

PG Calc YOUR 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

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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 (Simple)

■ = 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
- Reserve fund

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No Notification – Other Criteria

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

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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

What Do I Need To Do?

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Notification Required (Still Pretty Simple)

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Notification – Most Common Criteria

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


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Notification – Other Criteria

- Non-gift annuity registration
 - Charitable solicitation
- Disclosure language
 - Agreements
 - Marketing materials (OK)
- 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

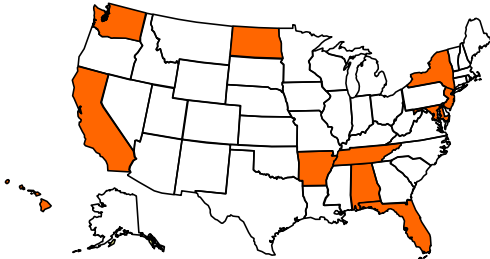


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Application (Here's the Complexity)




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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)
 - New York maximum rates





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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

- 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

What Do I Need To Do?

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But Wait, There's More




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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

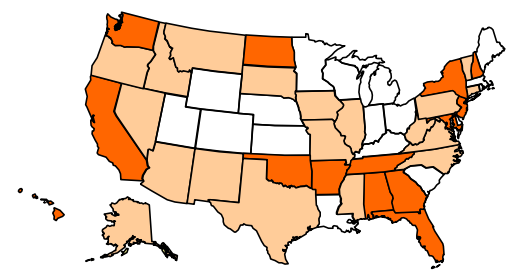


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Compliance Issues

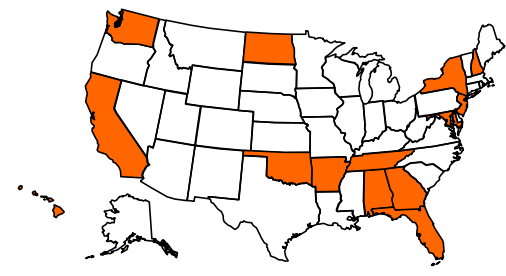


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Annual Submissions




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Annual Submissions

- 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



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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

Schedule A - Bonds
Showing all BONDS owned at the end of current year

1	2	3	4	5	6	7	8	9	10	
Line #	CUSIP #	Description	Interest Rate	Date of Maturity		Par Value	Cost	Statement Value (Market Value)	Interest Received	Year Acquired
Bonds										
1001										
4001										

Schedule B - Stocks
Showing all Common and Preferred STOCKS owned at the end of current year

1	2	3	4	5	6	7	8
Line #	CUSIP #	Description	Number of Shares	Cost	Statement Value (Market Value)	Dividend Received	Year Acquired
Section I - Common Stocks							
5001							
5102							

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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 Acquisition
Bonds							
9001							

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 Gain (Loss)	Interest received during the year	Date of Disposal
Bonds									
1001									
1002									

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State-Specific: New York

	Current Year	Disc Year
LIABILITIES AND ASSET FUND BALANCE		
10. Net general value of assets ... calculated reserve		
11. Adjusted value reported by Regulatee ... 150% of value		
11b. Total	0	0
12. NET RESERVE (for value line 11)	0	0
13. General expenses (see end report)		
14. Dividends received (see Adjusting Income of annuity agreements)		
15. Capital expenses (see end report)		
16. Recapture or recoup		
17. Unpaid annuities income		
18. Miscellaneous Adjustments:		
18.1		
18.2		
18.3		
18.4		
19. Total Liabilities (sum of lines 12 to 18)	0	0
20. General Fund Balance		
21. Adjusted value reported for funding ... 10% of value		
22. Excess Fund Balance		
23. Total Assets Fund Balance (sum of lines 20, 21 and 22)	0	0
24. Total Liabilities and net assets Fund Balance (sum of lines 19 and 23) (should equal Line 9)	0	0


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Continuity of Knowledge

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




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Conclusion




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

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Questions?



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Still Have a Question?

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