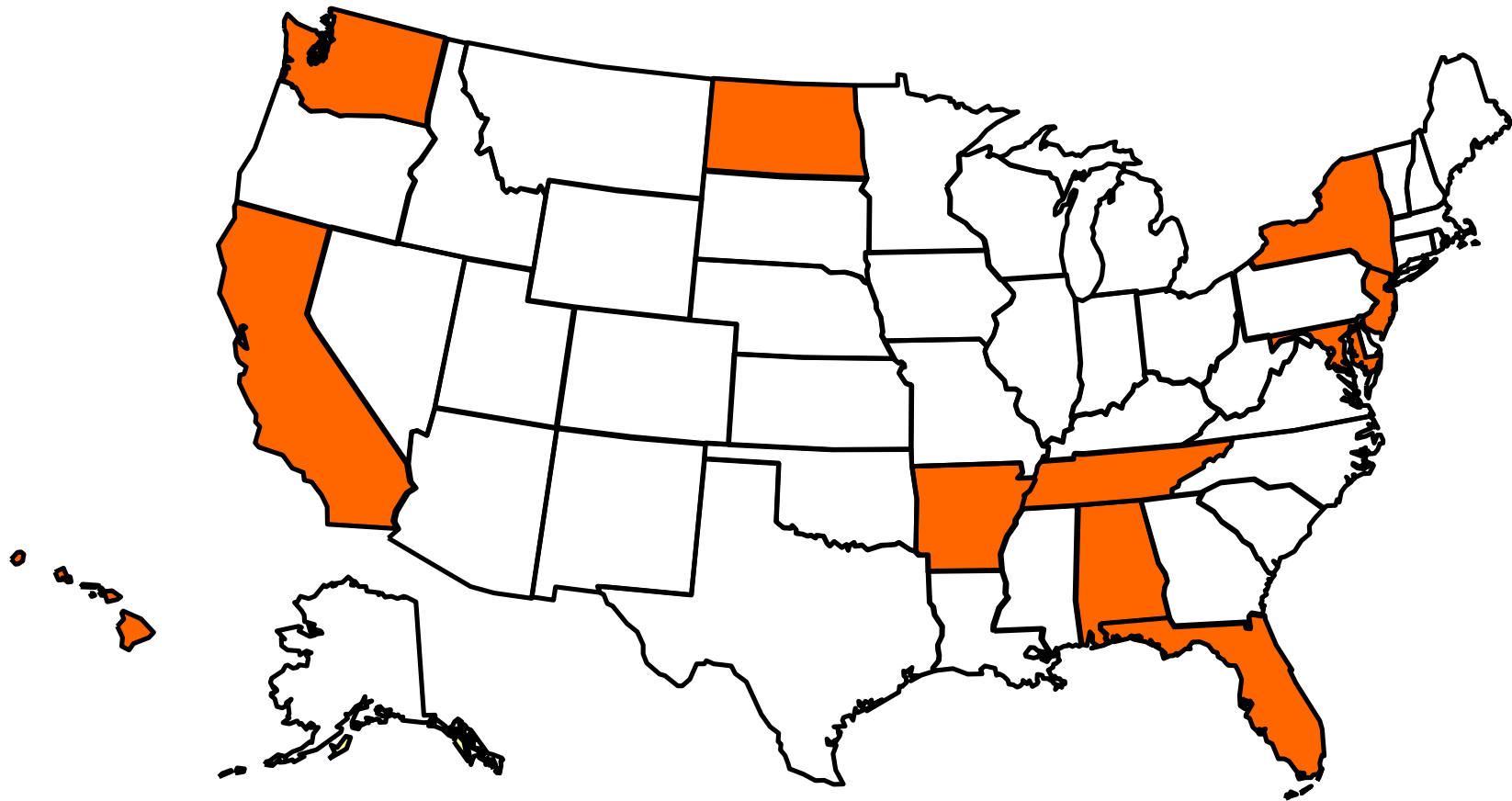
- Filing to the state
 - State prescribed form or notification letter
- Supporting documentation
 - IRS tax-exempt letter
 - Audited financials
 - Sample gift annuity agreement
 - Gift annuity application form
 - Sample marketing materials
 - Proof of other applicable registrations

What Do I
Need To Do?





