

DEPARTMENT OF JUSTICE

**NOTICE OF MODIFICATION OF TEXT OF PROPOSED REGULATION AND 15-DAY
PUBLIC COMMENT PERIOD**

Supervision of Trusts and Charitable Purposes Act (Notice File No. Z2018-1212-01)

June 5, 2019

Pursuant to Government Code section 11346.8, subdivision (c), and California Code of Regulations, title 1, section 44, the Department of Justice (the “DOJ”) hereby provides notice of modifications to the text of the proposed amendments to California Code of Regulations, title 11, Section 300, 301 and 308 and forms incorporated by reference therein. These regulations were originally the subject of a Notice of Proposed Rulemaking published in the California Regulatory Notice Register (Register 2018, No. 52-Z) on December 28, 2018. The proposed modifications are in response to comments received regarding the proposed regulation amendments and for the purposes of clarification. DOJ will accept written comments regarding the modifications for 15 days following issuance of this notice. The proposed modifications are summarized below. A copy of the proposed modifications, which are indicated by double-underline and double-strikethrough, is attached to this notice.

If you have any comments regarding the proposed modifications, the DOJ will accept written comments between June 5, 2019 and June 20, 2019. All written comments must be submitted to the DOJ no later than 5:00 p.m. on June 20, 2019, and addressed to:

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or

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All written comments received by 5:00 p.m., on or before June 20, 2019 will be reviewed and responded to by the DOJ staff as part of the compilation of the rulemaking file. Please limit your comments to the proposed modifications described in this notice.

Availability of Documents on the Internet

DOJ has available the Notice of Proposed Regulatory Action, the Initial Statement of Reasons, the original regulatory language, and other material related to the proposed action. The contact person identified in this notice shall, upon request, make these documents available to the public. Documents related to this rulemaking are also available on the DOJ website at: www.oag.ca.gov/charities/laws.

Summary of Modifications

The modifications, identified below by their respective section numbers, are as follows:

- § 300(b): The list of numbered items required by the Initial Registration Form (Form CT-1) in section 300(b) has been deleted. The Notice of Proposed Rulemaking, previously published on December 28, 2018, stated that because Form CT-1 is now proposed to be incorporated by reference in the regulations, listing each item of information on Form CT-1 is unnecessary. However, the numbered items remained in the proposed text accompanying the Notice. This modification is reasonably necessary for clarity and for consistency with the related regulations, all of which simply incorporate forms by reference.
- Form CT-1 is modified at Part I, question #3. The question: “Does the organization share revenue or governance with any other non-profit organization (e.g., fiscal sponsorships and affiliations)?” has been changed to “Is the organization under common control, does it have a close connection with, or is it related to, any other nonprofit organization or for-profit organization or trust?” This modification is made in response to public comments that the proposed question, intended to identify closely related organizations, was unclear. The comments also stated that using the examples of fiscal sponsorships and affiliations was unhelpful because those terms are not defined. The modification eliminates those terms and instead uses terms the IRS uses, such as “common control,” “close connection,” and “related to.” The modification also includes definitions in the CT-1 instructions, which largely track the IRS definitions and are necessary for clarity.
- Form CT-1 instructions are modified to include an instruction to Part I, question #3:

“Common control” means you and one or more other organizations or trusts have: (1) a majority of directors, officers, or trustees appointed or elected by the same organization(s) or individuals, (2) a majority of directors, officers, or trustees consisting of the same individuals. Common control also occurs when you and one or more

organizations have a majority ownership interest in a corporation, partnership, or trust. “Ownership” means voting power in a corporation, profits interest in a partnership, or beneficial interest in a trust.

“Close connection” means any of the following relationships between organizations: (1) control of one organization by another through common directors, officers, or trustees or through authority to approve budgets or expenditures; (2) coordination or sharing of operations as to facilities, programs, employees, or other activities; or (3) common persons exercising substantial influence over the organizations.

“Related to” an organization means to control or be controlled by an organization. “Control” means (1) to have the power (by the organization or through one or more officers, directors, trustees or agents) to remove and replace (or to appoint, elect, or approve or veto the appointment or election of) the majority of another organization’s directors or trustees, or a majority of members who elect a majority of another organization’s directors or trustees; (2) to own more than 50% of a stock corporation; (3) to own more than 50% of the profits or capital interests or is managing partner, general partner, or managing member of a partnership or LLC; or (4) to own more than 50% of the beneficial interest in a trust.

- § 301: Form RRF-1 instructions are modified.
 - Under the topic “WHO MUST FILE A FORM RRF-1?” the reference to “(3) a cemetery corporation regulated under Chapter 19 of Division 3 of the Business and Professions Code” is amended to refer to “Chapter 12 of Division 3” due to recent amendments to the code.
 - Under the topic “PART B, QUESTION #9” the word “fiscal sponsors” has been replaced with “fiscally-sponsored projects” as that more accurately describes an example of an asset restriction.
- § 301: Form CT-TR-1 are modified to include a space to enter the applicable fiscal year. This modification is necessary for clarity and transparency for the organization filing the report, the Registry, and members of the public who review the report.
- § 308(a): Forms CT-1CF, CT-3CF, CT-5CF are modified. The proposed regulations delete the requirement that payment be made by certified or cashier’s check. However, the commercial fundraiser forms still have language stating: “A CERTIFIED OR CASHIER’S CHECK IN THE AMOUNT OF \$350 PAYABLE TO THE REGISTRY OF CHARITABLE TRUSTS MUST ACCOMPANY THIS REGISTRATION FORM.” The language is modified to state: “A CHECK IN THE AMOUNT OF \$350 MUST ACCOMPANY THIS REGISTRATION FORM”