

# CHARITABLE REMAINDER TRUST BASICS

Presented by:

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## **I. Upsides & General Description:**

### A. Purpose

1. Giving to charity in the end with income during lifetime
2. Charitable purpose
3. Tax consequences are good

### B. Funding

1. Stocks, bonds, real estate, cash can be funded to trust
2. May sell or reinvest principal
3. Can create by testamentary disposition

### C. Circumstances

1. Large asset wanting to sell
2. Contributes asset to the CRT
3. Tax benefit - deduction for value of remainder interest
4. No capital gains – CRT is charitable
5. No gift tax

6. At termination - assets distributed to charity
  7. Estate tax deduction would apply
  8. Create income during lifetime of child (spendthrift) or parent, etc
- D. Often, beneficiary and donor are same
1. No transfer for gains purposes
  2. Remainder is subject to charitable deduction
  3. Value of trust goes to gross estate, however remainder interest is charitable deduction
  4. Marital deduction as to income will apply for spouse under estate tax rules

## **II. Downsides:**

- A. Must annualize payments (i.e., regular payments must be made in agreed amounts)  
IRC 644(d)
- B. Irrevocable
1. If you need access to trust principal, not a good idea
- C. Need a relatively good net worth
1. Cannot liquidate
- D. Have to be careful about investing trust funds
- E. Taxes need to be done (4 Returns)
1. IRS 5227 (split interest return)
  2. 1041-A Trust Accumulation of Amounts Return
  3. 541-A / 541-B Forms

- F. Less than \$250,000.00 may not be worth the costs of administration
- G. No self-dealing

Disqualification for

- 1. Substantial contributors
- 2. Trustee
- 3. More than 20% owner of a substantial contributor
- 4. Family members

Prohibited trans = sale, exchange, leases, lending, credit, goods, services, facilities

- H. All transactions need to be for charitable purposes
- I. Cannot have unrelated business taxable income

**III. Types of CRTs:**

A. Charitable Remainder Annuity Trust (CRAT)

- 1. Payments stay the same
- 2. Fixed annuity based on percentage of value of trust (or) fixed dollar
  - a. Must be between 5-50% of initial FMV of trust assets
  - b. The higher the rate of payout, the lesser the deduction IRC 7520
- 3. If entity, term of trust not to exceed 20 years
- 4. Individual = life + 20 - Remainder passes to charity
- 5. Does not protect against inflation

B. Charitable Remainder Unitrust (CRUT)

- 1. Fixed percentage of trust paid out yearly per annual det of value of trust
- 2. 5-50% rule as to payment to recipient

3. Protects against inflation

C. Net Income Unitrust (NIUT)

1. Pays lesser of:

- a. Fixed % per CRUT
- b. Actual Net Income per Year

2. Can have a makeup provision for deficiency

3. Don't invade trust principal

4. Good for illiquid asset

5. Harder to administer

D. Flip Unitrust

1. Starts as NIUT converts to CRUT

2. Triggering date must be specific date or event

**IV. Beneficiaries / Trustees:**

A. Charitable beneficiary can be changed

B. Trustee must be responsible

1. Monitoring investments, avoid self-dealing, accounting rules, 4 tax returns

2. Private / Professional Trustee

3. CA nonprofit with incidental purpose

C. Potential liability to beneficiaries

D. Trustor/Donor can be Trustee