Application (Here's the Complexity)





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)
 - New York maximum rates





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

- 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

What Do I
Need To Do?





But Wait, There's More





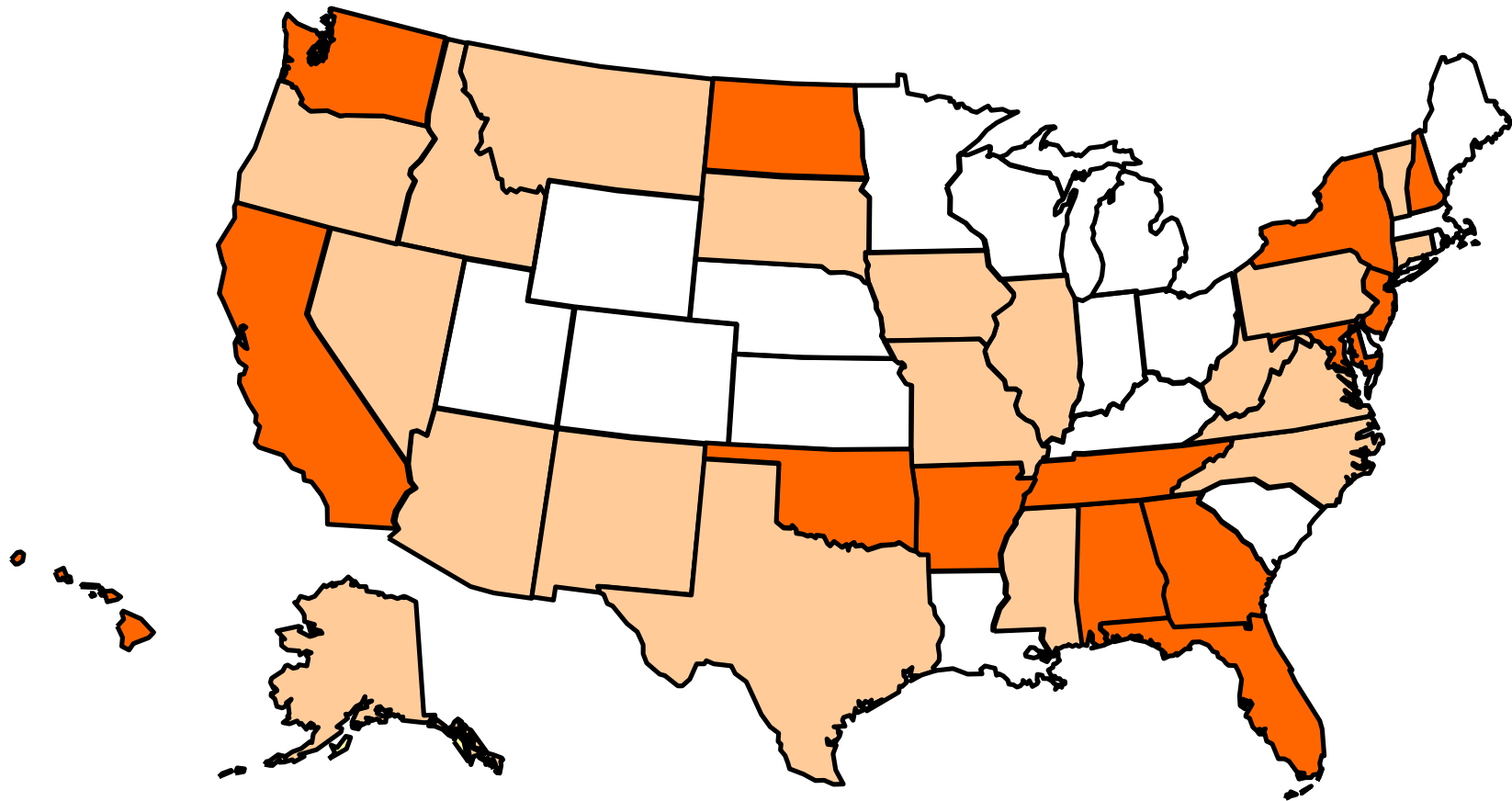
Maintaining the Exemption: Issues to Monitor

