



NOTICE TO THE ATTORNEY GENERAL IN PROBATE MATTERS

In general, the Attorney General's Office must be given notice of any matter involving a gift to charity, assets held in charitable trust, disposition or gifts of assets to an unnamed charitable beneficiary, or property that may escheat to the State of California. Below is a summary of statutes that require notice to the Attorney General. This summary of statutes is intended as a helpful resource only, and should not be used as a substitute for your duty to conduct your own legal research.

Service – [Probate Code § 1209](#)

When notice is required to be given to the State of California or the Attorney General on probate matters, the notice shall be mailed to the Attorney General's Office in Sacramento:

Office of the Attorney General
Charitable Trusts Section
1300 I Street
Sacramento, CA 95814-2919

Testamentary Instrument Involving Charity – [Government Code § 12593](#)

“Every person who offers for probate any instrument which establishes a testamentary trust of property for charitable purposes or who records in any county or city and county any inter vivos transfer of property for charitable purposes shall furnish a copy of such document to the Attorney General.”

Administration of Estate with Charitable Devise – [Probate Code §§ 8110, 8111](#)

The notice of hearing on the petition to administer a decedent's estate, with a copy of the will or trust, must be served on the Attorney General when the will may involve a trust of property for charitable purposes without a designated trustee resident in California or if there is or may be a devise for charitable purposes without an identified devisee.

Petition for Waiver of Appraisal by Probate Referee – [Probate Code §§ 8900-8903](#)

Notice of a hearing on a petition for waiver of an appraisal, along with a copy of the petition, must be served on the Attorney General if any portion of the estate is to escheat to the state and its interest in the estate would be affected by the waiver. (Prob. Code, § 8903, subd. (c)(4).)

Notice of Proposed Actions by Personal Representative – [Probate Code §§ 10580-10581](#)

A personal representative who has been given authority to administer the estate must give notice of proposed action to the Attorney General if any portion of the estate is to escheat to the state and its interest in the estate would be affected by the proposed action. (Prob. Code, § 10581, subd. (d).)

Settlement of Account – [Probate Code § 11000](#)

The Attorney General is entitled to notice of a petition to approve an account when any portion of the estate is to escheat to the state and its interest would be affected by the account.

Petition for Distribution – [Probate Code §§ 11600, 11601, 11603, 11700, 11701, 11703](#)

- A petition for an order of distribution or for a court determination of the persons entitled to distribution from decedent's estate, along with notice of the hearing, must be served on the Attorney General if any portion of the estate is to escheat to the state and its interest in the estate would be affected by the petition. (Prob. Code, §§ 11601, subd. (d), 11701, subd. (d).)

- The Attorney General is deemed to be a person entitled to distribution of the estate for purposes of notice if the estate involves or may involve:
 - (a) A charitable trust, other than a charitable trust with a designated trustee that may lawfully accept the trust.
 - (b) A devise for a charitable purpose without an identified beneficiary.
 - (c) An escheat to the State of California. (Prob. Code, § 11703.)

When Charitable Trust Becomes Irrevocable – [Probate Code §§ 16061.5, 16061.7](#)

A copy of a revocable charitable trust must be provided to the Attorney General when any portion of it becomes irrevocable because of:

- the death of one or more of the settlors
- when a power of appointment is effective or lapses upon the death of a settlor under the circumstances described in Probate Code § 16061.5, subd. (a)(3); or
- by the express terms of the trust, the trust becomes irrevocable within one year of the death of a settlor because of a contingency related to the death of one or more of the settlors of the trust; or
- whenever there is a change of trustee of an irrevocable trust. (Prob. Code, §§ 16061.5, subd. (a)(3), 16061.7.)

Petition Concerning Internal Affairs of a Charitable Trust – [Probate Code §§ 17200-17203](#)

Notice of a hearing on a petition related to a charitable trust, along with a copy of the petition, must be provided to the Attorney General at least 30 days before the hearing. (Prob. Code, § 17203, subd. (a)(3).)

Petition to Change Use of Restricted Funds – [Probate Code §§ 15409, 18501-18506](#)

Notice must be given to the Attorney General where a trustee or institution seeks to modify a restriction in a gift instrument.

Petition for Approval and Settlement of Claims Against Deceased Settlor – [Probate Code § 19024](#)

Notice of a hearing with a copy of the petition must be provided to the Attorney General if the petition relates to a charitable trust subject to the jurisdiction of the Attorney General.

Notice of Intended Exercise of Decanting Power – [Probate Code §§ 19507, 19509, 19514](#)

An authorized fiduciary must give notice to the Attorney General of the intended exercise of the decanting power if a first trust contains a determinable charitable trust. (Prob. Code, §§ 19507, subd. (c)(7), 19514, subd. (b).)

