

[admin](#) - Sun, 2/20/2011 - 00:00

PG Calc presents an excerpt from its white paper, [State Gift Annuity Registration: A Primer on What It Means to Your Organization](#). If you have thoughts on this paper or recommendations for a white paper topic, please send them to info@pgcalc.com.

[View all of our white papers](#), or our newest complement download: [7 Characteristics of Successful Planned Giving Programs](#).

State Gift Annuity Registration: A Primer on What It Means to Your Organization (Excerpt)

Once a charity has concluded that it is subject to state gift annuity regulations, the next question is in what states it needs to register. For a charity that serves a community located within a single state, and which has as its donors only residents of that same state, the decisions to be made about when and where to register are fairly straightforward, as it need only be concerned with the regulation governing issuance of gift annuities in a single state.

However, for a charity that serves a regional or national community and counts among its donors residents of multiple (or potentially all) states, the issues surrounding registration are more complex. The question of where to register should take into account not just the geographic reach of an organization and where it might have donors, but also the level of regulation in a given state as compared to the potential for gifts. While a charity understandably wants to be in a position to accept any gift, registering to issue gift annuities may be counterproductive in a state with a high level of regulation where the charity has identified very few prospective gift annuity donors. The charity may expend significant time and money maintaining compliance, only to issue a single small annuity or none at all. The charity might be better off conducting a “cost/benefit” analysis to determine where it makes sense to issue/register, and then staying out of those states where the “cost” (in actual expense or in time) of registration vastly outweighs the potential “benefit” of gifts.

Such an analysis might be revisited over time as the charity grows its gift annuity program (when the cost of registration can be born more easily) or because there is

a higher than expected level of interest in a previously passed over state (either from a larger than expected number of donors or a single donor interested in one or more particularly large gifts). The more likely states for a charity to stay clear of are also those with a longer registration process, so if a revisited decision to issue in a state is driven by a particular donor's interest there will likely be some delay in being able to issue an annuity while the charity completes the registration.

As noted, a significant factor in determining where and when a charity decides to register is the nature of the regulation of each particular state. The good news is that while what often garners the most attention when discussing state regulation of gift annuities are specific requirements of the most regulated states, there are currently only 12 of those. A charity can satisfy the regulatory requirements of 38 states and the District of Columbia with relative ease and speed.

The state-specific information in this excerpt is current as of its publish date, February 2011. [Check out our color-coded "States by Regulatory Category" map](#) or the [ACGA website](#) to ensure you're getting the most current information.

Working from least to most regulated, the states can be broken down as follows:

State law does not specifically address gift annuities

While it is unclear whether the departments of insurance would view the lack of regulation as requiring charities to comply with the insurance laws, these "silent" states have not been enforcing the law in that manner, and most charities feel comfortable in issuing gift annuities in these states.

Interestingly, an Ohio appellate court held in 2002 that gift annuities were not subject to insurance regulation, even in the absence of a specific statutory provision governing issuance.

States in this category are Delaware, Ohio, Rhode Island, and Wyoming, as well as the District of Columbia.

Statutory criteria to meet, but no notification

No gift annuity-specific registration is required in these states, although to fall under the exemption from insurance regulation provided by the state's gift annuity law, a charity might need to be registered with another state agency. Some of these states require compliance with specific criteria, such as years of operation, minimum assets, inclusion of disclosure language in the annuity agreement, or registration

with other state agencies to do business or to solicit funds.

States in this category are Arizona, Colorado, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Nebraska, Oregon, Pennsylvania, South Carolina, South Dakota, Utah, Virginia, and Vermont.

Notification to the state

Registration with the state insurance department is mandatory, but it is a notification requiring minimal paperwork and can be completed concurrent with entering into the first annuity in the state. As with the preceding “no notification” category, there will be specific criteria to comply with, and the notification is an attestation of a charity’s compliance. Because it is a notification rather than an application, the registration is in essence complete upon submission.

States in this category are Alaska, Connecticut, Georgia, Idaho, Iowa, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Mexico, North Carolina, Oklahoma, Texas, and West Virginia.

Application for a certificate of authority/permit

Registrations in these states are to be completed prior to entering into any gift annuity in the state, and in general they involve completion of various state application forms and submission of supporting documentation. Review by the states typically takes one to three months; although it can be significantly longer in the case of New York (4 - 6 months) and California (6 - 9 months or longer if the charity has already issued gift annuities in the state).

States in this category are Alabama, Arkansas, California, Florida, Hawaii, Maryland, New Jersey, New York, North Dakota, Tennessee, Washington, and Wisconsin.

Ideally, the analysis about where and when to register comes as a charity is beginning its gift annuity program. However, the reality is that many organizations have, either knowingly or unknowingly, issued gift annuities without being registered. For such organizations, the first step in determining where to register would be to look at the states of issuance. To become compliant it would need to register in any state in which it has issued. However, some organizations in this position do still go through the cost/benefit analysis, particularly for states in which they have issued only one or two annuities, and make the decision not to register and not to issue any additional annuities in the particular state. In doing so, the organization continues to be out of compliance, but it has in essence imposed a

“cease and desist” order on itself by not engaging in any further activity in the state. Such an order is typically the first step taken by an insurance department when it becomes aware of a charity issuing gift annuities in the state without being compliant with state requirements.

Read more! Download the entire text of [State Gift Annuity Registration: A Primer on What It Means to Your Organization](#) today.

[Print](#)

Categories

[PG Calc Featured Articles](#)

[State Regulations](#)

Add new comment

Your name

Comment

[About text formats](#)

Subject

CAPTCHA



What code is in the image?

Enter the characters shown in the image.

This question is for testing whether or not you are a human visitor and to prevent automated spam submissions.

Save

Preview