- Change in legal name or address
- Change in financial institution
- Agents for service of process
- Unrestricted net assets
- Annuity agreements
- Gift annuity rates
- Segregated reserve



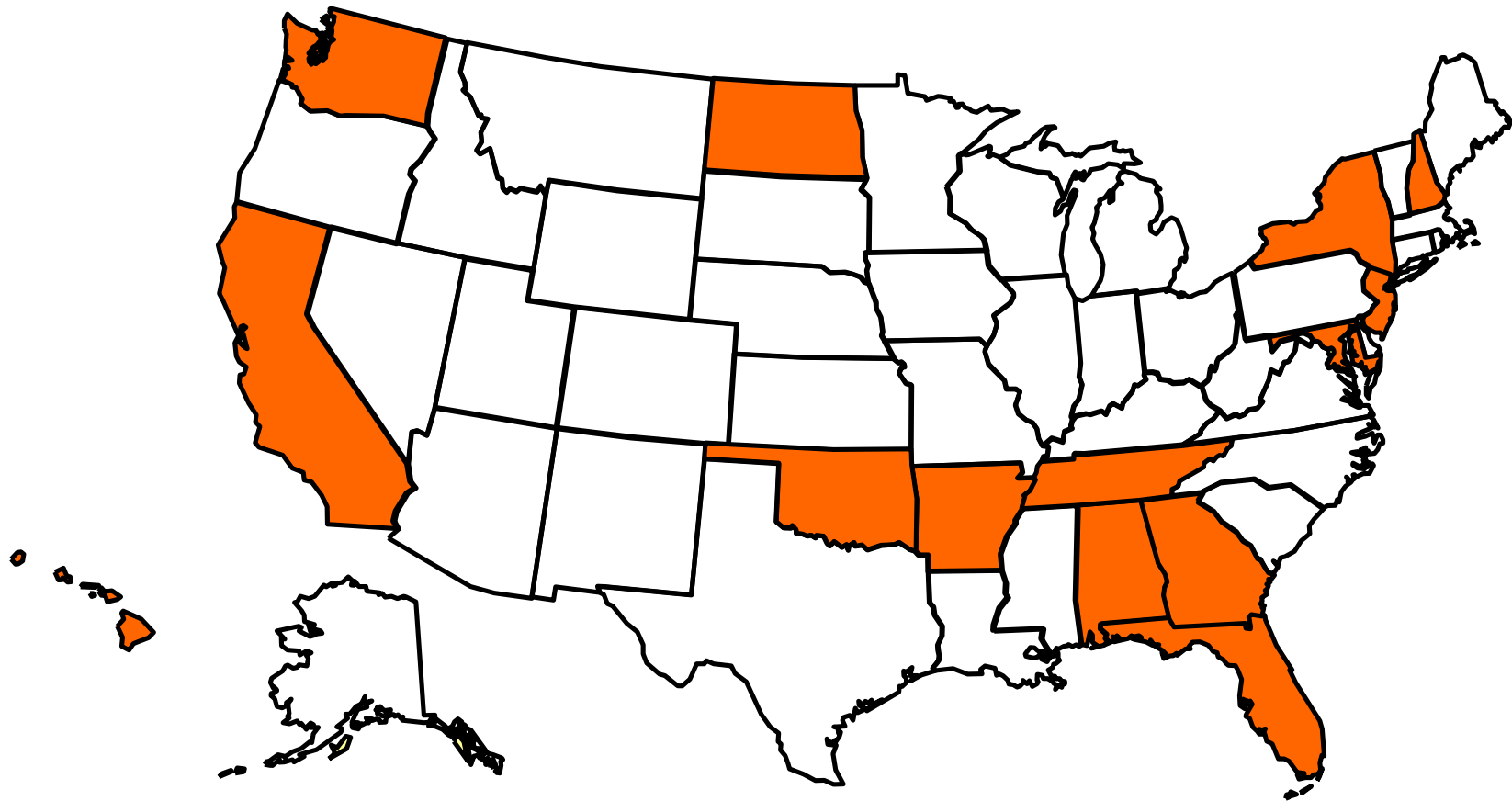


Compliance Issues





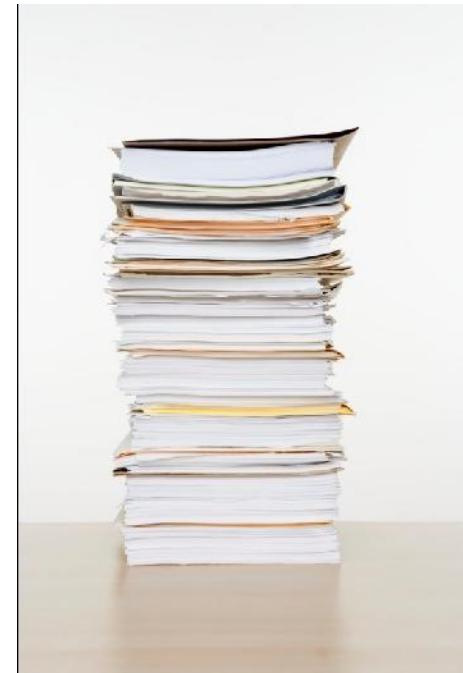
Annual Submissions





Annual Submissions

- 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





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

Schedule A - Bonds

Showing all BONDS owned at the end of current year

1 Line #	2 CUSIP #	3 Description	4 Interest Rate	5 Date of Maturity		6 Par Value	7 Cost	8 Statement Value (Market Value)	9 Interest Received	10 Year Acquired
				Mo	Yr					
Bonds										
4101										
4102										

Schedule B - Stocks

Showing all Common and Preferred STOCKS owned at the end of current year

1 Line #	2 CUSIP #	3 Description	4 Number of Shares	5 Cost	6 Statement Value (Market Value)	7 Dividend Received	8 Year Acquired
Section 1 - Common Stocks							
5101							
5102							



Information Gathering

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							

Schedule H

Showing all BONDS, STOCKS and Other Assets **DISPOSED** during the current year

1	2	3	4	5	6	7	8	9	10
Line #	CUSIP #	Description	Number of Shares of stocks	Cost	Statement Value (Market Value)	Considerations Received	Realized Gains / (Losses)	Interest received during the year	Date of Disposal
Bonds									
10101									
10102									



Information Gathering

The information required in this section is for the Legal Entity holding the Certificate, and pertains to the entity as a whole, not just the separate annuity reserve fund.

1. Are the dollars in the Certificate Holder's Summary of Net Assets and Statement of Income and Expenses stated in thousands? Yes No
2. Has the data provided on this Annual Report been audited? Yes No

Certificate Holder's Summary of Net Assets as of 12/31/2020 Due w/in 60 days?!

The preliminary balance sheet and income statement used to enter the data on the Annual Report form must be kept for six years after the fiscal year end. Please be prepared to provide these documents to the OIC staff upon request.

