

**CHARITABLE GIFT ANNUITY ANTITRUST RELIEF ACT OF
1995**

[Public Law 104-63; Enacted December 8, 1995; 109 Stat. 687]

[As Amended Through P.L. 105-26, Enacted July 3, 1997]

【Currency: This publication is a compilation of the text of Public Law 104-63. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>】

【Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).】

An Act To modify the operation of the antitrust laws, and of State laws similar to the antitrust laws, with respect to charitable gift annuities.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Charitable Gift Annuity Antitrust Relief Act of 1995”.

【15 U.S.C. 1 note】

SEC. 2. IMMUNITY FROM ANTITRUST LAWS.

(a) INAPPLICABILITY OF ANTITRUST LAW.—Except as provided in subsection (d), the antitrust laws, and any State law similar to any of the antitrust laws, shall not apply to charitable gift annuities or charitable remainder trusts.

(b) IMMUNITY.—Except as provided in subsection (d), any person subjected to any legal proceeding for damages, injunction, penalties, or other relief of any kind under the antitrust laws, or any State law similar to any of the antitrust laws, on account of setting or agreeing to rates of return or other terms for, negotiating, of setting or agreeing to rates of return or other terms for, negotiating issuing, participating in, implementing, or otherwise being involved in the planning, issuance, or payment of charitable gift annuities or charitable remainder trusts shall have immunity from suit under the antitrust laws, including the right not to bear the cost, burden, and risk of discovery and trial, for the conduct set forth in this subsection.

(c) TREATMENT OF CERTAIN ANNUITIES AND TRUSTS.—Any annuity treated as a charitable gift annuity, or any trust treated as a charitable remainder trust, either—

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(1) in any filing by the donor with the Internal Revenue Service; or

(2) in any schedule, form, or written document provided by or on behalf of the donee to the donor;

shall be conclusively presumed for the purposes of this Act to be respectively a charitable gift annuity or a charitable remainder trust, unless there has been a final determination by the Internal Revenue Service that, for fraud or otherwise, the donor's annuity or trust did not qualify respectively as a charitable gift annuity or charitable remainder trust when created.

(d) LIMITATIONS.—Subsections (a) and (b) shall not apply with respect to the enforcement of a State law similar to any of the antitrust laws, with respect to charitable gift annuities, or charitable remainder trusts, created after the State enacts a statute, not later than December 8, 1998, that expressly provides that subsections (a) and (b) shall not apply with respect to such charitable gift annuities and such charitable remainder trusts.

【15 U.S.C. 37】

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) ANTITRUST LAWS.—The term “antitrust laws” has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies to unfair methods of competition.

(2) CHARITABLE REMAINDER TRUST.—The term “charitable remainder trust” has the meaning given it in section 664(d) of the Internal Revenue Code of 1986 (26 U.S.C. 664(d)).

(3) CHARITABLE GIFT ANNUITY.—The term “charitable gift annuity” has the meaning given it in section 501(m)(5) of the Internal Revenue Code of 1986 (26 U.S.C. 501(m)(5)).

(4) FINAL DETERMINATION.—The term “final determination” includes an Revenue Service determination, after exhaustion of donor's and donee's administrative remedies, disallowing the donor's charitable deduction for the year in which the initial contribution was made because of the donee's failure to comply at such time with the requirements of section 501(m)(5) or 664(d), respectively, of the Internal Revenue Code of 1986 (26 U.S.C. 501(m)(5), 664(d)).

(5) PERSON.—The term “person” has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)).

(6) STATE.—The term “State” has the meaning given it in section 4G(2) of the Clayton Act (15 U.S.C. 15g(2)).

【15 U.S.C. 37a】

SEC. 4. APPLICATION OF ACT.

This Act shall apply with respect to conduct occurring before, on, or after the date of the enactment of this Act.

【15 U.S.C. 37 note】