

Spec Sheet

Charitable Gift Annuity

Regulations 36 OS 4071 - 4082

Statutes <https://www.oscn.net/applications/oscn/index.asp?ftdb=STOKST&level=1>

36 § 4072 Definitions

"**Charitable gift annuity**" means a transfer of cash or other property by a donor or donors to a charitable organization in return for periodic payments by the charitable organization commencing on the date of the agreement or in the future to one or more persons designated by the donor or donors over the lives of such persons.

"**Qualified charitable gift annuity**" means an annuity which:

- a. has an actuarial value using the actuarial factors and interest rate established by the Internal Revenue Code to determine charitable deductions for federal tax purposes which is less than ninety percent (90%) of the value of the cash or other property transferred by the donor or donors to the charitable organization and the difference in value constitutes a charitable deduction for federal tax purposes,
- b. has periodic payments that are calculated using a rate which will reasonably assure the promised payments to the annuitant on the date the annuity is issued, and
- c. is described in Section 501(m)(5) of the Internal Revenue Code

"**Charitable organization**" means an entity that:

- a. is described by Sections 501(c)(3) and 170(c) of the Internal Revenue Code, and
- b. is qualified to do business in this state

"**Qualified charitable organization**" means a charitable organization that, on the date it issues its first qualified charitable gift annuity contract.

- a. has a minimum of One Hundred Thousand Dollars (\$100,000.00) in unrestricted assets that are exclusive of the assets comprising its qualified charitable gift annuities, and
- b. has been in continuous operation for at least three (3) years or is a successor or affiliate of a charitable organization that has been in continuous operation for at least three (3) years.

"Internal Revenue Code" means the Internal Revenue Code of 1986 (26 U.S.C.), as amended, or any similar successor federal tax legislation.

Notice to Commissioner

Cycle – Submit notice within 90 days of issuing first charitable gift annuity contract.

36 § 4074 & 4076 Initial Notice to Commissioner

Complete the **Notice to Commissioner** form located on our webpage, on or before ninety (90) days after the organization issues its first charitable gift annuity contract, the charitable organization shall notify the Insurance Commissioner in writing that it has issued one or more charitable gift annuities. This notice shall be signed by an officer or director of the charitable organization.

Certify that the organization is an organization described in Section 501(c)(3) and Section 170(c) of the Internal Revenue Code (IRS).

Certify that the charitable organization has issued one or more charitable gift annuity contracts and that these charitable gift annuity contracts are qualified charitable gift annuity contracts as defined in the Oklahoma Charitable Gift Annuity Act.

Certify that the charitable organization has a minimum of One Hundred Thousand Dollars (\$100,000.00) in unrestricted assets exclusive of the assets comprising the qualified charitable gift annuities issued by the charitable organization.

Required documents:

- 1) Copy of the organization's letter from the Internal Revenue Service declaring its exempt status.
- 2) Most recent annual audit of the charitable organization prepared by an independent certified public accountant or accounting firm or individual holding a permit to practice public accounting in accordance with generally accepted accounting principles.
- 3) Copies of the Qualified charitable gift annuity promotional literature, application, and agreement. The literature, application and agreement must have a separate paragraph in print no smaller than that employed in the document stating:

“A charitable gift annuity is not regulated by the Oklahoma Insurance Department and is not protected by a guaranty association affiliated with the Oklahoma Insurance Department.”

Annual Notice

Annually, within ninety (90) days of receipt of the final audit report by the qualified charitable organization,

complete the demographic section of the **Notice to Commissioner** and submit it along with the following document(s).

- 1) Each qualified charitable organization issuing qualified charitable gift annuities shall provide the Insurance Commissioner with a copy of its annual audited financial statement prepared by an independent certified public accountant or an accounting firm or individual holding a permit to practice public accounting in accordance with generally accepted accounting principles within ninety (90) days of receipt of the final audit report by the qualified charitable organization.
- 2) Amendments - attach copies of any amended Qualified charitable gift annuity promotional literature, application, and Agreement. The literature, application and agreement must have a separate paragraph in print no smaller than that employed in the document stating:
“A charitable gift annuity is not regulated by the Oklahoma Insurance Department and is not protected by a guaranty association affiliated with the Oklahoma Insurance Department.”

36 § 4079 - Use of Money to Purchase Annuity on Life of Annuitant

A qualified charitable organization may use a portion of the money or property received in exchange for a qualified charitable gift annuity to purchase an annuity upon the life of the annuitant of the qualified charitable gift annuity from an insurance company qualified to transact a business of insurance in this state.

36 § 4080 - Violations of Act – Penalties

- A. If the Insurance Commissioner or an independent hearing examiner finds that a violation of this act has occurred, the Insurance Commissioner shall enforce compliance with this act by sending a letter by certified mail, return receipt requested, demanding that the charitable organization comply with this act. If the charitable organization fails to comply with the demand within thirty (30) days of receipt of the letter, the charitable organization may be censured by the Insurance Commissioner or may be subject to a civil fine of not less than One Thousand Dollars (\$1,000.00) but not more than Ten Thousand Dollars (\$10,000.00) until such time as the charitable organization brings itself into compliance with this act.
- B. If the Insurance Commissioner or an independent hearing examiner finds that the violation or threatened violation of this act is willful and is substantially injurious to the public, the Commissioner may file an action in district court to prevent, restrain or enjoin such violation or threatened violation.
- C. The failure of a charitable organization to comply with the requirements of this act does not prevent a charitable gift annuity from otherwise being a charitable gift annuity under the Internal Revenue Code.