	Without Donor Restrictions	With Donor Restrictions	Total Net Assets
Net Assets	\$0.00	\$0.00	\$0.00

Did your organization have and maintain minimum net assets without donor restrictions 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 12/31/2020

	Without Donor Restrictions	With Donor Restrictions	Total
Income	\$0.00	\$0.00	\$0.00
Expenses	\$0.00	\$0.00	\$0.00
Net Income (Loss)	\$0.00	\$0.00	\$0.00



General Interrogatories

14	Has there been any change in name or organizational status since the date of the last statement filed with the Department?	Yes	No
15	Has any change been made during the year of this statement in the charter, articles of incorporation, or articles of association of the special permit holder? If Yes, provide a copy of the amended document with the <i>Annual Statement</i> .	Yes	No
16	Has the special permit holder filed a copy of its currently effective annuity payout rate table with this Department? If Yes, identify the rate table and its effective date. If No, include a copy of the table with the Annual Statement if it differs from the rates of the American Council on Gift Annuities.	Yes	No
17	Was there a change in the assumptions used to calculate the present value of payments due to annuitants? If Yes, explain.	Yes	No



Form Completion

- Concurrent preparation
- Signatories
- Check request
- Varying ways of submission
- Remember attachments!





State-Specific: California

Schedule J - Withdrawal of Funds (California Insurance Code Section 11521.1(b))

Section 2 - Other Withdrawals

Amount of Withdrawal \$ _____ (Forward to Page 3, Line 7.3)

For other withdrawals subject to CICS 11521.1(b), **must** attach the following **three (3)** documents:

- Board Resolution**
- California Gift Annuity Reserve Report**
(including name, age, sex, date of issue, principal amount, annual payment and outstanding reserve)
- Proforma financial statements as of withdrawal date.**
(including balance sheet and Income and Expense Statement)

Explain in details for any missing required attachments:

Specify method in determining the amount of withdrawals



State-Specific: Florida

SWORN STATEMENT IN LIEU OF ANNUAL STATEMENTS FOR ISSUERS OF DONOR ANNUITY AGREEMENTS

STATE OF: _____

COUNTY OF: _____

_____, _____ (both printed please), of the above named issuer, being duly sworn, each deposes and says that they are the above described officers of the said issuer, and that on _____, which is the fiscal year-end, the issuer has met all of the requirements of Section 627.481, FS., and Chapter 69O-202, Florida Administrative Code.

(Typed Name)

(Signature)

(Title)

(Typed Name)

(Signature)

(Title)



State-Specific: Maryland

- Attestation as to adequacy of reserves

- Within notes of audited financials

Charity is subject to state insurance codes that require it to maintain a reserve fund adequate to meet the future payments under its outstanding charitable gift annuity contracts. As of June 30, 2020 and 2019, Charity had sufficient funds in its reserve accounts to meet the applicable state insurance codes.

- Separate CPA statement

- Actuarial verification



State-Specific: New York

	Current Year	Prior Year
LIABILITIES AND ANNUITY FUND BALANCE		
10. Net present value of annuities ¹ calculated reserve		
10a. Additional reserve required by Regulation 126 15% surplus		
10b. Total	0	0
11. Deduct net value of risks reinsured ²		
12. NET RESERVE (line 10b minus line 11)	0	0
13. Annuity payments due and unpaid		
14. Deposits received from donors pending issuance of annuity agreements		
15. General expenses due or accrued		
16. Taxes due or accrued		
17. Unearned investment income		
18. Miscellaneous liabilities:		
18.1		
18.2		
18.3		
18.4		
19. Total Liabilities (sum of lines 12 to 18)	0	0
20. Annuity Fund Balance:		
20.1 Minimum required fund balance 10% surplus		
20.2 Excess fund balance.....		
20.3 Total Annuity Fund Balance (sum of lines 20.1 and 20.2)	0	0
21. Total Liabilities and Annuity Fund Balance (sum of lines 19 and 20.3; should equal Line 9) ...	0	0



Continuity of Knowledge

- Staff Transition
 - Maintain files
 - Tickler system
 - Reach out to states





Conclusion



“It does not do to leave a live dragon out of your calculations if you live near one.” JRR Tolkien



Questions?





Still Have a Question?

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