

ASIAN PACIFIC FUND RECORD RETENTION REQUIREMENTS

The Asian Pacific Fund adopts and maintains the following record retention policy that is based on state and federal requirements including the statutes of limitations of various statutory regimes and advice from Legal Counsel regarding California Government Code Section 12596, the requirements of the Sarbanes-Oxley Act of 2002 and a reminder that no state or federal law punishes an officer, director or employee of a charity for failing to destroy a document.

Nonprofit Tax Exemption Documents: Permanent

The following records must be maintained throughout the life of the organization because they form the basis upon which a nonprofit organization was granted exemption from state and federal taxes: federal and state exemption applications, determination letters from the Internal Revenue Service (“IRS”) and the Franchise Tax Board (“FTB”), and any correspondence with the IRS or the FTB during the determination process. In addition, records supporting an organization’s state and local sales tax exemptions should also be maintained permanently. As you know, members of the public are entitled to copies of a charity’s exemption application and supporting documents, on request.

Governance Documents: Permanent

An organization’s governance documents include its Articles of Incorporation and all amendments and restatements, Bylaws and all amendments and restatements, minutes of Board of Directors and committee meetings (including all waivers to notice of meetings), written consents of governing bodies, director resignations, and information on any relationships with other affiliated organizations, exempt or non-exempt. All these records need to be maintained permanently.

Tax Returns: Permanent

Minimally, tax returns and schedules necessary to support the organization’s tax exemption and compliance with all federal and state income tax requirements, including unrelated business income tax and employment tax, should be maintained for the period in which the statute of limitations is open, which is normally three years from the date of filing of the return or the due date, whichever is later. The statute of limitations is four years for the California Franchise Tax Board. In addition, as you are aware, the California Attorney General’s Office has wide latitude to investigate charities’ tax filings. Charities are also required to maintain copies of their tax returns for at least three years and provide them to members of the public on request.

Because of the long arm of the Attorney General’s statute of limitations and, more importantly, because tax returns can provide valuable information to Board members and legal

counsel about the history and past activities of a charity, we recommend that the 990 and 990PF tax returns, the California returns, and the Attorney General filings be kept permanently.

Financial Records: Ten Years/Permanent

Financial records include the following: revenue and expense records, budget and expense reports, accounts payable and receivable records, bank statements, investment reports, general ledgers, audit reports and workpapers, audited or unaudited annual financial statements, asset depreciation schedules, and any other records relating to the preparation of the organization's financial statements.

The audited or unaudited annual financial statements and the annual report should be maintained permanently, while the supporting schedules and documents should be maintained for ten years.

Legal Documents: Variable

An organization's legal documents include (but are not limited to): deeds, titles, and patent and trademark records. All these records need to be maintained permanently. Leases and other contracts and agreements should be maintained during the contractual period, plus three years. We suggest that you keep legal opinions forever and in a separate confidential file.

Grantmaking and Project-Related Records: Active, Plus Ten Years

Grantmaking records include an organization's annual reports (if any), grantee IRS determination letters and verifications, selection criteria, application materials, evidence of expenditure follow-up, any matching gifts, grant records, and correspondence relating to any contributions. Aside from the annual grant reports, which should be maintained permanently, grantmaking records should be maintained during the duration of the grant, plus ten years.

Project-related records include those records relating to an organization's activities. These records are relevant to a public charity or a private operating foundation. Records may include: project proposals, descriptions, reports, legal opinions, and contracts and agreements relating to the project. These records should be maintained during the duration of the project, plus ten years.

Employment Records: Variable

Employment records include employee applications, background investigation and results, resumes, personnel files, time reports, W-2 forms, withholding exemptions, salary and benefit policy changes, pension plan records, and termination agreements.

Pension plan records and termination agreements should be maintained permanently. Records relating to unemployment claims should be maintained for eight years, and workers' compensation reports for five years. All other employment records should be kept for each employee during the employment period, plus three years.

Insurance Records: Active, Plus Ten Years

Insurance records may include: property insurance, liability insurance, directors' and officers' insurance, other umbrella policies, and workers' compensation reports. These records should be maintained during the life of the policies, plus ten years.

Litigation Records: Active, Plus Ten Years

Litigation records include: claims, court documents and records, deposition transcripts, discovery materials, and litigation files. These records should be maintained while the litigation matter is active, plus ten years. Keep in mind that until a final judgment is rendered in a legal proceeding and all appeals, or time period for appeals, have been exhausted, a litigation matter continues to be active.

Correspondence: Four Years

General correspondence not related to any of the above categories, including email backup files, should be maintained for at least four years.

Electronic Mail: Variable

Electronic mail that needs to be saved should either be:

- (i) printed in hard copy and kept in the appropriate file; or
- (ii) downloaded to a computer file and kept electronically or on a disk as a separate file.

The retention period depends on the subject matter of the e-mail, as covered above.