Registration of Person or Entity Holding Assets Subject to Charitable Trust – [Government Code § 12585](#)

Every charitable corporation, unincorporated association, or trustee holding assets subject to a charitable trust must register with the Attorney General within 30 days of the initial receipt of assets. A trustee is not required to register as long as the charitable interest in a trust is a future interest, but shall do so within 30 days after any charitable interest in a trust becomes a present interest. Additional information and registration forms can be found at the Attorney General’s website, <http://oag.ca.gov/charities>.

Annual Report to Attorney General From Trustee Holding Charitable Assets – [Government Code § 12586](#)

Trustees holding charitable assets must file annual reports with the Attorney General ([Form RRF-1](#)). A copy of an account filed by the trustee with the court may be filed as a report if it meets certain criteria. Additional information and registration forms can be found at the Attorney General’s website, <http://oag.ca.gov/charities>.

Jurisdiction of Court to Modify or Terminate Trust – [Government Code § 12591](#)

The Attorney General must be a party to any proceeding in which the Court is being requested to modify or terminate any trust of property for charitable purposes.

ADDITIONAL PROVISIONS REQUIRING NOTICE TO THE ATTORNEY GENERAL RELATED TO NONPROFIT CORPORATIONS HOLDING CHARITABLE ASSETS

Action to Remedy Breach of Charitable Trust – [Corporations Code §§ 5140-5142, §§ 7140-7142](#)

The Attorney General must be given notice of an action to enjoin, correct, obtain damages for or to otherwise remedy a breach of a charitable trust brought under Corporations Code § 5142, or § 7142.

Action to Remove a Director or Appoint a Provisional Director of a Public Benefit Corporation or Mutual Benefit Corporation – [Corporations Code §§ 5220-5225, §§ 7220-7225](#)

The Attorney General must be given notice of an action brought to remove a director or appoint a provisional director of a nonprofit public benefit corporation or a nonprofit mutual benefit corporation holding charitable assets. (Corp. Code, §§ 5225, 7225.)

Action to Determine Validity of Election/Appointment of Director – [Corporations Code §§ 5610-5617, §§ 7610-7616](#)

The Attorney General must be given notice of any action regarding the validity of an election or appointment of a director of a nonprofit public benefit corporation pursuant to Corporations Code section 5617 or a mutual benefit corporation holding assets in charitable trust pursuant to Corporations Code section 7616.

Action Seeking Involuntary Dissolution of Nonprofit Public Benefit or Nonprofit Mutual Benefit Corporation – [Corporations Code §§ 6510–6519, §§ 8510-8519](#)

The Attorney General is an indispensable party to any action brought to involuntarily dissolve a nonprofit public benefit corporation under section 6510 of the Corporations Code, and under section 8510 for a nonprofit mutual benefit corporation holding assets in charitable trust.

PROVISIONS REQUIRING NOTICE TO THE ATTORNEY GENERAL RELATED TO ESCHEATED PROPERTY

Claim to Escheated Property - [Code of Civil Procedure §§ 1350–1355](#)

A petition related to a claim to escheated property, along with notice of the hearing, must be served on the Attorney General and on the State Controller at least 20 days before the hearing. (Code Civ. Proc., § 1355.)

Notice of Proposed Actions by Personal Representative – [Probate Code §§ 10580-10581](#)

Notice of a proposed action must be given to the Attorney General if any portion of the estate is to escheat to the state and its interest in the estate would be affected by the proposed action. (Prob. Code, § 10581, subd. (d).)

Petition for Waiver of Appraisal by Probate Referee – [Probate Code §§ 8900-8903](#)

Notice of a hearing on a petition for waiver of an appraisal, along with a copy of the petition, must be served on the Attorney General if any portion of the estate is to escheat to the state and its interest in the estate would be affected by the waiver. (Prob. Code, 8903, subd. (c)(4).)

Settlement of Account – [Probate Code § 11000](#)

The Attorney General is entitled to notice of a petition to approve an account when any portion of the estate is to escheat to the state and its interest would be affected by the account.

Petition for Distribution – [Probate Code §§ 11600-11603, 11700-11703](#)

- A petition for an order of distribution or for a court determination of the persons entitled to distribution of the estate, along with notice of the hearing, must be served on the Attorney General if, any portion of the estate is to escheat to the state and its interest in the estate would be affected by the petition. (Prob. Code, §§ 11601, subd. (d); 11701, subd. (d).)
- The Attorney General is deemed to be a person entitled to distribution of the estate for purposes of notice if the estate involves or may involve (Prob. Code, § 11703):
 - (a) A charitable trust, other than a charitable trust with a designated trustee that may lawfully accept the trust.
 - (b) A devise for a charitable purpose without an identified beneficiary.
 - (c) An escheat to the State of California.